

# Anti-money laundering and counter-terrorist financing measures

# Hungary

## 4<sup>th</sup> Enhanced Follow-up Report

April 2021

Follow-up report



**The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL** is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

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The 4th Enhanced Follow-up Report on Hungary was adopted by the MONEYVAL Committee at its 61st Plenary Session (Strasbourg, 28-30 April 2021).

## Hungary: 4<sup>th</sup> Enhanced Follow-up Report

### 1. INTRODUCTION

1. The mutual evaluation report (MER) of Hungary was adopted in September 2016. The report analyses the progress of Hungary in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since Hungary's third enhanced follow-up report was adopted: Recommendation 15. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Hungary has made to improve its effectiveness.

### 2. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER and the third enhanced follow-up report rated Hungary as follows for technical compliance:

**Table 1. Technical compliance ratings, December 2019**

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

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

*Source:* Hungary Mutual Evaluation Report, September 2016, link <https://rm.coe.int/anti-money-laundering-and-counter-terrorist-financing-measures-hungary/16807161b4>. Hungary 3<sup>rd</sup> Enhanced Follow-up Report, December 2019, link <https://rm.coe.int/anti-money-laundering-and-counter-terrorist-financing-measures-hungary/1680998aaa>.

3. Given the results of the MER, Hungary was placed in enhanced follow-up<sup>1</sup>. The first enhanced follow-up report submitted by Hungary was discussed at the 55<sup>th</sup> Plenary meeting in December 2017. The second enhanced follow-up report submitted by Hungary was discussed at the 57<sup>th</sup> Plenary meeting in December 2018. The third enhanced follow-up report submitted by Hungary was discussed at the 59<sup>th</sup> Plenary meeting in December 2019. The Plenary invited Hungary to submit a fourth enhanced follow-up report for the 61<sup>st</sup> MONEYVAL Plenary in April 2021.
4. The assessment of Hungary's request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):
  - Armenia

<sup>1</sup> Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up. This is intended to be a targeted but more comprehensive report on the countries/territories' progress, with the main focus being on areas in which there have been changes, high risk areas identified in the MER or subsequently and on the priority areas for action.

- Guernsey
5. Section III of this report summarises Hungary's progress made in improving technical compliance. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

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

6. This section summarises the progress made by Hungary to improve its technical compliance by:
- a) Addressing the technical compliance deficiencies identified in the MER, and for which the authorities requested an up-grade (R.12 and R.18), and
  - b) Implementing new requirements where the FATF Recommendations have changed since its 3<sup>rd</sup> enhanced follow-up report (R.15).
7. For the rest of the Recommendations rated as PC (R.13, 24 and 32), Hungary did not request a re-rating.

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

8. Hungary has made progress to address the technical compliance deficiencies identified in the MER. As a result of this progress, Hungary has been re-rated on Recommendation 12. The country asked for a re-rating for Recommendation 18 which is also analysed in the following.

#### *Recommendation 12 (Originally rated PC – re-rated as LC)*

9. In its 5<sup>th</sup> round MER, Hungary was rated PC with R.12. The identified deficiencies related to the relevant legislation neither setting out preventive measures for domestic PEPs or persons with a prominent function by an international organisation, nor requirements related to “risk management systems”, “sources of wealth” and “enhanced on-going monitoring”. The definition of PEP limits the function to a period of one year preceding the application of CDD. Moreover, preventive measures in case of PEPs apply when the customer is identified as “(non-resident) PEP” and not when the beneficial owner is considered such.
10. According to its 1<sup>st</sup> enhanced FUR, the deficiencies identified under c.12.2 and c.12.4 were rectified as a result of the then amended AML/CFT Act.
11. There is a limitation in that a person is a PEP for CDD purposes where: (i) he/she held a public function in at least the year before the performance of CDD; or (ii) such longer period where the service provider determines this based on risk (c.12.1).
12. In addition, the amended AML/CFT Act (section 9/A(2)) requires a customer to declare whether he/she is a PEP to the service provider. The Hungarian authorities explained that a declaration should be submitted by all customers. If a customer declares to be a PEP, he/she shall include the reference to which of the categories described under Article 4((2) to (4)) qualifies. With regard to beneficial owners, service providers can request the customer to declare whether the beneficial owner is a PEP (and if he/she is a PEP what type of PEP) (AML/CFT Act, sections 8(3) and 9(2)). The Act (Section 9/A(3)) requires the service provider to verify the declaration against the records available for this purpose by law or in a publicly accessible registry, as well as keep records of the measures taken for the purpose of such verification. This addresses a large part of the deficiency, but there remains a partial gap in

that a specific requirement to have risk management systems is not required and the absence of such a requirement might mean there are cases where a false declaration has been made either in relation to the customer or the beneficial. This gap can, in turn, be regarded as mitigated to some extent through the application of CDD or EDD requirements more generally discovering a false declaration (AML/CFT Act, section 16). (c.12.1(a))

13. As regards sources of wealth, a PEP, close relative and associates of PEPs should include information on source of wealth as part of a declaration to the service provider (AML/CFT Act, section 9/A(2)). As explained under sub-criterion (a) the Act requires service providers to verify the declaration. The provision of section 9/A(2) complements section 16 of the Act, which refers to obtaining information on source of wealth checks as one of several possibilities (i.e. it is not a requirement in that section) for relationships where the customer or beneficial owners is a PEP. Overall, there is a concern over the compulsory language used in section 9/A(2) and the permitting language used in section 16(3,a). On that note, Hungary reported that the 2021 amended MNE Decree No 21/2017 by the Minister for National Economy sets mandatory substantive elements of the declaration certifying the source of the wealth. The deficiency in relation to source of wealth is addressed to a large extent (c.12.1.c).
14. Regarding enhanced ongoing monitoring, the AML/CFT Act (section 16) specifies that high risk customers include those where the customer or beneficial owner is a PEP and that such customers must be subject to EDD. EDD includes ongoing monitoring “in an enhanced procedure” as specified under an internal rule to be issued by each service provider under section 65 of the Act. However, while, there is reference to an enhanced procedure to be applied in relation to persons covered by c.12.1, the procedure is initiated and framed by internal rule(s) by each service provider. The said procedure requires the approval of service providers’ internal rules by a supervisory authority (c.12.1(d)).
15. The notion of “close associates” under the AML/CFT Act does not include “personal relationships”, such as partners outside the family unit (e.g. girlfriends, boyfriends, mistresses), as well as prominent members of the same political party, civil organisation, labour or employee union. Therefore, c.12.3 remains partly met.
16. Overall, Hungary meets c.12.2 and c.12.4, mostly meets c.12.1, and partly meets C.12.3. The amended AML/CFT law addressed most shortcomings identified under c.12.1. However, there is a limitation in that a person is a PEP for CDD purposes where he/she held a public function in at least the year before the performance of CDD or longer where the service provider determines based on risk. There is also a partial gap in that a specific requirement to have risk management systems is not required and the absence of such a requirement might mean there are cases where a false declaration has been made either in relation to the customer or the beneficial. This gap is mitigated to some extent. There is a concern over the compulsory language used in section 9/A(2) and the permitting language used in section 16(3,a). As for c.12.3 the identified deficiencies in the MER remain outstanding. In light of the progress made, **R.12 is re-rated as LC.**

#### ***Recommendation 18 (Originally rated PC – no re-rating)***

17. In its 5<sup>th</sup> round MER Hungary was rated PC with R.18. In the analysis of the 1<sup>st</sup> follow-up report it was concluded that all sub-criteria under C.18.1 are met except for (b) as there are no requirements to have in place screening procedures when hiring employees and that 18.1 may be considered to be at a level of ‘mostly met’. C.18.2 is only ‘partly met’ since there are no

requirements for group wide programmes which include the measures set out in C.18.1 and no measures implementing C.18.2(a) and (b). C.18.3 is met.

18. In light of Hungary's 4<sup>th</sup> follow-up report, the deficiency identified under c.18.1(b) remains outstanding.
19. The language of sections 60(1) and (2) of the AML/CFT Act covers the appointment of a compliance officer at management level (which level is achieved by having an obligation to directly report to the body responsible for the management function) and training. The other elements of criterion c.18.1 are not met. For instance, the language used in section 27(5) of the Act requires to "*operate an external control function to control the compliance of the internal rules of procedure*", rather than testing the system. According to the Act, an external control function will be carried out *where justified by the nature and size* of the service provider, which is not in line with the methodology (C.18.2).
20. Concerning the identified deficiency under c.18.2(a), AML/CFT Act (section 60(2)) specifies that, for the purposes of comprehensively implementing group-level policies and procedures and preventing ML/TF, group-level policies and procedures shall cover "in particular" (ie they should still cover over matters) intra-group sharing of data obtain in the course of customer identification. However, there is no explicit reference to ML/TF risk management.
21. Moreover, the formulation of language in section 60 of the Act is general in terms of c.18.2(b) and the deficiency is only partly addressed.
22. Overall, all sub-criteria under c.18.1 remain met except for (b). According to the 1st enhanced FUR this criterion was rated as 'mostly met'. C. 18.2 is only 'partly met' since there are no requirements for groupwide programmes which include the measures set out in c.18.1, but sub-criteria a and c, and only some measures implementing c.18.2(a) and (b). C. 18.3 is met. **On that basis, R.18 remains PC.**

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

23. Since the adoption of Hungary's 3<sup>rd</sup> enhanced FUR the FATF has amended R.15. This section considers Hungary's compliance with the new requirements and progress in addressing deficiencies identified in the MER in relation to these Recommendations, where applicable.

#### **Recommendation 15 (Originally rated C - re-rated as PC)**

24. In its 1<sup>st</sup> enhanced FUR, Hungary was re-rated C with R.15. Since the 2017 FUR, Hungary's compliance with these requirements remains unchanged.
25. In October 2018, the FATF adopted new requirements for "virtual assets" (VAs) and "virtual asset service providers" (VASPs), including new definitions. In June 2019, the FATF adopted the Interpretative Note to Recommendation 15 to address obligations related to VAs and VASPs. The FATF Methodology for assessing R.15 was amended in October 2019 to reflect amendments to the FATF standards. Consequently, new criteria 15.3 to 15.11 were added.
26. VASPs as defined under the AML/CFT Act (section 1 (n) and section 3 (22(a)) - service providers engaged in exchange services between virtual currencies and legal tenders, or virtual currencies, as well as entities that provide services to safeguard private cryptographic keys on behalf of their customers, to hold, store and transfer virtual currencies (*henceforth referred to as "covered VASPs"*) - fall within the scope of the FATF definition on VASPs. However, the definition of the VASPs provided under the AML/CFT law does not cover some other activities described in the glossary of the FATF Methodology such as (iii) *transfer of*

*virtual assets; and (v) participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.*

27. Hungary has taken some steps to comply with the new requirements of Recommendation 15. Regarding requirements related to the risk-based approach, Hungary conducted a NRA in 2017. Although, the scope of the NRA covered only ML/TF risks associated with virtual currencies, the 2020 Strategic analysis conducted by the HFIU appears to provide an understanding of ML/TF risks emerging from the activities and operations of VASPs. Based on the information shared by the HFIU, the Experts cannot conclude whether the 2020 Strategic analysis fully meets the requirement of sub-criterion c.15.3(a). The Hungarian Financial Intelligence Unit (HFIU) as supervisory authority has conducted 1 on-site and 7 off-site inspections by 2020 which cover all service providers identified at that time. However, these inspections do not appear to be the result of a risk-based approach (c.15.3(b)).
28. According to the AML/CFT Act (section 1(n and o)) covered VASPs are reporting entities. There is no requirement in the AML/CFT Act providing for the registration of the covered VASPs. However, the AML/CFT Law (section 31) requires all service providers (including VASPs) to have at least one designated person in charge of liaising with to the HFIU. Apart from this, there are no registration or licensing procedures for VASPs (c.15.4(a)). The Hungarian authorities suggest that according to the AML/CFT Act, covered VASPs can be both natural and legal persons (c.15.4(a (i and ii))). In addition, Section 76/C (1) of the AML/CFT Act only covers registered office service providers on the criteria related to fit and proper (c.15.4(b)).
29. Hungary has demonstrated that it has taken actions to identify natural or legal persons that carry out VASP activities and do not comply with the requirements of the AML/CFT Act. The Act (section 69) enables the Hungarian authorities to apply appropriate sanctions to covered VASPs which did not designate a person with the HFIU (c.15.5).
30. According to the AML/CFT Act covered VASPs are supervised by the HFIU. Criterion 28.5, under which the supervision conducted by the HFIU is considered, has been re-rated as met under the analysis of the 2<sup>nd</sup> FUR of Hungary (c.15.6(a)). Although, sanctions are provided under the Act (section 69), there is no provision in place empowering the FIU to withdraw, restrict or suspend the VASP's license or registration (c.15.6(b)).
31. The Hungarian authorities reported that guidance has been provided to the VASP sector through sectorial model rules issued by the HFIU. Feedback was provided to the sector representatives as a result of an Audit conducted in 2020 (c.15.7).
32. A range of administrative sanctions are in place (AML/CFT Act, section 69). However, there are no financial sanctions in place for covered VASPs (c.15.8(a)). The Act (section 69) empowers the FIU to initiate the suspension of the executive powers of the executive officer of the service provider until cessation of the infringement or withdrawal of the executive powers of the executive officer of the service provider. Nonetheless, no specific measures are in place to apply sanctions against directors and managers (c.15.8(b)).
33. According to the Act, covered VASPs are reporting entities which required to comply with the requirements of Recommendations 10 to 21, to the same extent as other obliged entities. Minor deficiencies identified under R.10, rated LC in the 2017 FUR, are applicable (c.15.9.a).

34. As regards wire transfers, the legal framework of Hungary does not provide for covered VASPs and VA (c.15.9.b(i-iv)).
35. With respect to TFS, the respective mechanisms are provided under the FRM act and Ministerial Decree No. 21/2017 (c.15.10).
36. With regard to the requirements of R.37-R.40 (rated as LC in the 2016 MER), Hungary is able to provide international cooperation in the scope of ML issues, associated predicate offences, and FT for virtual assets, subject to the limits discussed within these Recommendations in the MER (c.15.11).
37. Overall, Hungary has taken some steps to implement the new requirements of Recommendation 15. Overall, c.15.1, c.15.2, c.15.5, c.15.7 and c.15.10 are rated as met, c.15.6 and c.15.11 are rated as mostly met, c.15.3, c.15.4, c.15.8 and c.15.9 are rated as partly met. The deficiency identified in c.15.4 related to the scope of the VASPs definition has a significant impact on the rating of this Recommendation. In addition, there are no wire transfer requirements for VA and VASPs. **On this basis, R.15 is re-rated as PC.**

#### 4. CONCLUSION

38. Overall, Hungary has made progress in addressing the TC deficiencies identified in its 5<sup>th</sup> Round MER and has been re-rated on Recommendation 12 (initially rated PC, is re-rated LC). Measures taken by the Hungary authorities with respect to VAs and VASPs are not sufficiently in compliance with the revised requirements of R.15. Therefore, Hungary has been re-rated as PC (re-rated as C in its 1<sup>st</sup> enhanced FUR).
39. Further steps have been taken to improve compliance with Recommendation 18, but significant gaps remain. Hungary is encouraged to continue its efforts to address the remaining deficiencies.
40. Overall, in light of the progress made by Hungary since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

**Table 2. Technical compliance with re-ratings, April 2021**

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

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

41. Hungary will remain in enhanced follow-up, and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Hungary is expected to report back to the 63<sup>rd</sup> Plenary (potentially via MONEYVAL's written procedure mechanism)



within one year. Should sufficient progress is not made to bring most if not all Recommendations rated PC to the level of LC/C, the Plenary will propose the application of CEPs.

## GLOSSARY OF ACRONYMS

AML	Anti-money laundering
BO	Beneficial ownership
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
FI	Financial institutions
FT	Financing of terrorism
HFIU	Hungarian Financial Intelligence Unit
LC	Largely compliant
ML	Money laundering
NGOs	Non-governmental organisations
NPOs	Non-profit organisations
NRA	National risk assessment
PC	Partially compliant
PF	Proliferation financing
R	Recommendation
STR	Suspicious transaction report
TFS	Targeted financial sanctions
UNSCR	United Nations Security Council Resolutions

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April 2021

Anti-money laundering and counter-terrorist financing measures -  
**Hungary**

**4<sup>th</sup> Enhanced Follow-up Report**

This report analyses Hungary's progress in addressing the technical compliance deficiencies identified in the FSRB assessment of their measures to combat money laundering and terrorist financing of September 2016.

The report also looks at whether Hungary has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2016 assessment.