



SRI LANKA 2ND FOLLOW-UP REPORT 2017

I. PURPOSE

1. In accordance with the *APG Third Round Mutual Evaluation Procedures 2016 'the third round procedures'*, this report presents for members' consideration the APG secretariat analysis of Sri Lanka's 2nd follow up report (FUR).

Key findings

This second follow up report does not contain any request for re-rating.

Since its 2015 MER and 2016 follow-up report, Sri Lanka has made progress to correct identified deficiencies. It has also made tangible progress on effectiveness on all 11 immediate outcomes. There will be another opportunity for re-rating of technical compliance in 2018 with the expected passage of proposed new laws and regulations.

Recommendation

It is recommended that:

- Sri Lanka remain on enhanced follow-up;
- Sri Lanka provide its third FUR by 31 January 2018;
- The Co-Chairs write to relevant Minister(s) bringing their attention to the remaining deficiencies.

II. INTRODUCTION

2. Sri Lanka's mutual evaluation report (MER) was adopted in July 2015 with the following ratings:

Effectiveness:

Enhanced follow-up (expedited) criteria: Low or moderate level of effectiveness for nine or more of the 11 effectiveness outcomes (MER - 10 low/moderate)

IOs 2-8, 10 and 11 - **Rated low**

IO.1 - **Rated moderate**

IO.9 - **Rated substantial**

Technical Compliance:

Enhanced follow-up (expedited) criteria: 10 or more non-compliant (NC)/partially compliant (PC) of the following 13 Recommendations (MER - 7 NC/PC)

Core:

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

3. Following adoption of the MER in July 2015, APG members placed Sri Lanka on enhanced follow-up (expedited) as it met the effectiveness criteria for that category of follow-up, as specified in paragraph 111 (b) of the *APG Third Round Mutual Evaluation Procedures*. Sri Lanka did not meet the technical compliance criteria, as detailed in paragraph 111 (a), for that category of follow-up because it had less than 10 (only seven NC/PC) of the 13 Recommendations (criteria for enhanced follow-up expedited).
4. Sri Lanka submitted its first FUR on 1 February 2016 and the plenary in September 2016 agreed (i) to upgrade to LC the following nine Recommendations: R.2, R.10, R.12, R.13, R.15, R.16, R.17, R.18 and R.19; and (ii) that there had been sufficient progress for Sri Lanka to exit enhanced follow-up (expedited) and to be placed on enhanced follow-up. Sri Lanka nevertheless still met the criteria for enhanced follow-up (i.e. eight or more NC/PC ratings, low/moderate for seven or more of 11 immediate outcomes, or low for five or more of the 11 immediate outcomes).
5. In January 2017, Sri Lanka submitted its second FUR with updates of progress on technical compliance and effectiveness. Sri Lanka did not request any upgrade on technical compliance. Therefore, in accordance with paragraph 136 of the third round procedures, the secretariat performed the analysis.
6. As required under paragraph 137 of the third round procedures, the analysis report examined the following issues:
 - Significant progress in the member leading to an increase in technical compliance or effectiveness.
 - Significant changes in the member leading to a decline in technical compliance or effectiveness.
 - Insufficient progress made by the member against the priority actions in its MER.
 - Sufficient or insufficient progress made against actions agreed by members in more serious cases.
 - For members under enhanced follow-up (expedited), progress in technical compliance against any one or more of the 13 Recommendations rated NC/PC.
7. Sri Lanka was referred to the ICRG based on its MER results. It is currently under the ICRG's Post-Observation Period.
8. At the FATF plenary in February 2017, the ICRG discussed the draft post-observation period report of Sri Lanka presented by the Asia/Pacific Joint Group indicating progress towards increasing effectiveness with each of the immediate outcomes rated low or moderate. Delegations welcomed the

report and decided that the progress made by Sri Lanka in each of the immediate outcomes was sufficient for Sri Lanka not to be placed in the Compliance Document. At the FATF plenary in June 2017, the ICRG decided to extend the post observation period for another four months.

III. OVERVIEW OF PROGRESS MADE BY EVALUATED MEMBER

a) Overview of progress technical compliance progress

9. Since the adoption of its first FUR in September 2016, Sri Lanka has continued to make progress in several areas, as part of its implementation of the AML/CFT National Policy for 2015 – 2020 and a government-wide action plan to implement the recommendations of the MER (as noted in Sri Lanka's first follow up report (FUR 2016)). According to the Cabinet approval, the FIU is authorized to follow up the progress of implementation of the actions by relevant agencies.
10. The major actions/accomplishments since the last annual meeting are detailed below, including R.1 and R.14. They were two Recommendations subject to Sri Lanka's request for re-rating in 2016, but were not re-rated to LC:
 - On R.1 (Risk assessment), progress has been made against some underlying deficiencies, namely Sri Lanka adopted its NRA, disseminated a sanitised version and adopted a comprehensive AML/CFT strategy and action plan. Further, as part of its action plan, the Regional Development Department (RDD) of the Central Bank of Sri Lanka conducted an island wide survey to develop a National Strategy for Financial Inclusion. The RDD is expected to finalize the survey by 2017. The FIU will be able review the Simplified CDD rule once a National Strategy is developed by the RDD. A risk based CDD rule for DNFBPs has been drafted and reviewed by the IMF.
 - On R.14, a guideline for MVTS providers has been issued in addition to the CDD Rule No. 1 of 2016 further explaining their obligations. Several face to face discussions were held with non-bank MVTS providers explaining their responsibilities under the FTRA and CDD Rules.
 - A Legal Review Committee was formed with members from the Attorney General's Department, Legal Draftsmen's Department, Ministry of Finance, Sri Lanka Police and the FIU to review amendments to the FTRA. The Legal Review Committee finalized the amendments to the FTRA, including recommendations made in the MER, and forwarded the proposed amendments to the Legal Draftsman's Department. The finalized amendments have been sent to the Ministry of Finance to obtain the necessary approval.
 - Sri Lanka has started the process to amend legislations, including the PMLA, and introduce a new legislation on the proceeds of crime.
 - Sri Lanka Customs has been submitting cross-border currency declaration information to the FIU since January 2016. Several discussions have been undertaken between the FIU and Sri Lanka Customs to develop an online interface where FIU would be able to log into the database of Sri Lanka Customs to directly obtain information. The process of providing direct access to the FIU should be completed in mid 2017.
 - The Legal Draftsman Department has drafted the bill to amend the Trust Ordinance. After further review and amendments, the bill has been forwarded to Ministry of Justice for final clearance.
 - Sri Lanka has increased its inter-agency policy coordination on PF and has taken policy decisions to issue regulations under the UN Act to give effect to obligations to combat PF in keeping with R.7 and UNSCR 1540. Sri Lanka has prepared a draft regulation to implement financial

prohibitions and to criminalise proliferation financing in order to implement UNSCR 1540. The finalisation of this regulation is expected in the second half of 2017.

- The FIU entered into Memorandum of Understandings (MOUs) with the Department of Immigration and Emigration, Department of Inland Revenue and Department of Persons Registration on 27 September 2016, 19 October 2016 and 11 January 2017 respectively, to share information/intelligence to facilitate investigations.
- A Regulation on reporting Suspicious Transaction has been drafted specifying the format to be followed. Different reporting formats have been introduced for licensed bank/licensed finance companies, stock brokers, insurance companies, money changers and all other sectors including DNFBPs.. The finalized regulation has been submitted by the Legal Draftsman to Ministry of Finance for Gazetting.

(b) Effectiveness

11. As in the 2016 follow-up report, Sri Lanka continues to make progress towards effectiveness for all immediate outcomes rated low or moderate. These are detailed in Sri Lanka’s second follow-up report submitted in February 2017. The ICRG Asia/Pacific Joint Group’s (JG) Post Observation Period Report of June 2017 examines in detail Sri Lanka’s progress against the MER recommendations on the 11 immediate outcomes, and the conclusions are not repeated here. Overall, the JG concluded that in relation to effectiveness, Sri Lanka has made progress towards increasing effectiveness for each of the 10 IOs that were rated low or moderate in the MER. Those actions and planned actions are reflected in Sri Lanka’s new national AML/CFT Strategy and other plans and actions.
12. However, the JG identified three areas with strategic deficiencies where additional priority actions are needed to make greater progress towards increasing effectiveness. These particularly relate to the:
 - scope and management of MLA (IO2)
 - resources available for outreach and supervision (IO3), and core FIU functions; and
 - legal framework and related implementation for targeted financial sanctions against PF (IO11).
13. The more salient features of progress made by Sri Lanka on effectiveness, nevertheless, are highlighted below.
14. The FIU continues to analyse STR reports received and disseminate STRs to LEAs, as shown in the tables below with updated statistics to the end of 2016 :

Table 1: Dissemination of information for further investigations/actions

Competent authority	2015	2016	2017 (31.05.2017)
Referred to LEAs	330	342	133
Referred to Regulator	95	94	50
Total	425	436	183

Table 2: Dissemination of information to LEAs for further investigations

LEAs	2015	2016	2017 (31.05.2017)
Criminal Investigations Dept.	195	142	53

Financial Crimes Investigations Dept.	49	19	19
Terrorist Investigations Division	23	65	36
Police Narcotic Bureau	4	8	-
Others Police Units	59	108	25
Total	330	342	133

15. In addition to spontaneously disseminating financial intelligence/STRs, the FIU has also responded to requests for financial intelligence as shown below:

Table 3: STRs reported / information requests made by LEAs

LEAs	2015	2016	2017 (31/5/2017)	Total
Criminal Investigations Dept.	79	47	10	136
Financial Crimes Investigations Division	46	14	24	84
Terrorist Investigations Division	5	30	17	52
Police Narcotic Bureau	3	7	-	10
Others Police Units	43	59	20	122
Total	176	157	71	404

16. Further, for all STRs referred to LEAs (including requests made by LEAs) the FIU has coordinated information sharing between FIs and LEAs for further investigations. Upon request, the FIU will issue a letter instructing the FIs to provide all documents/information (bank statements, mandates, deposit slips, CCTV footages, recording statements from bank officials etc.) to facilitate investigations by LEAs. This has assisted LEAs to obtain financial information easily instead of resorting to court orders.

17. **Table 4: Assistance provided to LEAs**

LEAs	2015	2016	2017 (31/5/2017)
No. of Cases	56	119	97
No. of letters issued FIs for assistance	166	305	251

18. With the establishment of the Financial Crimes Investigation Division (FCID) in 2015, the FIU has shared information available in the CTR/EFT database to facilitate their investigations. Statistics relating to such information sharing is shown in the table below:

Table 5: Information sharing with FCID

	2015	2016	2017 (31/5/2017)
Total Information Requests Received / Responded	152	148	55

19. The Director FIU has also exercised his authority to suspend transactions/accounts pursuant to Section 15(2) of the FTRA because of suspicion of ML/TF or unlawful activity. The Table below contains information on transactions/accounts suspended by the FIU based on STRs.

Table 6: Transactions/accounts suspended

STR submitted by	2015	2016	Total
<i>Financial Institutions</i>	2	1	3
Law Enforcement Agencies	8	-	10
<i>Regulators</i>	-	2	2
<i>Total Suspension orders issued</i>	10	3	15
<i>Amount Suspended (Rs)</i>	24,201,256	103,511,667	200,596,160

20. The FIU has initiated a process to enter in to an MOU with the Sri Lanka Police to share information contained in the criminal database to facilitate timely STR analysis. The MOU is expected to be finalised soon.
21. In terms of strategic analysis, the Annual Report of the FIU contains a separate chapter on case studies which have been developed based on STRs received. Emerging ML/TF trends in Sri Lanka identified through STRs have been included in all awareness programmes, where participants are given background knowledge on emerging trends through case examples.
22. At the time of onsite visit by the assessment team in December 2014, there was only one conviction relating to ML. Two more ML convictions have been obtained since.

Table 7: ML convictions since ME onsite

1st Conviction	
Charges	Fraud and Section 3(1) of the PMLA
Value Confiscated	Rs. 7,028,958 (USD 48,475)
Sentence	In addition to the sentence of imprisonment, the above amount was confiscated and fines were imposed.
2nd Conviction	
Charges	Payment Card Fraud and Section 3(2) of the PMLA
Value Confiscated	USD 31,300
Sentence	The above amount was confiscated in addition to the sentence of imprisonment and 3 times the value of the above amount was imposed as fine.
3rd Conviction	
Charges	Section 3(1) of the PMLA
Value Confiscated	Rs. 29,000,000 (USD 205,000)

Sentence	In addition to the 20 years of imprisonment, 3 times the value was imposed as a fine and all properties were confiscated. http://dailynews.lk/2016/06/14/law-order/84586
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23. On measures taken to increase effectiveness, Sri Lanka has increased resources available to investigate ML and financial crimes. LEAs have continued to undertake ML investigations, confiscations and undergo training and awareness raising.

Table 8: ML investigations by the types and location of predicated offences

Year	Total no. of ML investigation	Self-Laundering	Third Party Laundering	Self and Third Party Laundering	Yet to be Identified	Predicate Offence in Sri Lanka	Predicate Offence overseas
2015	44	10	-	01	33	44	-
2016	40	02	01	-	37	39	01

Table 9: Confiscation under PMLA

	2015	2016
Value of Property Suspended under Section 7 of the PMLA (Rs.)	16,000,000	26,750,000
Conviction	1	1
Amount Confiscated (Rs.)	135,000	23,500,000

Table 10: Confiscation under bribery

	2015	2016
Cases Finalized	52	18
Amount Confiscated (Rs.)	2,868,600	133,240

24. On preventive and supervisory measures, as mentioned in the section on technical compliance, a number of measures are in motion to enhance the AML/CFT regulatory framework. To further improve its AML/CFT risk based supervision, Sri Lanka worked with the IMF in late 2016 to further fine tune supervisory authorities' risk based supervision.
25. Supervisory authorities AML/CFT onsite inspections are continuing, as shown in the table below. Further, the FIU is planning to commence the supervision of DNFBPs sector after the issuance of CDD Rules to cover this sector in due course.

Table 11: Onsite examinations conducted

	2014	2015	2016
FIU			
No of Onsite Examination	04	10	20
Imposition of Penalties (Rs.)	-	9.9	-
Show cause letters issued	-	-	2
BSD			
AML/CFT Concerns reported to FIU on LBs	19	6	8
IBSL			
No of Onsite Examination	6	5	4

26. In addition to the proposed amendments to the Trust Ordinance Act, Sri Lanka has issued sanctions for legal persons as shown below:

Table 12: Charges paid by companies submitting late reports to the Department of Registrar of Companies (January – October 2016)

Form No.	Description	Penalty charged (Rs.)
F 20	Notice of Change of Directors/Secretary and Particulars of Directors/ Secretary	3,210,000
F 39	Notice of a Special Resolution	291,350
F 15	Notice of Location of Accounting Records	3,525,850
F 6	Notice of Issue of Shares	553,750
F 14	Notice of change of location of records and register	228,500
F 3	Notice of Change of Name	12,500
F 35	Alterations of particulars of overseas company	405,500
	Other violations	71,500

27. Sri Lanka continues its efforts to improve international cooperation. The FIU has entered into MOUs with various counterpart FIUs to share information relating to ML/TF investigations. The FIU entered into MOUs with following counterparts during 2015 and 2016:

Table 13: MOUs entered into with counterpart FIUs during 2015-2016

Counterparties	Date
State Financial Intelligence Service of Kyrgyz Republic	10.06.2015
Financial Analysis Unit of the Republic of Panama	02.02.2016
State Financial Monitoring Service of Ukraine	02.08.2016
Israel Money Laundering and Terror Financing Prohibition Authority	05.08.2016
Suspicious Transaction Reporting Office of Singapore	01.09.2016
The Anti-Money Laundering Office (AMLO) of the Kingdom of Thailand	01.02.2017

28. Accordingly, the FIU now has MOUs with 32 counterpart FIUs and is planning to sign MOUs with FIUs of Bhutan and China during 2017.

29. Other areas of international cooperation, including through MLA and Interpol are shown in the two tables below respectively:

Table 14: Information shared through MLA

	2015 No of request	2016 No of request	2017 No of Request
MLA Requests Made by Sri Lanka	30	64	06
Positive Responses received	18	21	-
MLA Request Made from Sri Lanka	10	25	03

Table 15: Information exchanged through Interpol

	2010	2011	2012	2013	2014	2015	2016	2017
Provided by Sri Lanka								
ML	07	04	0	0	01	0	0	-
TF	04	08	07	04	08	01	02	-
Other Predicate offences	156	151	171	199	169	327	228	68
Requested by Sri Lanka								
ML	10	03	03	01	01	0	0	-
TF	0	02	04	08	05	15	14	-
Other Predicate offences	226	240	246	227	276	133	93	48

IV. DOCUMENTS

30. Sri Lanka's second FUR, including annexes, is available at the APG's website under mutual evaluation/third-round follow-up, Sri Lanka.

V. CONCLUSIONS

31. This second follow up report does not contain any request for re-rating.

32. Since its 2015 MER and 2016 follow-up report, Sri Lanka has made progress to correct identified deficiencies. It has also made tangible progress on effectiveness on all 11 immediate outcomes. There will be another opportunity for re-rating of technical compliance in 2018 with the expected passage of proposed new laws and regulations.

VI. RECOMMENDATION TO MEMBERS

33. It is recommended that Sri Lanka:

- **Remain on** enhanced follow-up;
- **Provide** its third FUR by 31 January 2018; and
- The Co-Chairs write to relevant Minister(s) bringing their attention to the remaining deficiencies.

APG Secretariat
30 June 2017