

GUIDANCE NOTE ON APPLICATION OF COMPLIANCE ENHANCING PROCEDURES¹

– BASED ON RESULTS OF FOLLOW-UP PROCESS

Correlation of compliance enhancing procedures and follow-up process

1. The Rules of Procedure for MONEYVAL's 5th round of Mutual Evaluations (RoP) deal with the application of compliance enhancing procedures (CEPs) separately to the follow-up process (FUP) for a mutual evaluation report (MER). Accordingly, CEPs can be applied in parallel to, or independently of, the follow-up process, even when follow-up reporting is terminated for a member under Rule 23 of the RoP.
2. Furthermore, where the two processes run at the same time, a member will still be expected to report on its progress in addressing technical compliance deficiencies in implementing a particular Recommendation, even if the member does not request an upgrade of that Recommendation under the FUP.

Timing of application and nature of CEPs

3. MONEYVAL will decide during a plenary meeting on the application of CEPs to a member as a result of: (i) MONEYVAL's FUP; or (ii) a decision of the Bureau to refer a serious issue of concern². This guidance note is intended to be used for case (i) though elements may be relevant also for case (ii).
4. When applied as a result of the FUP, the application of CEPs can be of a mandatory or discretionary nature.
5. Under Rule 23(3) of the RoP, the plenary must apply CEPs at the end of the third year following adoption of the MER if any of the "big six" Recommendations (R.3, R.5, R.6, R.10, R.11 and R.20) remain NC or PC. The Plenary has discretion to decide only on which is the appropriate step of Rule 26(1) to apply. Usually, this will be step 1.
6. A combination of Rules 25(1) and 21(8) of the RoP also gives discretion to the plenary to apply CEPs where, at the end of the third year following adoption of the MER, a member has not addressed most technical compliance deficiencies by that time³. Using this discretionary provision, the plenary is able to decide to apply CEPs to non-"big six" Recommendations that remain PC or NC taking into account the member's risk and context. It is not expected that this option will be widely used.

Plenary decision to apply CEPs following adoption of 3rd FUR

7. Where necessary, the conclusion for the 3rd follow-up report (FUR) of a member should contain a brief explanation of the mandatory and/or discretionary application of CEPs to Recommendations that remain NC or PC.

¹ Guidance should be read in conjunction with Title IV of the Rules of Procedure for the 5th round. In case of any inconsistency between the Rules and this guidance note, the Rules of Procedure will apply.

² Such issues may include for example situations where: (i) there is a demonstrated unwillingness or inability to respond adequately to requests; (ii) where non-compliance with certain Recommendations results in serious vulnerabilities in the AML/CFT framework; (iii) where there are substantial ML or FT threats or risks; or (iv) substantial changes occur in a member at a time when this cannot be addressed by the formal follow-up process.

³ The threshold should be considered as 36 or more of the 40 FATF Recommendations at LC or C level, depending on the context of the member, but the threshold should not be lower than 36. The threshold may be adjusted upwards, depending on the context of the member considered in conjunction with the severity of technical compliance deficiencies.

8. Separately, a Secretariat note should be prepared and discussed at the plenary at which the 3rd FUR is presented for information⁴ or is to be adopted when: (i) in the case of mandatory application of CEPs - a step other than step 1 is proposed; and (ii) in the case of discretionary application of CEPs – there is a proposal to apply procedures to any “non-big six” Recommendation. The note should explain the reason for applying a step other than step 1 and/or why discretion should be exercised (taking into account risk and context). Usually, step 1 will be applied, and it is not expected that discretion to apply CEPs to “non-big six” Recommendations will be widely used.
9. The Secretariat will share its draft note (where applicable) with the member not later than three weeks before the plenary meeting⁵. The member will be expected to provide comments within three working days of receiving the draft note. The Secretariat will revise the note and table it for discussion by the Bureau no later than two weeks before the plenary. When appropriate or feasible, the Bureau should have an exchange of views with the member before the final note is circulated to delegations.
10. At the plenary, the Secretariat will briefly present its note (where applicable). The member then has an opportunity to provide comments. The plenary will then discuss the note and - where the application of CEPs is mandatory - decide the step to be applied. Where the application of CEPs is discretionary, it may decide on the application of CEPs to any “non-big six” Recommendation and step.
11. In a case where the application of CEPs is mandatory and step 1 is proposed, no Secretariat note is needed. Instead, the Chair of MONEYVAL will propose the application of step 1 to the plenary, which will then decide on the step to be applied.
12. The plenary will set a date for the member to report to the plenary for the first time on progress addressing technical compliance deficiencies⁶ identified in the MER or subsequent FUR(s) for Recommendations covered by the CEPs process.

CEPs reports and review of ratings of Recommendations

13. The objective of CEPs is not to re-rate covered Recommendations, which may be done only under the FUP. Instead, CEPs reports provide a general overview on whether a member has made progress addressing technical compliance deficiencies identified in the MER or subsequent FUR(s) and to what extent.
14. In the event that a Recommendation covered by CEPs is also the subject in the same plenary cycle of a re-rating request under the FUP, then a general overview will not be prepared for that Recommendation. Instead, the CEPs will make use of the analysis conducted under the FUP.

Country reporting template and preparation of CEPs report

15. A CEPs report is prepared by the Secretariat based on: (i) information provided by the member using a standard country reporting template; and (ii) any other reliable sources of information held by the Secretariat. The CEPs report outlines the unresolved technical compliance deficiencies and the action taken by the member⁷. If the member has not adequately addressed technical compliance deficiencies identified in the MER or subsequent FUR(s), the report may also need to make recommendations, e.g. use of additional CEPs steps and the timeline for them.

⁴ In a case where: (i) the written procedures is followed; and (ii) FUR is adopted under that process, this will be the plenary immediately following adoption of the FUR.

⁵ Under Rule 21(7)(e) of the RoP, written comments from delegations on the FUR must be provided no later than three weeks before the plenary meeting. Where the written procedure is followed under Rule 6(6) or Rule 21(9) of the RoP, comments on the FUR circulated for approval are expected five weeks before the plenary meeting.

⁶ Rule 27(4) of the RoP.

⁷ Rule 27(3) of the RoP.

16. A member should provide all the necessary information using a standard country reporting template for CEPs - between eight and six weeks prior to the plenary meeting at which the CEPs report will be discussed. Only legislation that has been adopted at the time of submission of the country reporting template and will be in force at the time of the plenary that is linked to the follow-up cycle should be referred to by the member in the country reporting template.
17. If a member has asked under the FUP for a re-rating of a Recommendation that is subject to CEPs, then the timeline set out under Rule 21 of the RoP will apply. No further reporting is required by the member under the CEPs process for that cycle for that Recommendation.
18. The Secretariat will share its draft CEPs report with the member not later than three weeks before the plenary meeting. The member will be expected to provide comments on the draft CEPs report within three working days of receipt. In line with Rule 27(3) of the Rules of Procedure for the 5th round, the Secretariat will revise the CEPs report and table it for discussion (along with the country reporting template) by the Bureau no later than two weeks before the plenary. When appropriate or feasible, the Bureau should have an exchange of views with the member before the final CEPs report is circulated to delegations⁸.

Adoption and publication of CEPs report

19. At the plenary, the Secretariat will briefly present the status of the application of CEPs in respect of the member, outlining the findings of its analysis. The member then has an opportunity to outline the measures that it has taken to address those technical compliance deficiencies.
20. The plenary will then discuss the CEPs report and consider whether action taken (if any) may be considered as adequately addressing technical compliance deficiencies⁹. Subject to any changes agreed, the plenary will adopt the CEPs report and decide upon the application of further step(s) under CEPs - taking account of the importance of remaining technical compliance deficiencies. The CEPs report should be published in accordance with MONEYVAL's publication rules¹⁰.

Follow-up of CEPs reporting

21. A member will report in the way described above at each subsequent plenary, or such longer period as may be agreed by the plenary, until technical compliance deficiencies under the covered Recommendation(s) are adequately addressed.

Terminating CEPs

22. Termination of the CEPs process will be possible only when technical compliance deficiencies under the covered Recommendation(s) have been adequately addressed. Where a technical deficiency is addressed through legislation or other enforceable means, it should be in force and effect before a decision is taken to remove a country/territory from CEPs¹¹.

Strasbourg, December 2024

⁸ Rule 27(3) of the RoP.

⁹ Rule 27(4) of the RoP.

¹⁰ Rule 27(6) of the RoP.

¹¹ Rule 27(7) of the RoP.