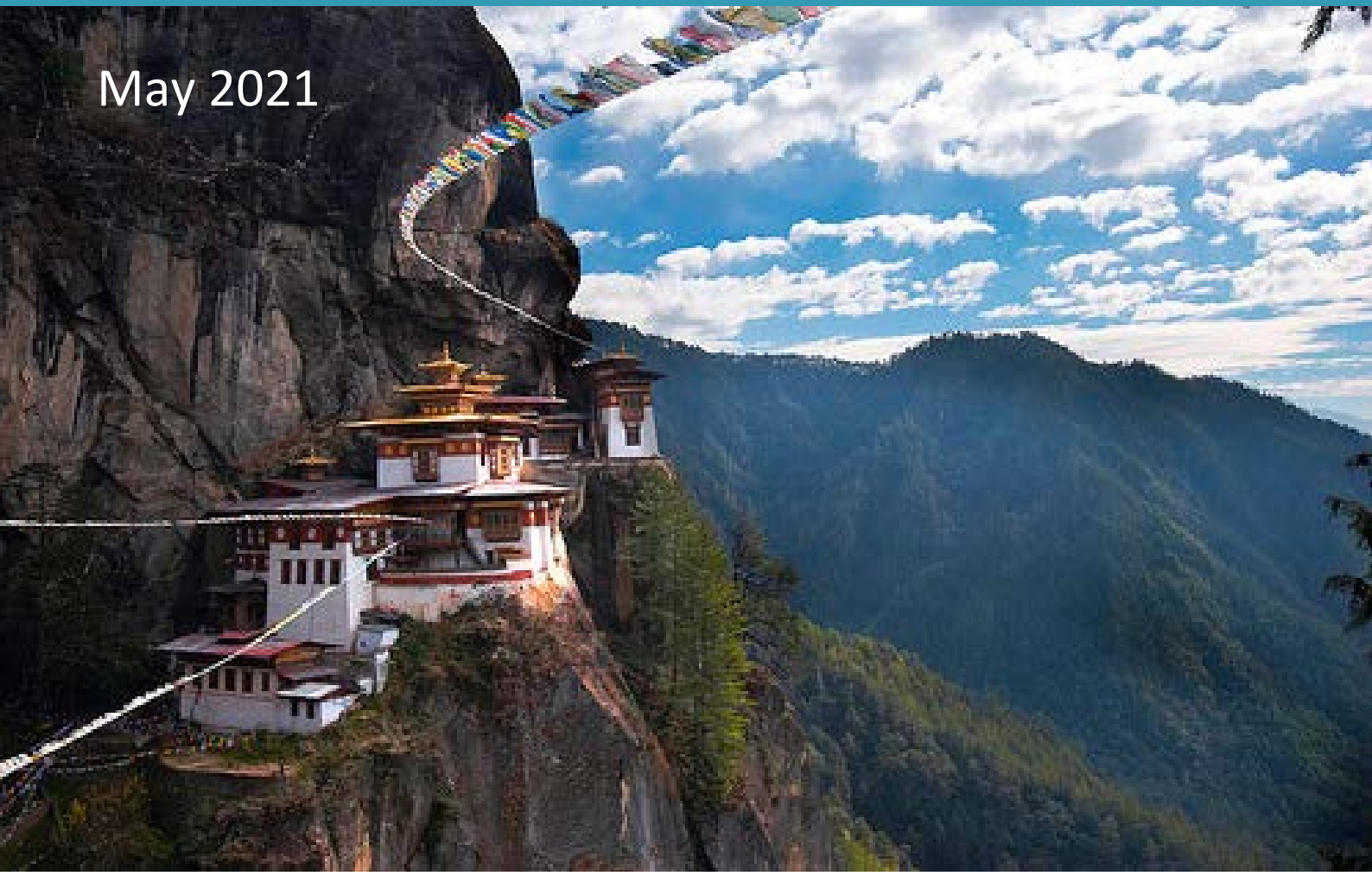




4th Follow-Up Report

# Mutual Evaluation of Bhutan

May 2021





**Asia/Pacific Group  
on Money Laundering**

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## BHUTAN: 4<sup>TH</sup> ENHANCED FOLLOW-UP REPORT OCTOBER 2020

Adopted 7 May 2021

### I. INTRODUCTION

1. Bhutan's 4<sup>th</sup> follow-up report (FUR) was prepared in accordance with the APG Third Round Mutual Evaluation Procedures 2021. The FUR was considered by the APG Mutual Evaluation Committee on 29 April, before being adopted by APG members without objection on 7 May 2021.
2. The mutual evaluation report (MER) of Bhutan was adopted in September 2016. This FUR analyses Bhutan's progress in addressing the technical compliance deficiencies identified in its MER. Technical compliance re-ratings are given where sufficient progress has been demonstrated. This report also analyses progress made in implementing new requirements relating to FATF Recommendations, which have changed since the last FUR with re-ratings was adopted: Recommendations 8, 15 and 18.
3. This report does not analyse any progress Bhutan has made to improve its effectiveness.
4. The assessment of Bhutan's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:
  - Ms. Doreen Vai Kuan Pun, Monetary Authority of Macao, Macao, China
  - Mr. Juan Argibay Molina, Attorney General's Office – AML & Financial Crimes, Argentina
  - Mr. Mohammad Abdur Rab, Bangladesh Financial Intelligence Unit, Bangladesh
  - Mr. Shaun Mark, Australian Federal Police, Australia
  - Mr. David Shannon, Ms. Nicole van Lent and Mr. Gimo Laxamana, APG Secretariat
5. Section III of this report summarises the progress made to improve technical compliance. Section IV contains the conclusion and a table illustrating Bhutan's current technical compliance ratings.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT

6. Bhutan's MER ratings<sup>1</sup> and updated ratings 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
Low	Mod	Low	Low	Low	Low	Low	Low	Mod	Low	Low

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

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

7. Given these results, Bhutan was placed on enhanced follow-up<sup>2</sup>.

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

8. In keeping with the APG Mutual Evaluation Procedures, this FUR considers progress made up until 1 October 2020. This section summarises the progress made by Bhutan to improve its technical compliance by:

- a) addressing the technical compliance deficiencies identified in the MER, and
- b) implementing new requirements where the FATF Recommendations have changed since the MER was adopted.

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

9. Bhutan requested re-ratings of the following Recommendations in October 2020: 3, 4, 6, 20, 26, 28, 30 and 33 (which were rated PC).

10. The APG welcomes the steps that Bhutan has taken to improve its technical compliance. As a result of this progress, Bhutan has been re-rated on Recommendations: 3, 6, 20, 26, 30 and 33. However insufficient progress has been made to justify a re-rating for Recommendation 4 and 28.

#### *Recommendation 3 (Originally rated PC)*

11. Bhutan was rated PC in its 2016 MER. The report identified a number of deficiencies related to the predicate offences in the Penal Code. The money laundering (ML) offence did not meet all elements of the Vienna and Palermo Conventions, and four of the 21 offences are not predicate offences for ML, specifically, racketeering and organized crime offences, counterfeiting and piracy of products, maritime piracy and market manipulation. These are not criminal offences in Bhutan. The Penal Code did not extend to foreign proceeds. It was unclear whether a conviction of predicate crime is necessary before proving the proceeds of crime. Bhutan requested an upgrade in its 2018 FUR, which was not supported.

12. Criterion 3.1 is *met*. Since the MER the AML/CFT Act 2018 has been passed, which includes a single ML offence to replace the Penal Code and Anti-Corruption Act of Bhutan 2011 (ACA) offences considered in the MER. Section 6 of the AML/CFT Act 2018 repealed the previous ML offences set out in the Penal Code of Bhutan and the ACA, which were considered for R.3 in the MER.

13. Bhutan has criminalised ML on the basis of the Vienna Convention and the Palermo Convention, with the exception of some ancillary offences (Sec. 159 of the AML/CFT Act 2018). Bhutan has criminalised aiding, abetting, soliciting, conspiring or attempting the commission of (Sec. 168 of the AML/CFT Act 2018). The meaning of these ancillary offences rely on relevant sections in the Penal Code, which defines solicitation in a way that includes most of the conduct of facilitating and counselling the commission of an offence (Sec. 126 of the Penal Code).

14. Criterion 3.2 is *mostly met*. Terrorist financing (TF) has been criminalised since the MER and is included as a predicate offence to ML. While the MER identified that there is no specific predicate offences for organised crime or racketeering, the Review Team notes it is an offence in Bhutan to commit criminal conspiracy, which is in line with Footnote 12 of the FATF Methodology with respect to coverage of organised crime (127 to 234 of the Penal Code of Bhutan 2004). Bhutan's latest National Risk Assessment (NRA) assessed organised crime generates 49% of domestic proceeds of crime.

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<sup>2</sup> 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.

Bhutan reports the main profit-motivated offences perpetrated by criminal groups are codified in law (being smuggling, trafficking in drugs, and sexual exploitation including that of children).

15. There are three categories of predicate offences identified in the MER which are not explicitly codified: Insider trading and market manipulation, counterfeiting and product piracy, and maritime piracy. They are assessed to be relatively minor in Bhutan's risk and context.

16. There are only 20 companies listed on the Bhutan stock exchange, concentrated on licensed financial institutions (FIs), which is related to the Royal Monetary Authority (RMA) obligation for all FIs to be publicly-listed. Market capitalisation and turnover is relatively low, and there is a prohibition on foreigners trading with exception to foreign institutional investors via nominees. Insider trading is partly covered, as it is a criminal offence to abuse privileged information possessed as a result of one's office for personal benefit (Sec. 65, ACA).

17. Bhutan, as a land-locked country, does not have a shipping registry. Potential laundering of proceeds of foreign maritime piracy in Bhutan is given little weight.

18. The counterfeiting and piracy of products are not predicate offences. However in the context of Bhutan, the Department of Intellectual Property of Bhutan—established under Ministry of Economic Affairs—implements some measures to protect and enforce intellectual property rights.

19. Criterion 3.3 is *not applicable*. In keeping with the findings of the MER, as the ML offence takes an 'all crimes' approach rather than a threshold or combined approach, this criterion is not applicable.

20. Criterion 3.4 is *met*. The ML offence extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime (Sec. 187 (21) of the AML/CFT Act 2018).

21. Criterion 3.5 is *met*. When proving that property is the proceeds of crime, it is not necessary to convict a person of a predicate offence (Sec. 161(1)(a) of the AML/CFT Act 2018).

22. Criterion 3.6 is *met*. Predicate offences for ML includes conduct undertaken in another country, which constitutes an offence in Bhutan, and which would have constituted a predicate offence had it occurred domestically (Sec. 161(2)(b) of the AML/CFT Act 2018).

23. Criterion 3.7 is *met*. The ML offence applies to persons who commit the predicate offence (Sec. 161(1)(a) and (b) of the AML/CFT Act 2018).

24. Criterion 3.8 is *met*. It is made explicit that the intent and knowledge required to prove the ML offence to be inferred from objective factual circumstances (Sec.160 of AML/CFT Act 2018).

25. Criterion 3.9 is *mostly met*. The scheme for applying sanctions upon conviction of ML for natural persons is now reflected in the AML/CFT Act 2018 and remains largely unchanged since the MER (Sec. 164(1), AML/CFT Act).

26. Criterion 3.10 is *mostly met*. Sanctions for legal persons have significantly increased since the MER. Criminal and administrative sanctions apply upon conviction (Sec. 304, revised AML/CFT Rules and Regulation 2018). The revised AML/CFT Rules and Regulation 2018 provides that a legal person convicted of ML shall be liable to pay a fine of not less than twice of the value of the proceeds of an unlawful activity or instrumentalities of an offence at the time the offence was committed or Nu. 10,000,000 (approximately USD 180,000), whichever is greater. This is in addition to deregistration of the convicted entity (Sec. 304, AML/CFT Rules and Regulation 2018). However it is not clear that

measures against legal persons can be applied without prejudice to the criminal liability of natural persons.

27. Criterion 3.11 is *mostly met*. The MER findings in relation to the Penal Code continue to apply. Bhutan has criminalised aiding, abetting, soliciting, conspiring or attempting the commission of (Sec. 168, AML/CFT Act 2018). The meaning of these ancillary offences relies on relevant sections in the Penal Code, which defines solicitation in a way that includes most of the conduct of facilitating and counselling the commission of an offence (Sec. 126 of the Penal Code).

28. Weighting and conclusion: The APG welcomes Bhutan's steps to improve its technical compliance with the ML offence, noting the creation of standalone ML offence, with the inclusion of TF and the clarification of organised crime as predicates for ML. However gaps remain with the scope of coverage of predicate offences for ML. In light of Bhutan's risk and context these missing predicate offences have been weighed and overall represent minor gaps. Sanctions for legal persons convicted of ML have significantly increased since the MER.

29. **Recommendation 3 is re-rated to largely compliant.**

#### *Recommendation 4 (Originally rated PC)*

30. Bhutan has taken some steps to improve its technical compliance since its 2016 MER. Bhutan was rated PC in its MER for R.4, due to the scope of deficiencies related to predicate offences (discussed above), its absence of provisions for TF, and property of equivalent value. The report found there was no provision to protect the rights of bona fide third parties and there were limited mechanisms for managing seized property.

31. Criterion 4.1 is *mostly met*. A comprehensive regime for both convictions-based and civil forfeiture, with the exception of coverage of certain categories of predicate offences.

32. 4.1(a) is *mostly met*. The findings of the MER remain valid in relation to the Penal Code, the ACA and the Narcotic Drugs and Psychotropic Substances and Substance Abuse Act (the NDPSSAA). While the confiscation provisions in the AML/CFT Act 2018 chiefly focusses on proceeds and instruments of crime, the Act provides a basis to confiscate laundered property through payment in lieu of confiscation in cases where ML has been successful (i.e. property cannot be located, has been transferred, or has been intermingled such that it cannot be divided without difficulty (Sec. 137 of the AML/CFT Act 2018).

33. 4.1(b) is *mostly met*. The AML/CFT Act 2018 provides both a conviction-based and civil forfeiture regime for confiscation of the proceeds of or instrumentalities used or intended for use in, ML or predicate offences, whether held by criminal defendants or by third parties. This includes confiscation in cases that the suspect has absconded or died (Sec. 134-135; 143-149; 152-154 of the AML/CFT Act 2018). As Bhutan has not criminalised predicate offences relating to market manipulation, counterfeiting and piracy of products, nor confiscation of instrumentalities or proceeds, those offences are not supported. In light of Bhutan's risk and context these missing predicate offences have been weighed and overall represent minor gaps.

34. 4.1(c) is *met*. The above provisions cited at 4.1(a-b) apply equally to property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations.

35. 4.1(d) is *met*. The AML/CFT Act 2018 enables the confiscation of property of corresponding value, whether held by criminal defendants or by third parties. This can be achieved by an order for a

payment in lieu of confiscation, or a substitute property confiscation order over the property, or parts of property, in which the defendant has an interest (Sec. 137 and 156-158 of the AML/CFT Act 2018).

36. Criterion 4.2 is *mostly met*.

37. 4.2(a) is *met*. The findings of the MER in relation to the asset tracing powers under the Civil and Criminal Procedures Code 2001 (CCPC) and the ACA remain valid. The AML/CFT Act 2018 sets out powers for asset tracing. The revised AML/CFT Rules and Regulation 2018 set out comprehensive powers allowing competent authorities to identify, trace and evaluate property that is subject to confiscation. These complement powers available to LEAs under legislation related to predicate offences (Sec. 313 to 316, AML/CFT Rules and Regulation 2018). The Regulations include comprehensive Production Orders and Examination Orders, which compel the production of information relevant to asset tracing, restraint and forfeiture (Sec. 321 to 332, AML/CFT Rules and Regulation 2018).

38. 4.2(b) is *met*. The findings of the MER in relation to the asset tracing powers under the Civil and Criminal Procedures Code 2001 and the ACA remain valid. The AML/CFT Act 2018 sets out powers for provisional measures, including freezing or seizing, to prevent any dealing, transfer or disposal of property subject to confiscation (Sec. 125 to 129, 317).

39. 4.2(c) is *mostly met*. The AML/CFT Act 2018 sets out powers for some steps to prevent or void actions that may prejudice the country's ability to freeze, seize or recover property subject to confiscation. However this is limited to cases where disposition or dealing was either not for sufficient consideration or in favour of a person who did not act in good faith (Sec. 130, AML/CFT Act 2018). There are provisions under various laws that enables the State to prevent any act that prejudices the State's ability to seize, freeze or confiscate proceeds of crime. For instance, under Sec. 106(1) of the ACA, the Anti-Corruption Commission (ACC) can order not to part with or deal in, movable property in bank. Failing to comply with an order is an offence under section 106(3). Under Sec. 107(1) of the ACA, the ACC can seize immovable property. Once such order has been issued, it prohibits any dealing with the subject property. Failing to comply with such order is offence under Sec. 107(4) and 107(6). Any dealing with the property after seizure is void (Sec. 108, Anti-Corruption Act). Similarly, there is provision for injunction and temporary restraining of property under the Penal Code, which enables the State to prevent any actions that prejudice State's ability to seize or confiscate proceeds of crime.

40. 4.2(d) is *met*. In addition to the tracing powers identified above, the Regulations include comprehensive Production Orders and Examination Orders, which compel the production of information relevant to asset tracing, restraint and forfeiture (Sec. 321-332, AML/CFT Rules and Regulation 2018). The Financial Intelligence Department (FID) may also issue a temporary freeze notice over property held by a RE for a period not exceeding twenty-one days to enable further analysis by the FID or for investigative work to be undertaken by an enforcement authority (Sec., 32 AML/CFT Act 2018).

41. Criterion 4.3 is *met*. The MER findings in relation to the ACA having protections for the rights of bona fide third parties remain valid. The AML/CFT Act, and Rules and Regulations provide opportunities at the stages of seizure and confiscation for the rights of innocent third parties to be considered.

42. Criterion 4.4 is *partly met*. In regards to managing and disposal of property seized, Bhutan's legal framework does not offer a comprehensive regime for safekeeping or disposal. The AML/CFT Act 2018 provides a mechanism for disposal of confiscated property and "safekeeping" of seized property, but it is unclear which competent authority, apart from the ACC, is undertaking this "safekeeping" or has procedures for asset management. The ACC has the most detailed powers to take protect seized property (Sec. 103 (6), 104, 136 of the ACA). ACC has developed guidelines on seized



property and evidence management and a related standard operating procedure, and has a dedicated Seized Property Management Division. The ACC has also developed an online Seized Property Information Management System. The AML/CFT Rules and Regulations 2018 sets out that the agency of which he or she is a member shall arrange for the property to be kept until it is dealt with in accordance with the Act or this Rules and Regulations and shall take all reasonable steps to preserve the property. Apart from the ACC, further agency-level mechanisms for managing and, when necessary, disposing of property frozen, seized or confiscated have not been elaborated.

43. **Weighting and conclusion:** The APG welcomes Bhutan's steps to improve its technical compliance. However due to remaining deficiencies in ML predicate crimes and to the lack of procedures for assessing the mechanisms put in place for managing (safekeeping) or disposal of the property seized (with exception of the ACC), insufficient progress has been made.

44. **Recommendation 4 remains partially compliant.**

#### *Recommendation 6 (Originally rated PC)*

45. Bhutan's progress with Recommendation 6 since the MER was first considered in the 2018 FUR which re-rated R.6 from re-rated from NC to PC. The main remaining deficiencies identified in the 2018 FUR included implementation of targeted financial sanctions (TFS) was not done 'without delay'; no requirement to report attempted transactions; and no publicly available procedures that specify the process for de-listing by the United Nations.

46. Criterion 6.1 is *met*. The Department of Law and Order (DLO) is the competent authority for implementation of TFS, including proposing names to the 1267/1989 Committee and 1988 Committee. The DLO has a mechanism for identifying targets for designation, including collecting and use of necessary information or evidence, where there are 'reasonable grounds' to believe they have engaged in the prescribed conduct. The revised AML/CFT Rules and Regulations requires the DLO to ensure that any proposal for listing pursuant to UNSCR 1267 and 1988 complies with the requirements of the committee and provides as much detail as possible on the facts supporting the proposed designation and the identity of the person or organization to be designated.

47. Criterion 6.2 is *mostly met*.

48. 6.2(a)–(d) are *met*. Bhutan has established a Domestic Designation Committee (DDC) which is responsible for designation pursuant to UNSCR 1373. The DDC has a mechanism to identify targets for designation, and must have 'reasonable grounds' to believe a person/entity has engaged in TF in order to designate. The Standard Operating Procedure (SOP) for DDC provides that the DDC shall convene a meeting without delay for the purpose of designation upon receiving information, and the AML/CFT law requires the designation to be made promptly.

49. 6.2(e) is *partly met*. The SOP provides that the DDC shall make a request to a foreign country to give effect to freezing mechanisms. However it is unclear what legal basis the DDC has to do this. The AML/CFT Regulations 2018 provide that where a person/entity is designated by the DDC, a request to a foreign country shall be accompanied by as much information as possible on the reason for designation, including the entity and location of any funds/assets (Section 218). To date no request has been made to a foreign jurisdiction for the purposes of UNSCR 1373.

50. Criterion 6.3 is *met*. Bhutan has a mechanism that allows DLO to collect or solicit information related to designations, and to designate *ex parte*.

51. Criterion 6.4 is *met*. Bhutan has a freezing mechanism that applies to all legal and natural persons, which takes effect upon notification from the DLO. The DLO is required to publish, without



delay, updates to the sanctions list. These updates are now published on the Ministry of Home and Cultural Affairs website without delay, and the DLO communicates details of the sanctions list to the FID, who will notify reporting entities.

52. Criterion 6.5 is *mostly met*.

53. 6.5(a) is *mostly met*. The DDC may order the freezing of funds or property of designated persons or entities pursuant to UNSCR 1373. The AML/CFT law requires the DDC to issue a formal notice of designation 'as soon as practicable', however, the SOP provides that the DDC shall issue a freezing order immediately.

54. 6.5(b) is *met*. The sanctioning provision is contained at Section 180 of the AML/CFT Act. Section 119 of the AML/CFT Act requires legal and natural persons to give effect to the prohibition and freeze and includes the prohibition on providing funds, assets and other economic resources. For the avoidance of doubt, funds and assets are comprehensively defined. Further, the law comprehensively covers (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 terrorist act, plot or threat; (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.

55. 6.5(c) is *met*. Section 119 of the AML/CFT closely mirrors the wording of requirements at 6.5(c) and extends the prohibition to making any funds or other assets, economic resources, or financial or other related services, available, directly or indirectly, wholly or jointly, for the benefit of designated persons and entities; entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless licensed, authorised or otherwise notified in accordance with the relevant UNSCRs.

56. 6.5(d) is *mostly met*. The AML/CFT law requires the DLO to publish updates to the sanctions lists pursuant to UNSCR. Updates to the list are published on the Ministry of Home Affairs and Culture website. The DLO will notify the FID, who, under Section 82 (6) will without delay, communicate the details of any notice published to FIs and DNFBPs. Where a designation is made pursuant to UNSCR 1373, the DLO is required to issue a formal notice of the designation and publish as soon as practicable. Bhutan has not issued guidance to reporting entities on their obligations in taking action under freezing mechanisms.

57. 6.5(e) is *mostly met*. The AML/CFT law requires all persons to notify the FID of the existence of any property frozen pursuant to UNSCR 1267/1373. The revised AML/CFT Rules and Regulations require reporting entities to report, without delay, any actions taken in relation to freezing of funds/assets, including attempted transactions (Sec. 282). The rules also require reporting entities to submit an STR when there is an attempted transaction by designated persons. However it is unclear whether attempts to provide funds, or to seek financial services (e.g. open a bank account) are covered under FI/DNFBP reporting obligations.

58. 6.5(f) is *met*. Article 182 of the AML/CFT Act protects the rights of bona fide third parties acting in good faith when implementing freezing obligations.

59. Criterion 6.6 is *partly met*.

60. 6.6(a) is *not met*. While the Ministry of Home & Cultural Affairs has published a link to the UNSCR focal point for de-listing on its website, there are no procedures to submit de-listing requests

to the relevant UN Sanctions Committee when Bhutan forms the view that designated persons/entities do not or no longer meet the criteria for designation.

61. 6.6(b) and (c) are *met*. For UNSCR1373, the AML/CFT law the SOP for DDC provide a mechanism for the de-listing and unfreezing of funds including a review of designation decision before a court. The AML/CFT law allows a designated person or entity to apply to the DLO for the removal of a designation.

62. 6.6(d) and (e) are *met*. The Ministry of Home & Cultural Affairs has published a link to the UNSCR focal point for de-listing on its website.

63. 6.6(f) is *mostly met*. The AML/CFT Law contains a mechanism for review and unfreezing of funds of persons/entities with similar names to those. In addition, Sections 48-51 of the DDC SOP outline procedures for a person/entity affected by a freezing mechanism to apply to the DLO to unfreeze funds or other assets.

64. 6.6(g) is *mostly met*. The AML/CFT law requires that the DLO should issue a notice 'as soon as practicable' following the removal of a person/entity from both the UN and domestic sanctions lists. The DDC SOP states that once a person or organization is removed from the sanction list, the order relating to freezing of fund and property ceases and therefore, the DLO shall lift the freeze order immediately in coordination with the concerned authorities. Bhutan has not issued guidance to FIs and other persons or entities, which may by holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action.

65. Criterion 6.7 is *met*. Sections 86 to 89 of the AML/CFT law provides access to funds for basic expenses.

66. Weighting and conclusion: Bhutan has rectified the deficiencies noted in the 2018 FUR. The UNSCR 1267 sanctions list is now published on the Ministry of Home and Cultural Affairs website, to ensure publication is made without delay, instead of relying on notification by the FID to reporting entities. The revised AML/CFT Rules and Regulations now require reporting entities to report, without delay, on attempted transactions. Some minor deficiencies remain. No guidance has been issued to reporting entities or DNFBPs on their obligations in taking action under freezing mechanisms, and no guidance has been issued to FIs and other persons or entities which may by holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action. In addition, the legal basis for requesting a foreign jurisdiction to give effect to freezing mechanisms pursuant to UNSCR 1373 is unclear. Bhutan's risk and context, in particularly the materiality of the very small DNFBP sector, has been taken into account when weighting the gaps.

67. **Recommendation 6 is re-rated to largely compliant.**

#### *Recommendation 20 (Originally rated PC)*

68. Bhutan was rated PC in its 2016 MER due to cascading deficiencies in R.3 and R.5. In relation to R.5, the 2018 FUR acknowledged progress in Bhutan's STR obligations stemming from the new AML/CFT Act 2018, and the coverage of the TF offence in the same instrument. However, its rating remained PC due to cascading deficiencies of other serious criminal offences not yet criminalised in Bhutan under R.3.

69. Criterion 20.1 is *mostly met*. Bhutan has comprehensively criminalised TF, which is subject to the suspicious transaction report (STR) obligation. As outlined at R.3, concerns relating to the category of organised crime have been clarified, however there is no obligation for FIs to report when

it reasonably suspects that funds are the proceeds of counterfeiting and piracy of products, maritime piracy, or market manipulation, although the materiality of these offences in Bhutan's context is noted.

70. Criterion 20.2 is *met*. The AML/CFT Regulations 2018 require STRs to be filed without threshold.

71. Weighting and Conclusion: Since the MER was adopted Bhutan has addressed the gap with the coverage of obligations to file TF-related STRs and the coverage of organised crime has been further clarified (see R.3). While counterfeiting, product piracy, maritime piracy, and market manipulation are not predicate offences subject to STR reporting by FIs, there are mitigating factors including the materiality of domestic maritime piracy and market manipulation, and these gaps are given little weight.

72. **Recommendation 20 is re-rated to largely compliant.**

### *Recommendation 26 (Originally rated PC)*

73. Bhutan was rated PC for Recommendation 26 in its 2016 MER. The report identified insufficient market entry requirements for moneychangers and non-bank money value transfer service (MVTs) providers, a minor scope limitation on AML/CFT supervisors (credit cooperative/CSO savings funds and national pension fund) and a lack of coverage of financial groups.

74. Criterion 26.1 is *met*. Bhutan has addressed the gap in scope limitation of the National Pension Fund (NPPF). The FID designated the NPPF as a reporting entity and required them to submit the NPPF's risk assessment report along with the name list of dedicated AML and CFT compliance officer to the FID. The FID has conducted an onsite visit to NPPF. Credit cooperatives/CSO savings funds are no longer operating in Bhutan. This was confirmed by a study on risks of credit cooperatives/CSO savings which confirmed that they stopped operating a few years ago and no longer operate in Bhutan.

75. Criterion 26.2 is *met*. The licensing requirements for moneychangers are clarified in the 2018 revision of the Memorandum of Instruction for Authorized Money Changers, which is applicable to all establishments and persons who have been licensed by the RMA to purchase foreign currencies from resident and non-resident in Bhutan. Furthermore, it has been clarified that the sanctions for non-compliance with the Inward Remittance Rules and Regulations will be as per the Penalties Rules and Regulation 2019.

76. Criterion 26.3 is *mostly met*. The fit and proper requirements under Section 16 of the Corporate Governance Regulation remain in force for Core Principle FIs. While some progress has been made, the full range of fit and proper requirements are not in place to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, in a money changer or non-bank MVTs.

77. Criterion 26.4 is *met*.

78. 26.4(a) is *met*. Bhutan has adopted a risk-based approach to supervising FIs' AML/CFT systems and controls, and respective supervisory tools (i.e. onsite manual and offsite tool) have been developed accordingly. Rules and regulations issued in recent years have enabled Bhutan to shift resources to those areas presenting higher perceived risk, i.e. banks—and extend to other core principles FIs and other institutions posing lower ML/TF risks.

79. 26.4(b) is *met*. The deficiency is addressed. Bhutan has adopted a risk-based approach to supervising non-Core Principles FIs' AML/CFT systems and controls, and respective supervisory tools (i.e. onsite manual and offsite tool) have been developed accordingly.

80. Criterion 26.5 is *met*. Supervisors' risk-based approach mirrors the requirements of this criterion (s. 52 AML/CFT Rules and Regulations 2018).

81. Criterion 26.6 is *met*. Supervisors are required to review the assessment of the ML/TF risk profile of a financial institution or group (including the risks of non-compliance) periodically, and when there are major events or developments in the management and operations (Section 21.4, AML/CFT Regulations).

82. Weighting and conclusion: Bhutan has taken significant steps to ensure that FIs are subjected to adequate regulation and supervision and are effectively implementing the FATF Recommendations. FIs are also adequately regulated and prudentially supervised. However minor shortcomings remain in relation to insufficient fit and proper requirements to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, in a money changer or non-bank MVTS.

83. **Recommendation 26 is re-rated to largely compliant.**

#### *Recommendation 28 (Originally rated PC)*

84. Bhutan was rated PC in its 2016 MER. The report found that fundamental deficiencies existed for monitoring and ensuring compliance with AML/CFT requirements for DNFBPs, including the absence of a designated supervisor(s) to ensure implementation, lack of effective systems for monitoring, and no dissuasive monetary sanctions available.

85. Criterion 28.1 is *not applicable*. There are no casinos including internet casinos permitted in Bhutan.

86. Criterion 28.2 is *met*. No change since the 2018 FUR.

87. Criterion 28.3 is *partly met*. Bhutan has designated supervisors and assessed elements of DNFBP sectoral risk. Though other categories of DNFBPs have not been designated as reporting entities in accordance with Section 187(7g), Bhutan has stated the only other category of DNFBPs missing is casinos, which are prohibited by law in Bhutan. Bhutan states the AML/CFT Act has provisions to ensure the other types of DNFBPs are subject to systems for monitoring compliance with AML/CFT requirements.

88. However Bhutan has yet to demonstrate it has systems for monitoring compliance with AML/CFT requirements as required by this criterion. Bhutan notes its DNFBP sector is small and presents relatively small volume of activity. There are plans to commence offsite supervision by mid-2021.

89. Criterion 28.4(a) is *mostly met*.

90. 28.4(a) is *met*. Sections 45-48 of the Act and Sections 51 and 54 of the Rules and Regulations provide adequate powers to DNFBP supervisors to perform their functions, including powers to monitor compliance.

91. 28.4(b) is *partly met*. While the Companies Act applies some fit and proper obligations on all legal persons, wider necessary measures to prevent criminals or their associates from being professionally accredited, or holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function in a DNFBP are not established in Bhutan law.

92. 28.4(c) is *mostly met*. The 2018 FUR re-rated R.35 to largely compliant, noting that the sanctions applied to all reporting entities, including DNFBPs, and that a proportionate and dissuasive range of sanctions to deal with failure to comply with AML/CFT requirements.

93. Criterion 28.5 is *partly met*. Bhutan produced a feasibility/risk assessment report on DNFBPs (preliminary work on private accountants and legal professionals). This study was performed in order to maximise Bhutan's limited resources by ascertaining ML/TF risks and facilitate risk-based supervision and monitoring. Bhutan concluded, based on an ML/TF risk analysis, that both sectors have a "lower" level of ML/TF risk.

94. However, this preliminary study only covered assessment of private accountants and independent legal professionals as the 2017 NRA indicated these two DNFBP sectors have higher likelihood ML/TF risks relative to other sectors. Risk assessments on the other sectors of DNFBPs are yet to be conducted in order to determine and perform the frequency and intensity of their supervisory or monitoring actions on DNFBPs commensurate with their level of risks.

95. Weighting and conclusion: Bhutan's context of very small DNFBP sectors is noted. Comprehensive fit and proper measures are not yet in place for DNFBPs. While DNFBP supervision had not commenced, Bhutan has conducted feasibility/risk assessment on the two higher risks categories of DNFBPs to guide risk-based supervision. However, the coverage of the risk assessment is yet to be extended to all categories of DNFBPs so as to ensure they are subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements.

96. **Recommendation 28 remains partially compliant.**

#### *Recommendation 30 (Originally rated PC)*

97. The Bhutan MER identified significant deficiencies for Recommendation 30, namely that only the ACC is designated to conduct ML investigations, that there is no designated agency for investigating TF, and that the role of police to identify and trace property subject to confiscation is not clearly defined.

98. Criterion 30.1 is *met*. In 2018 Bhutan passed the AML/CTF Act that criminalised TF under Sections 165 to 168. Under the Royal Bhutan Police (RBP) Act 2009 the RBP have powers to investigate any criminal offence in the Penal Code including ML and TF (s.41 of the Police Act).

99. Criterion 30.2 is *partly met*. The RBP can investigate predicate offences and any related ML/TF offences (s.41 of the Police Act), while the ACC can investigate corruption and related ML (s.70-73 of the ACC Act). There are no explicit provisions in the law enabling the Department of Revenue and Customs (DRC) to conduct ML investigations. It is unclear whether they can refer the case to RBP for ML investigation.

100. Criterion 30.3 is *met*. The ACA provides the ACC authority and procedures on the freezing or seizure of both moveable and immovable properties. The AML/CFT Act provides power for an authorised officer (including the RBP) to apply to the court for a freezing order where a property is suspected to be proceeds or an instrument of crime, and where a person is convicted of a predicate offence, the officer may apply for confiscation. In addition, the revised AML/CFT Rules and Regulation 2018 sets out comprehensive powers that allow competent authorities to identify, trace and evaluate property that is subject to confiscation, and include Production Orders and Examination Orders, which compel the production of information relevant to asset tracing, restraint and forfeiture.

101. Criterion 30.4 is *not applicable*. There is no change since the MER. No other competent authorities (not law enforcement authorities per se) have responsibility to conduct ML/TF investigations.

102. Criterion 30.5 is *met*. The ACA provides exhaustive authority and procedures on the freezing or seizure of both moveable and immovable properties. The ACC has powers to conduct search, seizure and confiscation of property, as well as conduct examinations and require the production of documents.

103. Weighting and conclusion: The deficiencies outlined in the 2016 MER are mostly addressed. Under the Royal Bhutan Police Act 2009 the RBP have powers to investigate any criminal offence in the Penal Code. With the criminalising of TF in 2018, RBP is now the designated authority to investigate TF. Police have the power to identify and trace property subject to confiscation, pursuant to the AML/CFT Act and revised AML/CFT Rules and Regulations 2018. Minor deficiencies remain which have been weighted, taking into account Bhutan's risk and context: There are no legislative provisions enabling DRC to conduct ML investigations, and it is unclear whether they can refer the case to RBP for ML investigation.

104. **Recommendation 30 is re-rated to largely compliant.**

#### *Recommendation 33 (Originally rated PC)*

105. The Bhutan MER rated Recommendation 33 as PC, as the statistics provided by Bhutan on confiscations and international cooperation were not sufficiently detailed or comprehensive.

106. Criterion 33.1 is *mostly met*.

107. 33.1(a) is *met*. The FID maintains statistics on received and disseminated STRs and CTRs from 2017-2019 and the number of disseminations to competent authorities.

108. 33.1(b) is *mostly met*. The RBP and ACC maintain statistics on predicate offence and ML investigations, however statistics maintained by RBP on ML were not comprehensive (e.g. no breakdown of related predicate offences). While RBP maintains statistics on terrorism and related offences, it does not maintain statistics for TF investigations. The Office of Attorney General (OAG) maintains statistics for all prosecutions, including ML/TF prosecutions.

109. 33.1(c) is *partly met*. Bhutan has provided statistics on seized foreign currency. The BNCA maintains statistics of drugs seized by law enforcement agencies, but there are no statistics on seized property, bank accounts, cash, and other assets in relation to drug offences. The ACC maintains statistics for corruption-related cases including seizure, arrest, freezing orders, and restitution, and some statistics on confiscations. The DRC maintains limited statistics on seizures in 2019, and no information on confiscations that same year.

110. 33.1(d) is *partly met*. Statistics provided on mutual legal assistance (MLA) noted zero cases since the MER. The FID maintains some statistics on international requests for assistance for 2017-2019, however, these statistics are not comprehensive on matters relevant to the effectiveness and efficiency of MLA and other international requests for cooperation made and received.

111. Weighting and conclusion: Bhutan has made progress on maintaining statistics relating to STRs and CTRs. Bhutan maintains statistics on ML investigations, prosecutions, and convictions but does not maintain statistics for TF investigations. Statistics relating to confiscations and international cooperation are not comprehensive. These minor deficiencies have been weighted, taking into account Bhutan's risk and context.



112. **Recommendation 33 is re-rated largely compliant.**

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

113. Since the adoption of Bhutan's MER, Recommendations 2, 8, 15, and 18 have been amended. This section considers Bhutan's compliance with the new requirements.

#### *Recommendation 2 (re-rated LC in the 2018 FUR)*

114. Since the adoption of Bhutan's MER, Recommendation 2 has been amended to clarify the need for compatibility of AML/CFT requirements and data protection and privacy rules.

115. Criterion 2.5 is *met*. Bhutan has existing mechanisms for authorities to cooperate and share information for AML/CFT purposes to ensure compatibility of AML/CFT requirements and data protection and privacy rules as the need arises. At present there do not appear to be any specific data protection and privacy obligations which impede AML/CFT requirements.

#### *Recommendation 8 (Originally rated PC)*

116. Since the adoption of Bhutan's MER, Recommendation 8 has been amended to clarify the subset of non-profit organisations (NPOs) which should be subject to R.8 requirements and to ensure that R.8 is in line with the targeted risk-based approach.

117. Bhutan was rated PC for Recommendation 8 in 2016. The main deficiencies identified were that Bhutan had not conducted a review of its NPO sector and its vulnerability for abuse, and therefore did not take a risk-based approach to the monitoring of NPOs. There was limited application and enforcement of the law and regulations, and there were no points of contact or procedures for responding to information requests. At that time, Bhutan had not conducted outreach concerning TF issues.

118. Criterion 8.1 is *partly met*.

119. 8.1(a) is *not met*. 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.

120. 8.1(b) is *not met*. Whilst there was some mention of NPOs in the NRA, 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.

121. 8.1(c) is *partly met*. Bhutan conducted a review of its Civil Society Organizations (CSO) Rules and Regulations in consultation with the sector. As a result of the review, Bhutan amended Rules and Regulations in 2017. These rules do not identify a subset of NPOs that may be subject to misuse. Bhutan advised that it is in the process of reviewing the Civil Society Organizations Authority (CSOA), and intends on updating its NRA in 2021.

122. 8.1(d) is *not met*. Bhutan does not conduct any periodic assessment of the NPO's vulnerabilities to TF.

123. Criterion 8.2 is *partly met*.

124. 8.2(a) is *mostly met*. Bhutan's policies for promoting transparency, integrity, and public confidence in the sector are provided for in the CSOA and CSO Regulations. CSOs must be registered by the CSOA and provide annual reports, including audited financial statements, an auditor's report and



a trustees' report. All CSOs are required to follow a uniform accounting system. The CSOA has a website devoted to providing information to NPOs and to the public about the sector. There is no provision in the Religious Organisations Act 2007 for public access to basic information on religious organisations registered with the Chhoehey Lhentshog, which is the regulatory authority for religious organisations.

125. 8.2(b) is *partly met*. Bhutan has taken some initiatives to raise awareness about the vulnerabilities of TF in the NPO sector. One workshop was postponed due to the COVID-19 pandemic. There does not appear to be any outreach to the donor community regarding TF risks.

126. 8.2(c) is *partly met*. Competent authorities have not worked with the NPO sector to develop best practices to address TF risk and vulnerabilities and thus protect them from TF abuse. However, the CSOA does conduct an orientation program for newly registered CSOs.

127. 8.2(d) is *partly met*. 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 (Sec. 111, CSOA Rules). It is recognised in the CSO Financial Reporting Manual that CSOs may operate on a cash basis, and requires all cash transactions be properly recorded by a uniform standard. Religious organisations (under the Religious Organizations Act 2007 (ROA)) are not encouraged to conduct transactions via regulated financial channels.

128. 8.3 is *partly met*. Bhutan's laws and regulations do not set forth a targeted monitoring of compliance. CSOA monitors CSOs through annual reporting, including examining audited financial statements, an auditor's report and a trustees' report. CSOs are required to obtain a Public Collection Certificate from the Authority prior to the conduct of fund raising activities. Mutual Benefit Organisations (MBOs) and Foreign CSOs are not subject to monitoring or reporting requirements. As noted above Bhutan has not conducted a formal assessment of the TF risks in the NPO sector and does not take a risk-based approach to supervision.

129. Criterion 8.4 is *partly met*.

130. 8.4(a) is *partly met*. Bhutan's laws and regulations do not set forth a risk-based approach to the monitoring of NPOs. CSOs and religious organisations (ROs) are subject to monitoring through comprehensive annual reporting, including financial information however MBOs and Foreign CSOs are not subject to monitoring or reporting requirements.

131. 8.4(b) is *met*. Under the CSO Regulations and the CSOA, the Authority can apply a range of proportionate and dissuasive sanctions. The ROA also provides a range of proportionate and dissuasive sanctions for ROs and persons acting on behalf of ROs.

132. Criterion 8.5(a) is *partly met*. Bhutan has entered into a Memorandum of Understanding (MoU) with RBP and CSOA for cooperation in the exchange of information relating to financial intelligence on ML-associated predicate offences and TF. However there is no information about appropriate mechanisms for information requests regarding NPOs. The CSOA Rules and Regulations state that the CSOA shall facilitate communication between CSOs and government agencies through an annual meeting.

133. Criterion 8.5(b) is *mostly met*. RBP is the agency responsible for investigating TF, including in the NPO Sector and is able to use its powers (referred to in R.30 and 31) to conduct TF investigations. There is no specific mention of any agency specifically tasked with investigating NPOs.

134. Criterion 8.5(c) is *mostly met*. The MOU between the FIU, RMA and RBP and CSOA enable the exchange of information relating to financial intelligence on ML associated predicate offences and

TF. The CSOA has the power to summon and compel any person to give evidence and produce documents and accounts and statements relating to a CSOA inquiry. General investigative powers of RBP and ACC provide for investigation into criminal acts as discussed at Recommendation 30 and 31. There is nothing in the CSOA that would inhibit such access. There are similar requirements in the ROA. It is unclear whether the Chhoehey Lhentshog can share information with the FID and RBP.

135. Criterion 8.5(d) is *partly met*. The MOU between the FID, RBP and CSOA enable the exchange of information relating to financial intelligence associated with TF. It is unclear whether there are appropriate mechanisms in place to ensure that when there is suspicion the misuse of a religious authority, that information can be promptly shared with competent authorities. There is no legislative mechanism to enable information sharing with Chhoehey Lhentshog. No mechanisms have been established to ensure that in the event of misuse of an NPO, relevant information is promptly shared with competent authorities in order to take preventive or investigative action.

136. Criterion 8.6 is *partly met*. The RMA and RBP can share information with foreign counterparts (refer to R.40), and both agencies have an MOU with CSOA for exchange of information including NPOs suspected of TF. On that basis, a request received by either agency could be responded to with information exchanged domestically with the CSOA. Bhutan advised that the head of CSOA would be the contact for responding to international requests for information, although there is no clear legal basis for such international cooperation and related information exchange. The lack of legal mechanism for information sharing between Chhoehey Lhentshog and RMA and RBP would inhibit Bhutan's ability to respond to international requests for information relating to ROs. Based on findings of the MER, it is unclear whether Bhutan has the ability to exchange information directly with non-counterparts (R.40).

137. The MER highlighted points that Bhutan has a comprehensive three-tier coordination mechanism with India (which would cover key cross-border TF/terrorism risks), however this is coordinated by the Bureau of Law and Order (BLO), and there is no MOU between BLO and the NPO regulatory agencies. The MER highlighted that there are no statutory restrictions on police sharing information.

138. **Weighting and conclusion:** 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.

139. **Recommendation 8 remains at partially compliant.**

#### **Recommendation 15 (Originally rated C)**

140. In its 2016 MER, Bhutan was rated C with R.15. In October 2018, R.15 was amended to include requirements relating to virtual assets (VA) and virtual asset service providers (VASPs).

141. Criterion 15.1 and 15.2 are *met*. Bhutan was previously assessed to have met the requirements of these legacy criteria. The updated regulatory framework has maintained compliance with these criteria.

142. Criterion 15.3 is *not met*. Bhutan indicated that it has yet to identify any VASPs operating in Bhutan, though it is taking steps to update its NRA in 2021. Bhutan indicated it has not explicitly legalised VA and VASPs nor 'recognised' them. This review team considered that this does not constitute a decision to prohibit VA/VASPs in line with Footnote 44 of the FATF methodology, and has accordingly analysed Bhutan's technical compliance with the remainder of R.15.

143. Bhutan's response did not meet the thresholds set out by the three sub-criteria under c.15.3. Bhutan did not demonstrate it identified or assessed ML/TF risks emerging from VA/VASP activities and operations (c.15.3(a)). Bhutan did not provide any evidence of the risk-based approach being applied to ensure measures to prevent/mitigate ML/TF are commensurate to identified risks (c.15.3(b)). Bhutan does not appear to have any requirements for VASPs to identify, assess, manage, and mitigate their ML/TF risks (c.15.3(c)).

144. Criterion 15.4 to 15.10 are *not met*. Bhutan did not provide any evidence in response to this criteria. With respect to c.15.6, Bhutan did not demonstrate how general supervisory obligations in place for reporting entities relating to R.26 and R.27 apply to VASPs in Bhutan, or in the case of c.15.7 whether there are guidelines and feedback to VASPs to assist their AML/CFT efforts and detecting/reporting STRs.

145. Criterion 15.11 is *partly met*. Deficiencies in R.37 to 40 apply in Bhutan's ability to rapidly provide international cooperation on ML/TF and predicate offences. Bhutan did not provide any evidence in relation to its ability to cooperate with partners on VA.

146. Weighting and conclusion: Legacy criteria for new technologies remain in place, however Bhutan does not have any AML/CFT controls for VA/VASPs. It has not explicitly prohibited VA/VASPs as permitted in Footnote 44 of the methodology, and the review team subsequently analysed Bhutan's compliance with the new criteria under R.15. Information on the risk and context relevant to VA/VASPs was not available and Bhutan has yet to identify and assess ML/TF risks emerging from VA/VASPs activities and operations. Risk-based regulation and supervision of VA/VASPs is not in place. These are considered major shortcomings.

147. **Recommendation 15 is re-rated non-compliant.**

#### *Recommendation 18 (Originally rated LC)*

148. In the 2016 MER Bhutan was rated LC for R.18 as there were no obligations for financial groups to have group-wide AML/CFT programmes and measures. The MER noted the small number of financial groups in Bhutan and no foreign branches or majority-owned subsidiaries of foreign FIs operating in Bhutan. In October 2018, R.18 was amended to clarify the requirements on sharing of information related to unusual or suspicious transactions within financial groups, and the interaction of these requirements with tipping-off provisions.

149. Criterion 18.1 is *met*. The AML/CFT Regulations 2018 require reporting entities to detail the role of the board of directors and senior management in their AML/CFT programs, and to appoint compliance officers at the senior management level. In excess of the methodology, a compliance officer is also required at each branch and subsidiary. The updated regulatory framework has maintained compliance with this criterion.

150. Criterion 18.2 is *mostly met*. There is a minor deficiency with respect to c.18.2(b), as there is no specific requirement to share information on unusual or suspicious transactions within the same financial group, nor an obligation to share such information with branches and subsidiaries.

151. Criterion 18.3 is *mostly met*. There are no explicit requirements for foreign branches and subsidiaries to apply home AML/CFT measures, when the host jurisdiction is less strict. This was considered a minor deficiency in Bhutan's risk and context, as none of its FIs have foreign branches or subsidiaries.

152. Weighting and conclusion: Bhutan has addressed the lack of requirements for group-wide AML/CFT internal controls identified in the 2016 MER. However, there a minor deficiency remains as

there is no requirement to share information related to unusual or suspicious transactions within the financial group and with its branches and subsidiaries. To a lesser extent, there are no explicit requirements for foreign branches and subsidiaries to apply home AML/CFT measures when the host jurisdiction is less strict. In Bhutan's context there are no financial groups or Bhutanese FIs with foreign branches or subsidiaries. As such these gaps are considered minor.

153. **Recommendation 18 remains largely compliant.**

#### *Recommendation 21 (Originally rated LC)*

154. In its 2018 FUR Bhutan was rated LC with R.21. In October 2018, R.18 was amended to clarify the requirements on sharing of information related to unusual or suspicious transactions within financial groups, and the interaction of these requirements with tipping-off provisions.

155. Criterion 21.1 is *met*. The updated regulatory framework outlined in the 2018 FUR has maintained compliance with this criterion.

156. Criterion 21.2 is *mostly met*. The tipping off provisions do not inhibit information sharing under Recommendation 18. The updated regulatory framework has maintained the minor shortcomings identified in the 2018 FUR.

157. Weighting and conclusion: The tipping off provisions do not inhibit information sharing under Recommendation 18. The updated regulatory framework has maintained the minor shortcomings identified in the 2018 FUR.

158. **Recommendation 21 remains largely compliant.**

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

159. Recommendation 7 (rated PC) – Bhutan has developed a resource for sharing TFS listings in relation to PF.

160. Recommendation 24 (rated PC) – Consultation with law enforcement agencies is underway towards creating legal requirements for law enforcement agencies to create new regulations that facilitate timely access to basic and beneficial ownership information.

161. Recommendation 31 (rated PC) – The Narcotic Drugs, Psychotropic Substances and Substance Abuse (Amendment) Act of Bhutan 2018 empowers the BNCA to access information from FIs via court orders.

162. Recommendation 34 (rated PC) – The FID, with assistance from the Asian Development Bank, has developed a CDD guidance which has been published on its website and issued to reporting entities. In addition, guidance on PEPs has been developed to assist reporting entities in implementing provisions relating specifically to PEPs.

163. Recommendation 36 (rated PC) – The DLO is currently reviewing this Recommendation in relation to the Palermo convention.

164. Recommendation 37 (rated NC) - The DLO, with technical assistance from the International Monetary Fund, has drafted a MLA bill. The bill is with the Office of the Attorney General for review.

165. Recommendation 40 (rated PC) – The AML/CFT Rules and Regulation 2018 empowers the FID to request information from counterparts, if it believes they may possess or be able to obtain

relevant information to analytical work or an law enforcement investigation. There is a directive in place, for all international communications to be routed through the Ministry of Foreign Affairs. The ACC, BNCA, and DRC have legislative or policy mechanisms in place to facilitate MLA and information exchange activities. Bhutan has ongoing efforts to sign MOUs bilaterally and enter multilateral fora.

#### IV. CONCLUSION

166. Overall, Bhutan has made good progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated on six Recommendations. On the basis of progress made by Bhutan, Recommendations 3, 6, 20, 26, 30 and 33 have been re-rated to Largely Compliant. Insufficient progress has been made on Recommendations 4 and 28 to justify re-ratings at this time.

167. With respect to the Recommendations which have been amended since Bhutan’s last FUR, Bhutan has retained its ratings for Recommendations 8, 18 and 21 and was re-rated to Non-Compliant for Recommendation 15.

168. In light of the progress made by Bhutan since its MER was adopted, its technical compliance with the FATF Recommendations is as follows as of the reporting date 1 October 2020:

R.	Rating	R.	Rating
1	NC (MER 2016) ↑ LC (FUR 2018)	21	NC (MER 2016) ↑ LC (FUR 2018), (FUR 2020)
2	PC (MER 2016) ↑ LC (FUR 2018)	22	C (MER 2016)
3	PC (MER 2016) ↑ LC (FUR 2020)	23	PC (MER 2016) ↑ LC (FUR 2018)
4	PC (MER 2016), (FUR 2020)	24	PC (MER 2016)
5	NC (MER 2016) ↑ LC (FUR 2018)	25	LC (MER 2016)
6	NC (MER 2016) ↑ PC (FUR 2018) ↑ LC (FUR 2020)	26	PC (MER 2016) ↑ LC (FUR 2020)
7	NC (MER 2016) ↑ PC (FUR 2018)	27	C (MER 2016)
8	PC (MER 2016), (FUR 2020)	28	NC (MER 2016) ↑ PC (FUR 2018), (FUR 2020)
9	LC (MER 2016) ↑ C (FUR 2018)	29	NC (MER 2016) ↑ LC (FUR 2018)
10	C (MER 2016)	30	PC (MER 2016) ↑ LC (FUR 2020)
11	C (MER 2016)	31	PC (MER 2016)
12	C (MER 2016)	32	PC (MER 2016) ↑ LC (FUR 2018)
13	C (MER 2016)	33	PC (MER 2016) ↑ LC (FUR 2020)
14	PC (MER 2016) ↑ LC (FUR 2018)	34	PC (MER 2016)
15	C (MER 2016) ↓ NC (FUR 2020)	35	PC (MER 2016) ↑ LC (FUR 2018)
16	LC (MER 2016)	36	PC (MER 2016)
17	LC (MER 2016)	37	NC (MER 2016)
18	LC (MER 2016), (FUR 2020)	38	NC (MER 2016) ↑ LC (FUR 2018)
19	LC (MER 2016)	39	LC (MER 2016)
20	PC (MER 2016) ↑ LC (FUR 2020)	40	PC (MER 2016)

169. Bhutan has 29 Recommendations rated C/LC.

170. The Bhutan FUR was adopted out-of-session by the APG membership in May 2021. In keeping with the APG Mutual Evaluation Procedures 2021, Bhutan will remain in enhanced follow-up, and will continue to report back to the APG on progress to strengthen its implementation of AML/CFT measures.