



2nd Follow-Up Report

Mutual Evaluation of Mongolia

October 2019



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MONGOLIA: 2nd ENHANCED EXPEDITED FOLLOW-UP REPORT 2019

I. INTRODUCTION

1. The mutual evaluation report (MER) of Mongolia was adopted in July 2017. This follow-up report (FUR) analyses the progress of Mongolia 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 MER was adopted: Recommendations 2, 5, 7, 8, 18 and 21.

2. This report does not analyse any progress Mongolia has made to improve its effectiveness. Progress on improving effectiveness will be analysed as part of a later follow-up assessment and, if found to be sufficient, may result in re-ratings of Immediate Outcomes at that time.

3. The assessment of Mongolia's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:

- *Mr. Aibek Turdukulov, EAG Secretariat*
- *Mr. Andrew Holmes, Department of Internal Affairs, New Zealand*
- *Mr. Gavin Raper, Australian Transaction Reports and Analysis Centre*
- *Mr. José Carapinha, Financial Intelligence Office, Macao China*
- *Mr. Sohail Jan, State Bank of Pakistan*
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- *Mr. Gimo Laxamana, APG Secretariat*
- *Ms. Jenny Feltham, APG Secretariat*

4. Section III of this report summarises the progress made to improve technical compliance. Section IV contains the conclusion and a table illustrating Mongolia's current technical compliance ratings.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

5. Mongolia's original MER ratings are as follows:

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

C	PC	PC	PC	PC	C	C	LC	LC	LC
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IO 1	IO 2	IO 3	IO 4	IO 5	IO 6	IO 7	IO 8	IO 9	IO 10	IO 11
Low	Moderate	Low	Low	Low	Low	Low	Moderate	Low	Low	Low

6. Given these results, Mongolia was placed in enhanced (expedited) follow-up¹.
7. Mongolia did not request re-ratings in its 2018 follow-up report.

III. TECHNICAL COMPLIANCE RECOMMENDATIONS REVIEWED

8. This section summarises the progress made by Mongolia 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. Mongolia requested re-ratings of the following Recommendations: 7, 17, 22, 23, 28 (which were rated NC); and 1, 2, 6, 8, 14, 19, 21, 24, 25, 26, 29, 32, 33, 34, 35 (which were rated PC).
10. The APG welcomes the steps that Mongolia has taken to improve its technical compliance with Recommendations 1, 2, 6, 7, 8, 14, 17, 19, 21, 22, 23, 24, 25, 26, 28, 29, 32, 33, 34 and 35. As a result of this progress, Mongolia has been re-rated on Recommendations 2, 6, 7, 17, 19, 21, 22, 23, 24, 25, 26, 28, 29, 32, 33 and 34. However, insufficient progress has been made to justify a re-rating of Recommendations 1, 8, 14 and 35.

Recommendation 1 (Originally rated PC)

11. Mongolia was rated PC in the MER for R.1. While Mongolia completed its first NRA in 2016, it was focused on the identification of threats with limited analysis undertaken. The 2017 MER found that no sectoral risk assessments were done, and the identification of ML risks in the following sectors were still not known: real estate, accountants, insurance, dealers in precious metals, securities, insurance, remittance, legal entities, public and foreign companies and the NPO sector. For TF, the NRA included very limited identification and analysis of Mongolia's TF threats and vulnerabilities. Mongolia had not implemented a RBA to allocating resources. In addition, there were scope deficiencies in the coverage of DNFPBs with only real estate agents and notaries included as REs.

12. Since the 2017 MER, Mongolia has undertaken a number of sectoral assessments including for NBFIs. The risk assessments of real estate and TF are recognised as positive, though it is difficult to fully appreciate what an average or moderate rating for TF means in the context of Mongolia.

13. While an updated risk assessment related to banking was undertaken, it was difficult to follow the methodology and understand the findings. In addition, securities and insurance assessments have been undertaken even though they were considered low risk in the 2017 MER, so it is unclear what the rationale was for the prioritisation of these ongoing assessments. While the TF risk assessment included limited consideration of the TF risk faced by NGOs, it is also unclear why Mongolia has not considered

¹ 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.

developing a more comprehensive understanding of the NGO sector and the associated risks (recognising the deficiencies highlighted in R.8). Mongolia has conducted several sectoral risk assessments that consider the activities of legal persons but do not assess the risks associated with the types of legal persons themselves. It is noted that risk assessments for accountants, DPMS and legal entities are being planned but are yet to be conducted.

14. Mongolian authorities have started to implement a strategically-focussed approach to allocating resources across all government sectors to address the identified risks in the NRA through development of a Strategic Plan based on the understanding of the AML/CFT risks identified in the NRA and to a limited extent the additional risk assessments undertaken in the last two years.

15. The scope issues under Recommendations 22 and 23 have been largely addressed, with only TCSPs now absent as a reporting entity to which minimal weight is applied. It is not clear if enhanced or simplified measures are undertaken based on risk. While public or local administrations are part of the government with a risk profile of low, it is not clear why public companies listed on the stock exchange are considered to have lower risk and whether this is based on any risk assessments.

16. Limited supervision and outreach has been undertaken for accountants, lawyers and notaries, which suggest that supervisors are not fully ensuring that all reporting entities are implementing their obligations around R.1. The Preventive Measures Regulations 2016 (PMR) doesn't specify that policies, controls and procedures need to be approved by senior management. Mongolia now allows REs to undertake simplified measures, though these provisions are not risk based.

17. Mongolia has taken a range of steps to address the deficiencies identified in 2017 for R.1. The risk assessments of real estate, securities, insurance and TF are recognised as positive, though it is unclear why Mongolia has not considered developing a more comprehensive understanding of the NGO sector and the associated risks. Mongolia is using risk to guide allocation of resources and to develop and implement measures to a limited extent. Enhanced CDD for high risk areas is provided for in the PMR and the Law on Combating Money Laundering and Terrorist Financing 2013 (AML/CFT Law), with TCSPs now the only sector out of scope, which is considered a minor deficiency. The PMR now provides simplified due diligence measures but these are not based on risk, which does not meet the standard. The law also indicates that simplified due diligence measures can be applied in certain cases though no evidence has been provided to show that lower risk was assessed in these cases. Limited supervision and outreach has been undertaken for accountants, lawyers and notaries, which suggest that supervisors are not fully ensuring that all reporting entities are implementing their obligations around R. 1.

18. **Mongolia remains partially compliant with R.1.**

Recommendation 2 (Originally rated PC)

19. Mongolia was rated PC in its MER for R.2. Mongolia was yet to implement national AML/CFT policies informed by identified risks. The degree to which the National Cooperation Council (NCC) (designated authority for national AML/CFT policies) and the National Counter Terrorism Coordinative Council (NCTCC) (designated authority for the implementation and monitoring of the ATL) cooperate and coordinate on operational ML and TF issues was limited, and coordination on PF was absent.

20. A national strategy informed by risk was approved in May 2017, whereby the NCC and the FIU are jointly responsible for supervising and evaluating the implementation of the national strategy and can amend the strategy and implementation plan in line with the results of their supervision, international recommendations and AML/CFT standards. The NCTCC coordinates TF and the MOU between the NCC and NCTCC clearly covers roles, responsibilities and how they will cooperate. The

degree to which the NCC is used for AML/CFT operational level cooperation or coordination remains limited.

21. The Anti-Terrorism Law 2004 (amended 2013) (ATL), AML/CFT Law, PMR and Targeted Financial Sanctions (TFS) Regulation have been amended to apply to proliferation financing (PF). As a result, the coordination and cooperation mechanisms established under these laws now apply to PF. The NCC and NCTCC have signed a MOU which highlights cooperation and sharing of information between both these bodies around PF.

22. The Regulation on the Secrecy Procedures of the Financial Intelligence Unit (September 2017) was enacted to protect the confidentiality of FIU information housed on the FIU database, and is applicable to other agencies accessing and utilising the FIU data including all LEAs, with any disclosure of prohibited information strictly forbidden by law. The FIU has MOUs with the Independent Authority Against Corruption (IAAC), General Police Agency (GPA) and General Intelligence Agency (GIA) where strict confidentiality applies to data. Broad cooperation and coordination is implemented through the NCC where Ministry of Justice and Home Affairs (MOJHA) and GPO are also member organisations. In addition, the regulation on data collection, usage and protection of confidentiality (March 2017) ensures cooperation, coordination and data protection between key authorities which include the General Council of Courts, Ministry of Justice and Home Affairs, GPO, Police and the General Executive Agency of the court decision. The FIU is not directly referenced in this regulation though the strong secrecy regulations pertaining to the FIU and ML/TF data and MOUs between key agencies do not weaken confidentiality, protection and privacy.

23. Mongolia has made significant progress in addressing its deficiencies with respect to R.2. A national strategy informed by risk was approved by the government in May 2017. PF is now covered in the ATL, AML/CFT Law, PMR and TFS Regulation and the coordination/cooperation mechanisms established by these laws now extends to PF. The Regulation on the Secrecy Procedures of the FIU was enacted to protect the confidentiality of FIU information housed on the FIU database. Broader cooperation and coordination across agencies is implemented through the NCC. The degree to which the NCC is used for AML/CFT operational level cooperation or coordination remains limited.

24. **Mongolia is re-rated to largely compliant with R.2.**

Recommendation 6 (Originally rated PC)

25. Mongolia was rated PC in its MER for R.6. The primary shortcoming was that TFS obligations, including the obligation to freeze, the prohibition on making funds available and the requirements of FIs and DNFBSs to report assets frozen and actions taken, were not enforceable. Since that time, Mongolia has significantly amended its TFS framework by amending the AML/CFT Law, ATL, TFS Regulation, PMR and Law on Infringement.

26. Mongolia's TFS obligations contained in the AML/CFT Law, PMR and TFS Regulation, which include comprehensive freezing obligations and prohibitions, are now enforceable. Sanctions for non-compliance with these obligations are contained in the Law on Infringement. The TFS obligations contained in the ATL remain unenforceable. However, this deficiency is considered minor, as the TFS Regulation applies broadly to all natural and legal persons and therefore there are enforceable TFS obligations that apply in all required circumstances. The obligation to report asset freezing and other actions (c.6.5(e)) does not apply to TCSPs, State Pension and Insurance Funds because they are not included as reporting entities under Mongolia's legal framework.

27. The TFS Regulation has been amended to make it explicit that the GIA shall operate ex parte upon making a decision on designation and asset freezing, to include measures to protect the rights of bona fide third parties and to set out the procedures for de-listing and unfreezing. The FIU has developed

guidelines on TFS and issued them to all reporting entities. However this does not include TCSPs, nor State Pension and Insurance Funds (c.6.5(f)).

28. Overall, Mongolia has significantly increased its compliance with R.6. Minor deficiencies remain with regard to the unenforceability of TFS obligations contained in the ATL and reporting obligations and guidance not extending to TCSPs, State Pension or Insurance Funds. The gaps with respect to TCSPs, State Pension and Insurance Funds are considered minor for the reasons outlined in the MER and in the analysis of R.22.

29. **Mongolia is re-rated to largely compliant with R.6.**

Recommendation 7 (Originally rated NC)

30. Mongolia was rated NC in the MER for R.7. There was no legal framework to implement TFS related to proliferation. Since that time, Mongolia has amended the AML/CFT Law, ATL, TFS Regulation, PMR and Law on Infringement to introduce a legal framework to implement TFS related to proliferation.

31. The TFS framework that applies to proliferation is the same as the framework that applies to terrorism. Amendments to scope of the AML/CFT Law and ATL have extended all provisions in those laws that apply to countering terrorism to apply equally to countering proliferation. This means that the same deficiency with regard to the unenforceability of the TFS provisions contained in the ATL applies equally in relation to R.7. However, this deficiency is considered immaterial because more substantial amendments to the TFS Regulation issued under those laws have largely addressed the requirements of R.7 and these provisions are enforceable and apply broadly to all natural and legal persons. Under the amended TFS legal framework:

- UNSC designations relating to proliferation take immediate effect.
- All natural and legal persons are required to freeze without delay the funds or other assets of designated persons and entities and are prohibited from making funds or other assets available to them or for their benefit.
- The GIA is obliged to take measures without delay to communicate designations to supervisory authorities and the public and does so by publishing an updated list and sending it out to subscribers.
- Reporting entities are obliged to report asset freezing or other actions taken in relation to designated persons or entities. However, this obligation does not extend to TCSPs, State Pension and Insurance Funds.
- There are measures to protect the rights of bona fide third parties.
- Supervisors are obliged to monitor and enforce compliance with TFS obligations in their respective sectors. The Bank of Mongolia has procedures in place for TFS supervision. However, it is not clear what mechanisms, if any, for monitoring are being used in relation to REs other than banks and there are no measures to monitor and ensure compliance by TCSPs, State Pension and Insurance Funds because they are not included as reporting entities under the AML/CFT Law.
- There are procedures for de-listing, unfreezing and authorisations, which have been made publicly available.
- There are mechanisms to allow additions to accounts and payments to be made with regard to contracts, agreements or obligations that arose prior to TFS taking effect.

32. Overall, Mongolia has substantially increased its compliance with R.7. Minor deficiencies remain related to monitoring and ensuring compliance by DNFBPs with TFS obligations and guidelines and reporting obligations not extending to TCSPs, State Pension and Insurance Funds. The gaps with

respect to TCSPs, State Pension and Insurance Funds are considered minor for the reasons outlined in the MER and in the analysis of R.22.

33. Mongolia is re-rated to largely compliant with R.7.

Recommendation 8 (Originally rated PC)

34. Mongolia was rated PC with R.8 in its MER. The deficiencies identified were: (i) the NRA did not adequately assess the threats and risks associated with NPOs, (ii) Mongolia had not (a) encouraged or undertaken outreach to raise awareness among at-risk NPO, (b) worked with at-risk NPOs to develop best practice, and (c) encouraged NPOs to conduct transactions via regulated financial channels, (iii) the level of monitoring and supervision of NPOs was unclear, (iv) sanctions under the NPO Law were not proportionate and dissuasive, and (v) there was limited expertise and capability of GIA to examine NPOs suspected of TF abuse; and no evidence was provided of previous TF investigation relating to NPOs.

35. As discussed above in R.1, Mongolia recently updated its TF risk assessment. The new TF risk assessment includes an assessment of the TF risks associated with NPOs, and identifies the NPO sector overall as medium-high risk for TF and Mongolia's highest risk sector for TF. However, (i) Mongolia has not adequately identified a subset of organisations which fall within the FATF definition of an NPO (the risk assessment includes more detailed discussion of the 505 religious organisations and 95 NPOs that are subsidiaries or branches of foreign NPOs) and threats and vulnerabilities of at-risk NPOs, and (ii) is in the process of reviewing the adequacy of measures to address at-risk NPOs. Mongolia has a mechanism for periodic reassessment.

36. Mongolia has undertaken very limited outreach to the NPO sector, which has exclusively been on the findings of the NRA; has not worked with the NPO sector to develop and refine best practice to address TF risks and vulnerabilities; and is not encouraging NPOs to conduct transactions via regulated financial channels.

37. The level of monitoring and supervision of NPOs is unclear. And, while there are some sanctions for breaches of the NGO Law in relation to requirements under c.8.2(a), the Law on Infringement does not include sanctions for violations related to other criterion of R.8.

38. There has been no change (from the MER) to Mongolia implementation of requirements related to effective information gathering and investigations (c.8.5) and effective capacity to respond to international requests for information (c.8.6).

39. Mongolia has taken some steps to address the deficiencies identified in its 2017 MER but the recent TF risk assessment does not adequately identify at-risk NPOs and the process of reviewing the adequacy of measures to address at-risk NPOs is on-going. Other deficiencies in the MER remain.

40. Mongolia remains partially compliant with R.8.

Recommendation 14 (Originally rated PC)

41. Mongolia was rated PC in its MER for R.14. The deficiencies in the MER were: (i) Mongolia provided no evidence that it has identified and sanctioned unlicensed or unregistered MVTS operators and available sanctions did not seem to be proportionate or dissuasive, and (ii) it was unclear; (a) whether NBFIs used agents and if agents were required to be licensed/registered or alternatively NBFIs were required to maintain a list of its agents, and (b) if agents were included in the AML/CFT programmes and monitored for compliance.

42. While Mongolia indicated that it has taken some actions in regards to unlicensed or unregistered MVTS these have been reactive and not proactive. Sufficient details were not provided to assess whether available new sanctions under Article 11.6 of the Law of Infringement (confiscation of funds from illegal activity and fine of ~USD 114 for natural person and ~USD 1,140 for legal persons) are proportionate or dissuasive.

43. Deficiencies related to c.14.4 and c.14.5 are addressed under Article 12.19 of the PMR.

44. Mongolia has not addressed deficiencies related to identification and sanctioning of unlicensed MVTS.

45. **Mongolia remains partially compliant with R.14.**

Recommendation 17 (Originally rated NC)

46. Mongolia was rated NC in its MER for R.17. The deficiencies identified in the MER were: (i) there was no requirement for the reliance on third parties to be limited to only third party FIs and DNFBPs; (ii) that third party reliance was limited to the identification of the customer, beneficial owner and understanding the nature of business; (iii) for the ultimate responsibility of CDD measures to remain with the RE; (iv) in determining which countries the third party is based, regard must be made to the country level risks; and (v) to prescribe for reliance on third parties of REs that are part of the same financial group.

47. Under section 5.12 of the AML/CFT Law, FIs are permitted to rely on third parties with additional requirements set out in the PMR as follows:

- Under Article 8.1 of the PMR, REs are only permitted to rely on third parties for identification of the customer, beneficial ownership and understanding the nature of the business.
- Under Article 8.1 of the PMR, REs must ensure that CDD and related information is provided or available upon request immediately.
- Article 8.5 of PMR requires that the third party employed for conducting CDD should be subject to AML/CFT supervision and comply with the CDD and record keeping requirements.
- Under Article 8.4 of PMR, Mongolia has required REs to consider ML/TF risk associated with the country in which the third party is based prior entering into a third party arrangement.
- Article 8.6 of the PMR closely mirrors text of c.17.3.

48. The scope deficiency with respect to State Pension and Insurance Funds applies to R.17.

49. **Mongolia is re-rated to largely compliant with R.17.**

Recommendation 19 (Originally rated PC)

50. Mongolia was rated PC in the MER for R.19. The deficiencies identified in the MER were: (i) there was no requirement for enhanced due diligence to be applied proportionate to the risks identified of higher risk countries, and (ii) no requirement for the application of countermeasures proportionate to the risks, when called for by the FATF or independently of any call by the FATF.

51. Under Article 5.3 of the AML/CFT Law requires reporting entities to assess risk and undertake enhanced due diligence for high risk customers. High risk customers include natural and legal persons from countries called for by the FATF (Article 5.9.2 of the AML/CFT Law). EDD measures are clarified

in Article 6 of the AML/CFT Law and Article 7 of the PMR to include measures covering the business relationship and transactions.

52. Under Article 6.3 of the AML/CFT Law countermeasures can be applied, which are clarified under Article 7.4 of the PMR to include when called upon by the FATF, the Mongolian FIU and supervisors and include measures outlined in INR19 para 2.

53. The scope deficiency with respect to State Pension and Insurance Funds applies to R.19.

54. **Mongolia is re-rated to largely compliant with R.19.**

Recommendation 21 (Originally rated PC)

55. Mongolia was rated PC with R.21 in its MER. The deficiencies noted were: (i) it was unclear whether the definition of “banking and professional confidentiality” included protection from both civil and criminal liability and Articles 12.1 and 12.2 of the PMR only applied to REs and did not extend to directors, officers and employees of REs, and (ii) the Regulation on Reporting Information to FIU had limited application to only banks, directors, officers and employees, and there was no prohibition by law on directors, officers and employees of REs other than banks.

56. Article 12.1 and 12.2 of AML/CFT Law provides protections from civil/criminal liability for breaches of banking, professional, customer, business entity or organisation, business or other secrecy confidentiality requirements. These provisions are further clarified in Article 19.3 of the PMR to include directors, principals, officers, partners, professionals or employees who in good faith submit reports or provide information.

57. Article 13.1 of AML/CFT Law prohibits REs, their management and employees from disclosing the fact that an STR or related information is submitted to the FIU and other entities. These provisions are further clarified in Article 19.1 of the PMR to explicitly include directors, officers and employees.

58. **Mongolia is re-rated to compliant with R.21.**

Recommendation 22 (Originally rated NC)

59. Mongolia was rated NC in its MER for R.22. The identified deficiencies were: (i) scope deficiencies with notaries being the only DNFBPs required to comply with AML/CFT requirements, and (ii) cascading deficiencies from R.12, R.15 and R.17.

60. Since the MER, Mongolia has implemented a new AML/CFT legal framework for DNFBPs. In accordance with Article 4.1 of the AML/CFT Law, all DNFBPs except TCSPs are reporting entities and must comply with AML/CFT requirements. As discussed in the MER, casinos are illegal. Real estate agents, dealers in precious metals and stones (threshold of 20 million togrogs ~\$7,628 US), notaries, lawyers, accountants and other financial management counsellors are required to comply with CDD obligations in the AML/CFT Law and PMR. The AML/CFT Law and PMR cover all CDD obligations except there are deficiencies in requirements for c.18.18 and no requirements for c.10.16 and c.10.20.

61. All DNFBPs, except TCSPs, are required to maintain records in accordance with R.11 under Article 8.1 and 8.2 of the AML/CFT Law and Article 15.1 and 15.2 of the PMR.

62. All DNFBPs, except TCSPs, are required to undertake PEPs measures in accordance with R.12 (Article 6 of the PMR). However, the definition of PEPs (Article 3.1.5 of the AML/CFT Law) does not extend to military officials, and important political party officials.

63. All DNFBPs, except TCSPs, are required to have procedures to mitigate the risks of new or developing technologies, and undertake a risk assessment prior to introduction (Article 14.4.3 of the AML/CFT Law and Article 10 of the PMR).

64. All DNFBPs, except TCSPs, are required to comply with requirements of R.17 (see above).

65. Except for TCSPs (Mongolia has not sought to apply the low risk exemption under R.1, but consistent with the MER, TCSPs considered lower risk by the review team), all DNFBPs are AML/CFT reporting entities and must comply with requirements set out in the AML/CFT Law and the PMR. Minor shortcomings remain in relation to CDD and PEPs.

66. **Mongolia is re-rated to largely compliant with R.22.**

Recommendation 23 (Originally rated NC)

67. Mongolia was rated NC with R.23 in its MER. The deficiencies in the MER were: (i) scope deficiencies with notaries being the only DNFBPs required to comply with AML/CFT requirements, and (ii) cascade deficiencies from R.20, R.18, R.19 and R.21.

68. As discussed above, in accordance with Article 4.1 of the AML/CFT Law, all DNFBPs except TCSPs are reporting entities and must comply with AML/CFT requirements (noting casinos are illegal).

69. All DNFBPs except TCSPs are required to submit STRs (Article 7 of the AML/CFT) and implement internal controls for AML/CFT (Article 14 of the AML/CFT Law and Article 11, 16.1-16.2 of the PMR) but there are no explicit requirements covering the new elements of 18.2(b).

70. All DNFBPs except TCSPs are required to apply enhanced due diligence and countermeasures to higher risk jurisdictions (Article 6.3 of the AML/CFT Law and 7.4 of the PMR) but it is unclear if measures are in place to ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries.

71. DNFBPs are required to comply with requirements of R.21 (see above).

72. Except for TCSPs (Mongolia has not sought to apply the low risk exemption under R.1, but consistent with the MER, TCSPs considered lower risk by the review team), all DNFBPs are AML/CFT reporting entities and must comply with requirements set out in the AML/CFT Law and the PMR. Shortcomings remain for internal controls, and high risk jurisdictions.

73. **Mongolia is re-rated to largely compliant with R.23.**

Recommendation 24 (Originally rated PC)

74. Mongolia was rated PC in its MER for R.24 based on the fact that there was no explicit obligation of registration of BO information, nor was there any process of verification of BO information. Moreover, Mongolia had not assessed the risks associated with the different types of legal persons created in the country and the sanctions for non-compliance with obligations under R.24 were not dissuasive. Mongolia also did not have a mechanism to monitor the quality of assistance it receives in response to requests for basic or BO information.

75. Since the MER, Mongolia has conducted several sectoral risk assessments that consider the activities of legal persons but do not assess the risks associated with the types of legal persons themselves. Although these risk assessments may help understanding some risks posed by certain types of legal persons according to the type of activity they pursue, they still do not address the requirements of c.24.2.

76. There are now mechanisms in place to verify the authenticity of information filed with the General Authority for Intellectual Property and State Registration (GAIPSR). Amendments to the General Law on State Registration greatly reinforced obligations:

- on disclosure of truthful and accurate information to GAIPSR by persons in charge of registering legal persons or registering amendments to existing legal persons (article 14.4.);
- for the GAIPSR itself to examine and verify the truthfulness and accuracy of the information submitted to registration (articles 16.1.7. and 19.4.1) and register it in the database accordingly (article 11.1. and 11.2.).

77. The information to be collected and registered includes BO information (article 10.1.14 of the Law on State Registration of Legal Entities), which must be kept updated (article 9 of the same law).

78. Amendments to the Law on Infringement provide penalties for failure to disclose accurate and truthful information to GAIPSR when registering a legal person and for violating legal provisions in the AML/CTF Law about identifying beneficial owners. These fines are proportionate and dissuasive in the context of Mongolia's economy.

79. The General Law on State Registration provides the legal basis for GAIPSR to cooperate with foreign counterparts on sharing of registration information based on Mongolian law and international treaties. However, Mongolia has not demonstrated that they monitor the quality of the assistance they receive from other countries.

80. The amendments to the General Law on State Registration and the Law on Infringement address some of the deficiencies identified in the MER. The absence of a risk assessment of the ML/TF risks associated with each specific type of legal person and the lack of monitoring the quality of assistance received from foreign countries in response to requests for basic and BO information are considered minor shortcomings.

81. **Mongolia is re-rated to largely compliant with R.24.**

Recommendation 25 (Originally rated PC)

82. Mongolia was rated PC in the MER for R.25 based on the fact that there were scope deficiencies regarding coverage of DNFBPs, as AML/CFT Law and PMR obligations on CDD of legal arrangements and record keeping were only enforceable on notaries when acting as professional trustees. In addition, sanctions for breaching these obligations were neither proportionate nor dissuasive. Mongolia also did not require trustees of foreign trusts to disclose their status to FIs or DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold.

83. Since 2017, amendments to the PMR (article 13.1.) now oblige trustees to disclose their status as trustee to any reporting institution before the establishment of any business relationship or carrying out any occasional transaction above the threshold set out in article 7.1 of the AML/CFT Law. Non-disclosure of such status to REs by trustees can be sanctioned under article 11.29.2 of the Law on Infringement.

84. The scope deficiencies concerning DNFBPs have now been addressed by amendments to the AML/CFT Law (article 4.1.7 to 4.1.9), except with respect to TCSPs.

85. Considering the amendments to the PMR and AML/CFT Law, the remaining shortcoming constituted by the lack of coverage of TCSPs is a minor shortcoming.

86. **Mongolia is re-rated to largely compliant with R.25.**

Recommendation 26 (Originally rated PC)

87. Mongolia was rated PC in its MER for R.26. The principal deficiencies in the MER were: (i) Shell banks were not explicitly precluded from establishment in Mongolia; (ii) while most FIs had measures to prevent criminals holding a significant or controlling interest, or holding management functions, Mongolia had no measures covering criminal associates for all FIs; (iii) securities and insurance FIs were not fully regulated and supervised for AML/CFT in accordance to relevant IOSCO/IAIS core principles; (iv) nonbank FIs (NBFIs) were not subject to frequency/intensity of AML/CFT supervision determined by FI or FI groups' characteristics, particularly diversity and number of FIs and discretion allowed under RBA; and (v) there was no specific requirement to review ML/TF risk assessments in response to major events/developments in FIs' management and operations.

88. Shell banks not explicitly precluded from establishment in Mongolia (Article 2.1.1.2, Regulation of Banking License and Article 1.5 of the PMR) with shell banks defined in line with FATF standards under Art 3.1.7 of the AML/CFT Law.

89. Banks are subject to measures preventing criminals and criminal associates from holding a significant or controlling interest, or holding management functions (Art 36.5 and 36¹ of the Banking Law/Annex 45).

90. For NBFIs, Mongolia has measures to prevent criminals holding a significant or controlling interest, or holding management functions, in most non-bank FIs. Prevention of criminal associates in insurance is a strength, as the FRC is explicitly required to consider whether an applicant assists others to breach laws, regulations, rules and business ethics of Mongolia or a foreign state (Article 3.1 and 3.1.6 of the Guidance for Identifying Fit and Proper Person). However, there are no controls for criminal associates for other NBFIs.

91. Mongolia largely demonstrated the application of Basel Core Principles (banks) in its AML/CFT regulation and supervision. In contrast, it is unclear if AML/CFT regulation and supervision is wholly in line with IOSCO Core Principles (securities) and IAIS Core Principles (insurance). Nevertheless, the review team acknowledges the consolidated supervision for 14 financial groups jointly conducted by BOM and FRC.

92. Mongolia demonstrated the frequency and intensity of AML/CFT off-site and on-site supervision is determined on the basis of ML/TF risks, and the policies, internal controls and procedures associated with an FI or group (Article 1.1 and 1.2.3 of the Regulation of Off-site Supervision of the Banks on AML/CFT and PF). However, for NBFIs, it is unclear how intensity and frequency of AML/CFT supervision is determined by characteristics of FIs or groups.

93. Banking supervisors are required to revise and update ML/TF risk assessments of a bank in response to major events and developments (Article 3.6 revised Regulation of Off-site Supervision of the Banks on AML/CFT and PF). While NBFIs are obligated to report on management changes, it is unclear whether major events or business developments are required to be disclosed to supervisors. It is also unclear whether information collected in mandatory forms capture changes that can impact ML/TF risk.

94. The scope deficiency with respect to State Pension and Insurance Funds applies to R.26.

95. There are limited fit and proper controls for criminal associates for NBFIs except insurance; it is unclear whether AML/CFT regulation and supervision for securities and insurance is in line with all their respective Core Principles; and whether FRC is required to review ML/TF risk profile of NBFIs when there are major events or developments.

96. **Mongolia is re-rated to largely compliant with R.26.**

Recommendation 28 (Originally rated NC)

97. Mongolia was rated NC in its MER for R.28. The deficiencies were: (i) scope deficiencies with notaries being the only DNFBP required to comply with AML/CFT requirements, (ii) there was no designated AML/CFT supervisor except for real estate, (iii) no system to monitor AML/CFT compliance of DNFBPs, powers to monitor AML/CFT compliance were limited to the FIU and only in relation to real estate agents and notaries, and sanctions were not proportionate or dissuasive, and (iv) there had been neither implementation nor supervision of DNFBPs' compliance with the AML/CFT Law or PMR.

98. As discussed in R.22 above, all DNFBPs except TCSPs are reporting entities and must comply with AML/CFT requirements (casinos are illegal). Under Article 19.1 of the AML/CFT Law the Financial Regulatory Commission is the designated AML/CFT supervisor for real estate agents and "competent authorities for issuing special licences, supervising authority" are the supervisors for other DNFBPs. While the AML/CFT supervisor is clear for notaries, lawyers and accounts, the role of the FIU as the AML/CFT supervisor for dealers in precious metals and stones is unclear as it is not the licencing authority.

99. Under Article 19.2 and 19.3 of the AML/CFT Law, DNFBPs supervisors (see above) are designated to monitor and ensure compliance with the AML/CFT Law and have adequate powers to complete this function. Under Article 23.1-23.3 of the AML/CFT Law, DNFBP supervisors have the power to impose a range of rectification measures and sanctions under Law on Infringements, which are proportionate and dissuasive (see also below discussion on R.35). As discussed in the MER, there are some limited provisions to prevent criminals from being notaries and lawyers; however, Mongolia has no measures to prevent criminals or associates from being professionally accredited in the real estate sector, as dealers in precious metals and stones or as accountants.

100. While the AML/CFT Law provides for risk-sensitive AML/CFT supervision of DNFBPs and Mongolia has supervisory manuals for all DNFBPs, Mongolia is in the initial stages of commencing risk-sensitive AML/CFT supervision of DNFBPs.

101. Except for TCSPs, all DNFBPs are AML/CFT reporting entities. Mongolia has designated an AML/CFT supervisor for all DNFBPs except dealers in precious metals and stones with supervisor having appropriate legal framework risk-sensitive AML/CFT supervision including monitoring compliance, powers and sanctions. However, measures to prevent criminals from being professionally accredited are limited to notaries and lawyers and Mongolia has only taken initial steps to implement risk-sensitive AML/CFT supervision.

102. **Mongolia is re-rated to partially compliant with R.28.**

Recommendation 29 (Originally rated PC)

103. Mongolia was rated PC in its MER for R.29 with deficiencies being the FIU could only obtain and use additional information from banks and that it had not conducted strategic analysis.

104. With the amendments to the AML/CFT Law in 2018, the FIU is now established under Article 16 of the law. The FIU can obtain and use additional information from all reporting entities (Article 9.2 of AML/CFT Law) and completed its first strategic analysis report in 2018.

105. **Mongolia is re-rated to compliant with R.29.**

Recommendation 32 (Originally rated PC)

106. Mongolia was rated PC with R.32 in its MER. The identified deficiencies were: (i) Mongolia's declaration system covering local and foreign currency and BNIs was only implemented in Mongolia's single international airport, and its disclosure system was implemented in all other border crossings but it did not cover all BNI, (ii) administrative sanctions were not dissuasive, and (ii) it was unclear if Customs could detain falsely declared currency or BNI.

107. Mongolia demonstrated its declaration system is being implemented in all major border crossings.

108. Proportionate and dissuasive sanction covering Mongolia's declaration system are under Article 11.29.22. However, the sanctions regime for Mongolia's disclosure system is unchanged.

109. While there are broad powers under the Customs law, Mongolia did not clarify whether Customs can detain falsely declared currency or BNI.

110. **Mongolia is re-rated to largely compliant with R.32.**

Recommendation 33 (Originally rated PC)

111. Mongolia was rated PC in its MER for R.33. Although Mongolia did maintain some statistics, particularly the FIU, it did not maintain comprehensive statistics relevant to effectiveness and efficiency of its AML/CFT system and no enabling legislation was in place for all competent authorities.

112. Recent amendments to the CCM, CPC, Law on Infringement and Law on Infringement Procedure in 2017 created a centralised case management system under which data collected by different competent authorities and in different stages of the criminal investigation and criminal procedure is registered in the centralised system which is held by the Public Prosecutor's Office. This centralised case management system links all LEA databases from June 2018 onwards which allowed for the sharing of information between different LEAs. The review team was not provided with concrete examples of available data at the time of the review though legal and institutional arrangements suggest appropriate data is held.

113. The FIU has developed a data template that provides for the collection of data in line with the international standards. A working group in charge of drafting new regulations on the collection of data and on sharing of information has been established which now ensures the relevant data is collected and maintained by the relevant agencies.

114. While current statistics were not provided, the recent legislation, the development of a centralised case management system to house data and the creation of a working group to facilitate close cooperation and coordination has significantly increased compliance with R.33.

115. **Mongolia is re-rated to largely compliant with R.33.**

Recommendation 34 (Originally rated PC)

116. Mongolia was rated PC in its MER for R.34. Whilst Mongolia had issued a range of resources to assist reporting entities to meet their AML/CFT obligations, DNFBPs were not included as reporting entities under the Mongolian legal framework at that time and, as such, no guidelines or feedback had been provided to DNFBPs.

117. Since 2017, the FIU, BOM and FRC have issued various guidelines to reporting entities including DNFBPs, namely the “Handbook of Prevention Activities for Non-Banking Reporting Entities”. The FIU has also been providing feedback on the quality of reports submitted by different reporting entities through several workshops and meetings held with different sectors.

118. Overall, Mongolia has significantly increased its compliance with R.34.

119. **Mongolia is re-rated to largely compliant with R.34.**

Recommendation 35 (Originally rated PC)

120. Mongolia was rated PC with R.35 in its MER. While some sanctions had been introduced in Mongolia, they were not extensive, dissuasive or proportionate. Criminal sanctions were only available in the CCM, which does not include provisions to criminalise breaches of the AML/CFT Law, ATL or PMR. Overall administrative sanctions were not proportionate or dissuasive for FIs. There were also no sanctions for non-compliance with R.6. The AML/CFT Law had scope deficiencies with notaries being the only DNFBP required to comply with AML/CFT requirements. Sanctions for both notaries and NPOs were not proportionate or dissuasive.

121. Since 2017, amendments introduced to the Law on Infringement strongly reinforced the administrative sanctions applicable to individuals and legal persons for breaches of AML/CFT duties. The new articles 5.10 and 11.29 of the Law on Infringement provide for administrative sanctions for breaches of the ATL and the AML/CFT Law respectively. Article 11.29 of the Law on Infringement provides a range of administrative sanctions for breaches of duties contained in the AML/CFT Law including CDD; record keeping; obtaining BO information; wire transfers; breaches of obligations relating to the implementation of TFS determined in UNSCRs; PEPs; correspondent banking; new technologies; third party reliance; internal controls; high risk countries; reports of suspicious transactions; cross border declarations and state registration obligations.

122. The administrative penalties imposed are determined without prejudice of the criminal liability that the breach of the relevant obligations may carry to the offender. The value of the administrative penalties imposed by article 19.29 of the Law on Infringement is proportionate and dissuasive in the context of Mongolia, with exception of the penalties imposed by article 5.10 of the same law for breaches of obligations under the ATL. This is deemed difficult to understand in light of the new administrative penalties imposed by article 11.29 for breaches of duties under the AML/CFT Law.

123. Non-compliance with obligations under Recommendation 6 are now covered by sanctions imposed by articles 11.29.9.; 11.29.20 and article 5.10 of the Law on Infringement.

124. The scope deficiencies concerning DNFBPs identified by the 2017 MER have now been addressed with exception of TCSPs by article 4.1 of the AML/CFT Law. No amendments were introduced in the sanctions applicable to NPOs which were deemed neither proportionate nor dissuasive in 2017.

125. The sanctions regime applicable in the context of breaching AML/CFT duties has been significantly reinforced in Mongolia since the 2017 MER. However, the absence of review of the

administrative penalties for NPOs as well as the penalties not being proportionate and dissuasive for breaches of the ATL and the relevance in terms of risk that terrorism and terrorism financing present in the context of Mongolia suggests that moderate shortcomings still persist.

126. There is a scope deficiency with respect to State Pension and Insurance Funds (Mongolia has not sought to apply the low risk exemption under R.1) but consistent with the MER, State Pension and Insurance Funds are considered lower risk by the review team.

110. Mongolia remains partially compliant with R.35.

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

127. Since the adoption of Mongolia's MER, Recommendations 2, 5, 7, 8, 18 and 21 have been amended. This section considers Mongolia's compliance with the new requirements of Recommendations 5 and 18. Mongolia's compliance with the new requirements of Recommendations 2, 7, 8 and 21 were considered as part of its request for re-ratings above.

Recommendation 5 (Originally rated LC)

128. In October 2016, R.5 and its Interpretive Note were revised to clarify the term "funds and other assets"; the term "funds" was replaced by "funds or other assets" in INR.5, to clarify that both R.5 and R.6 apply to the same scope of assets. In addition, the Glossary definition of the term "funds or other assets" was updated to further clarify that specific forms of support to terrorism highlighted in recent UN Security Council Resolutions (economic resources including oil and other natural resources) are within the scope of the definition. Criteria 5.2, 5.3 and 5.4 were updated in February 2017 to reflect these changes.

129. Mongolia has amended its TF offence since its MER. As a result, this report reconsiders Mongolia's compliance with R.5 as a whole, not just with the new requirements of R.5.

130. Mongolia was rated LC in the MER for R.5. There were minor deficiencies identified including that financing of travel for terrorist purposes or training was not criminalised and the sanctions for legal persons were not considered dissuasive.

131. While the new TF offence in Article 29.10 of the Criminal Code of Mongolia largely reflects the previous offence, there are some differences. The words "wholly or partially" have been removed, which means it is no longer clear that the offence would cover the provision or collection of funds to be used in part to finance terrorism. The penalty range for legal persons has been amended to USD 45,600 - USD 152,000. These penalties are substantially more dissuasive in the Mongolian context. However, sanctions such as liquidation and revocation of licence continue to not be available for legal persons.

132. Mongolia's TF offence applies to 'assets', which is defined by reference to the Civil Code and is broad enough to cover the FATF definition of 'funds and other assets', as required by the revised standards. Mongolia has not criminalised the finance of travel by individuals for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.

133. Mongolia remains largely compliant with R.5.

Recommendation 18 (Originally rated LC)

134. In November 2017 the INR.18 was revised to clarify the requirements on sharing information relating to unusual or suspicious transactions within financial groups. In February 2018, R.18 was revised to reflect the changes in INR.18.

135. While Mongolia does not have explicit requirements covering the new elements of 18.2(b), under Article 14 of the AML/CFT Law and Articles 11, 16.1 and 16.2 of the PMR Mongolia has requirements covering all other criterion of R.18.

136. **Mongolia remains largely compliant with R.18.**

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

137. Mongolia sought an upgrade for all recommendations rated NC/PC.

IV. CONCLUSION

138. Mongolia has made significant progress in addressing the technical compliance deficiencies identified in its MER and has been upgraded on 16 Recommendations.

139. On the basis of progress made by Mongolia, Recommendation 28 has been upgraded to PC and Recommendations 2, 6, 7, 17, 19, 22, 23, 24, 25, 26, 32, 33 and 34 have been upgraded to LC. Recommendations 21 and 29 have been re-rated to C. Insufficient progress has been made on Recommendations 1, 8, 14 and 35 to justify a re-rating at this time.

140. With respect to the other Recommendations which have been amended after the MER was adopted, Mongolia has retained its ratings for Recommendations 5 and 18.

141. Overall, in light of the progress made by Mongolia since its MER was adopted, its technical compliance with the FATF Recommendations is currently as follows:

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

142. The Mongolia FUR was adopted by the APG at its Annual Meeting in August 2019. Mongolia exited enhanced follow-up (expedited) and was placed on enhanced follow-up. Mongolia will continue to report back to the APG on progress to strengthen its implementation of AML/CFT measures.