6th Follow-Up Report

Mutual Evaluation of Thailand

February 2023

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THAILAND
6TH ENHANCED FOLLOW-UP REPORT FEBRUARY 2023

I.   INTRODUCTION

1.   The mutual evaluation report (MER) of Thailand was adopted in July 2017. This FUR analyses the progress of Thailand in addressing the technical compliance requirements of the recommendations being re-rated.   Thailand requested re-ratings for recommendation 1 and 26. Technical compliance re-ratings are given where sufficient progress has been demonstrated.

2.   This report does not analyse any progress Thailand has made to improve its effectiveness. In keeping with the APG ME Procedures, any reported developments with effectiveness are presented in summary form and are not subject to analysis.

3.   The review and preparation of this report was undertaken by the following expert:

- *Zhuoling Ye,* People's Bank of China

     The preparation of the report was supported by Erica Last and Alex Neville of the 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 Thailand's current technical compliance ratings.

II.   FINDINGS OF THE MUTUAL EVALUATION REPORT & FOLLOW-UP

5.   Thailand's MER ratings[1] and updated ratings based on earlier FURs[2] are as follows:

R.	Rating		R.	Rating
1	**PC** (MER 2017)		21	**LC** (MER 2017)
2	LC (MER 2017) ↑ **C** (FUR 2021)		22	**NC** (MER 2017)
3	**LC** (MER 2017)		23	**PC** (MER 2017)
4	**LC** (MER 2017)		24	**PC** (MER 2017)
5	**LC** (MER 2017)		25	**PC** (MER 2017)
6	**LC** (MER 2017)		26	**PC** (MER 2017)
7	NC (MER 2017) ↑ **LC** (FUR 2018)		27	**LC** (MER 2017)
8	**PC** (MER 2017)		28	**PC** (MER 2017)
9	**LC** (MER 2017)		29	**LC** (MER 2017)
10	**LC** (MER 2017)		30	**C** (MER 2017)
11	**LC** (MER 2017)		31	**LC** (MER 2017)

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[1] There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). Effectiveness ratings for the 11 Immediate Outcomes are: Low, Moderate (Mod), Substantial or High.

[2] Ratings prior to this FUR and the year confirmed are indicated based on the original MER or follow-up re-ratings.

12	**LC** (MER 2017)		32	PC (MER 2017) ↑ **LC** (FUR 2018)
13	PC (MER 2017) ↑ **LC** (FUR 2021)		33	**LC** (MER 2017)
14	**LC** (MER 2017)		34	**LC** (MER 2017)
15	**LC** (MER 2017)		35	**PC** (MER 2017)
16	PC (MER 2017) ↑ **LC** (FUR 2021)		36	**LC** (MER 2017)
17	**C** (MER 2017)		37	**LC** (MER 2017)
18	**LC** (MER 2017)		38	**C** (MER 2017)
19	PC (MER 2017) ↑ **LC** (FUR 2021)		39	**LC** (MER 2017)
20	PC (MER 2017) ↑ **LC** (FUR 2021)		40	**LC** (MER 2017)

IO 1	IO 2	IO 3	IO 4	IO 5	IO 6	IO 7	IO 8	IO 9	IO 10	IO 11
Sub	Sub	Mod	Low	Low	Sub	Mod	Sub	Mod	Mod	Low

6.   Given these results, Thailand was on enhanced follow-up as of the last FUR[3].

III.   PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

7.   In keeping with the APG Mutual Evaluation Procedures, this FUR considers progress made up until 1 February 2023. In line with the ME Procedures and FATF Methodology, the review team analysis has considered progress to address the deficiencies identified in the MER and the entirety (all criteria) of each Recommendation under review, noting that this is cursory where the legal, institutional or operational framework is unchanged since the MER or previous FUR. Overall, the expectation is that countries will have addressed most if not all technical compliance deficiencies by the end of the third year from the adoption of their MER. This report does not address the progress Thailand has made to improve its effectiveness.

8.   This section summarises the progress made by Thailand to improve its technical compliance by implementing requirements in place at the time of the MER.

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

9.   Thailand requested re-ratings of the following Recommendations 1 and 26 (which were rated PC).

Recommendation 1 (Originally rated PC)

10.   Thailand was rated PC with R.1 in its MER, with the report nothing that there are moderate shortcomings including exemptions from AML/CFT requirements available under the Anti-Money Laundering Act (AMLA) that have not been applied based on proven low risks, the absence of appropriate coverage of important DNFBPs, risk requirements limited to only FIs and enhanced measures to mitigate the ML/TF risk, as well the enterprise level risk assessment obligations which are affected by the scope gap of DNFBPs and a small number of FIs.

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[3] 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.

11.   **Criterion 1.1** is *met* (as per 2017 MER). Since the 2017 MER, Thailand completed and published its third National Risk Assessment (NRA) in 2022. The mechanisms and activities to identify and assess ML/TF risks remains as set out in the 2017 MER (see the 2017 MER, c.1.1).

12.   **Criterion 1.2** is *met* (as per 2017 MER). There has been no change in this area since the 2017 MER and available material supports the criterion rating as met.

13.   **Criterion 1.3** is *met* (as per 2017 MER). Since the 2017 MER, Thailand completed and published its third NRA in 2022, as well as a Sectoral Risk Assessment and NPO Risk Assessment in 2019. The 2017 MER identified that while the Anti-Money Laundering Office (AMLO) does produce typology and other money laundering situation reports, they have not been frequent or numerous. Since the 2017 MER, Thailand has produced quarterly typology and money laundering reports to reporting entities via AMLO's financial information corporation channel.

14.   **Criterion 1.4** is *met* (as per 2017 MER). As per the 2017 MER, AMLO is required to conduct and provide outcomes of risk assessments to supervisors and other authorities or entities. Since the 2017 MER, Thailand has completed a Sectoral Risk Assessment, NPO Risk Assessment and NRA and has published those risk assessments on AMLO's website. The findings of the NRA were included in an outreach event organised by AMLO which was attended by over 350 participants from various government agencies, the private sector and civil society, as well as representatives from foreign embassies and international organisations.

15.   **Criterion 1.5** is *met*. Since the 2017 MER, Thailand has strengthened its legal and regulatory frameworks in response to risk. AMLO has set up new divisions to undertake and implement measures to prevent or mitigate money laundering and terrorism financing. At the national level, resources have been allocated to institutions based on risk assessment findings. Implementation of risk-based supervision has been further based on the assessment of sectoral risks. The results from the 2022 NRA were used to formulate the 2022-2027 AML/CFT National Strategy to ensure that AML/CFT measures reflect the changing circumstances and challenges, as well as provide guidance for all relevant agencies to mitigate the identified risks and implement measures in accordance with risk-based approach.

16.   **Criterion 1.6** is *met*. At the time of the 2017 MER, Ministerial Regulation No. 5 (2000) issued under the provisions of the Anti-Money Laundering Act, 1999 (MR No. 5) exempted reporting entities from filing STRs and CTRs in relation to transactions to which the government or state-owned enterprises (SOEs) were a party. Since the 2017 MER, MR No. 5 has been amended so that reporting entities are now obliged to file STRs and CTRs for these transactions.

17.   **Criterion 1.7** is *met.* The deficiency in the 2017 MER has been addressed. The Ministerial Regulation on Customer Due Diligence B.E. 2563 (2020) (MR CDD) was amended in 2020 and now requires reporting entities to take measures commensurate with the findings of risk. Article 11 of the MR CDD requires reporting entities to classify the levels of CDD measures for each customer consistent with risk. This includes applying enhanced CDD measures for high-risk customers, in accordance with Article 12 of the MR CDD and applying simplified CDD measures for low-risk customers.

18.   **Criterion 1.8** is *mostly met* (as per 2017 MER). There has been no change in this area since the 2017 MER and available material supports the criterion rating as mostly met.

19.   **Criterion 1.9** is *partly met* (as per 2017 MER). The deficiency in the 2017 MER remains as not all DNFBPs are covered under the AMLA and are therefore not subject to supervision of risk mitigation requirements.

20.   **Criterion 1.10** is *mostly met* (as per 2017 MER). Since the 2017 MER, MR CDD has been amended. Article 15 of the MR CDD requires financial institutions (FIs) and persons engaging in

professions under Section 16 of the AMLA to take appropriate steps to identify, assess and understand their ML/TF risks however, not all FIs and DNFBPs have been designated under Section 16 of the AMLA and are therefore not subject to the AML/CFT risk assessment obligations.

21.   **Criterion 1.11** is *met.* Since the 2017 MER, MR CDD has been amended to address the deficiencies highlighted in the MER. Article 8 of the MR CDD requires all FIs and DNFBPs to have internal policies and procedures in place, which are approved by the Board or senior management, for the assessment, management and mitigation of risks. Article 11 of the MR CDD requires reporting entities to apply enhanced CDD measures for high-risk customers, in accordance with Article 12 of the MR CDD, as well as conduct enhanced transaction monitoring for high-risk customers.

22.   **Criterion 1.12** is *mostly met.* Article 11 of the MR CDD allows FIs and DNFBPs to apply simplified CDD measures under Article 17(1)-(5) of the MR CDD for low-risk customers. However, if the customer is suspected to have been involved in offences such as money laundering and terrorism financing, FIs and DNFBPs shall reclassify the customer as high-risk and undertake enhanced CDD measures in accordance with Article 12 of the MR CDD.

Weighting and Conclusion

23.   Thailand has made positive progress in strengthening the legal and regulatory frameworks to ensure that AML/CFT measures keep pace with changing circumstances and challenges. MR CDD requires FIs and DNFBPs to conduct enhanced CDD measures for high-risk customers however no t all DNFBPs are covered under the AMLA, and enterprise level risk assessment obligations are affected by the small scope gap of FIs and the narrow set of DNFBPs obliged to assess their risks. **Recommendation 1 is re-rated as Largely Compliant.**

Recommendation 26 (Originally rated PC)

24.   **Criterion 26.1** is *mostly met* (as per 2017 MER). The 2017 MER noted that there was a small scope gap including leasing, small cooperatives and unincorporated pawn shops which still remain. Thailand indicated that pawn shops are covered in antique dealers. However, according to AMLA, professions listed under Section 16 (5) must be a juristic person, therefore a scope gap remains with unincorporated pawn shops.

25.   **Criterion 26.2** is *met.* No specific deficiencies were identified in the 2017 MER. There has been no change in this area since the 2017 MER and available material supports the criterion rating as met.

26.   **Criterion 26.3** is *mostly met* (as per 2017 MER). While there have been some steps to address the gaps, some of the deficiencies identified in the 2017 MER still remain. Since the 2017 MER, the Bank of Thailand (BoT) issued Notification of the BoT No. FPG. 3/2564 which requires applicants to declare that they do not possess any of the prohibited characteristics, including a criminal record, when submitting an application to the BoT. For securities sector, the SEC issued a circular email, dated 4 September 2018 requiring all applicants to check criminal records with Thai Royal Police and compulsorily submit them to the SEC, effective since 1 October 2018**.** While Thailand has introduced a new range of instruments, they still place some limits on the range of criminal conduct that would be the basis for regulators to exclude a licensee on the basis of fit and proper.

27.   **Criterion 26.4** is *mostly met* (as per 2017 MER). The deficiency in the 2017 MER has been partly addressed. There have been some improvements in the risk-based elements of risk-based supervision. AMLO has since issued a guidance for risk-based supervision for AMLO supervisory offices, which was endorsed by the Supervisory Sub-Committee under the Anti-Money Laundering Board in 2019. The guidance classified reporting entities into four risk levels and the Supervision Division will formulate the supervisory plan by selecting modes of supervisory action. Thailand

indicated that Pawn shops are covered under AMLA (s.16(5)). However, according to AMLA, professions listed under s.16(5) must be a juristic person. Therefore, unincorporated pawn shops, leasing companies and cooperatives with capital less than approximately USD58,000 are still not subject to AML/CFT supervision.

28.   **Criterion 26.5** is *mostly met*. Since the 2017 MER, the deficiency has been mostly addressed, and the risk assessments reported by FIs are more comprehensive. AMLO has issued a guidance for risk-based supervision for AMLO supervisory officers which was endorsed by the Supervisory Sub-Committee under the AML in 2019. The guideline requires that the plan formulated by the Supervision Division will also specify the frequency and intensity for each sector under the rules that every entity in the highest-risk sector will be targeted for full-scope or thematic on-site examination within two years, within three years for the medium-high-risk or medium-low-risk sector and within five years for the low-risk sector. The AMLO on-site examination manual states that the institution's risk level is based on assessing the entity's risk profile and calculating the score. In addition, the Guidance classified REs into 4 risk levels but the same 3 year period applies to medium-high-risk and medium-low-risk sectors, it is also a concern as to whether this provision is appropriate for ML/TF risks.

29.   **Criterion 26.6** is *mostly met*. Since the 2017 MER, the deficiency has been partly addressed. The AMLA provides AMLO with supervisory powers (s.40 (3/1)). Institutions in high-risk and medium-high-risk sectors will be reviewed every year. Institutions in medium-low-risk sectors will be reviewed every two years and institutions in low-risk sectors will be reviewed every three years. Information for risk profiling includes size, products and services, as well as past on-site results, especially for non-compliance and negative press. An institution that appears in the negative press will be examined on-site immediately. The AMLA does not provide for the requirement to adjust the risk level in response to changes in circumstances. Thailand also did not provide documentation and information to support that the institution's risk levels have been adjusted since the 2017 MER due to significant events or developments in management and operations or financial institutions or groups. There is no assurance that the rating of the risk level is adjusted to changing circumstances.

Weighting and Conclusion

30.   AMLO is the main authority entrusted with AML/CFT regulation and supervision in Thailand in cooperation with the sector-specific supervisors. Small scope gaps remain for licensing of FIs. Thailand has made some steps to improve aspects of fit and proper requirements, but some deficiencies identified in the 2017 MER still remain. Since the 2017 MER, AMLO has issued a guidance for risk-based supervision for AMLO supervisory officers, but there are some gaps remaining. **Recommendation 26 is re-rated as Largely Compliant.**

IV.   CONCLUSION

31.   Overall, Thailand has made some progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated to LC with Recommendations 1 and 26.

32.   A summary table setting out the underlying deficiencies for each of the recommendations assessed in this report is included at Annex A.

33.   Overall, in light of the progress made by Thailand since its MER was adopted, its technical compliance with the FATF Recommendations as follows as of February 2023:

R.	Rating	R.	Rating
1	PC (MER 2017) ↑ **LC** (FUR 2023)	21	**LC** (MER 2017)
2	LC (MER 2017) ↑ **C** (FUR 2021)	22	**NC** (MER 2017)

R.	Rating		R.	Rating
3	**LC** (MER 2017)		23	**PC** (MER 2017)
4	**LC** (MER 2017)		24	**PC** (MER 2017)
5	**LC** (MER 2017)		25	**PC** (MER 2017)
6	**LC** (MER 2017)		26	**PC** (MER 2017) **LC** (FUR 2023)
7	NC (MER 2017) ↑ **LC** (FUR 2018)		27	**LC** (MER 2017)
8	**PC** (MER 2017)		28	**PC** (MER 2017)
9	**LC** (MER 2017)		29	**LC** (MER 2017)
10	**LC** (MER 2017)		30	**C** (MER 2017)
11	**LC** (MER 2017)		31	**LC** (MER 2017)
12	**LC** (MER 2017)		32	PC (MER 2017) ↑ **LC** (FUR 2018)
13	PC (MER 2017) ↑ **LC** (FUR 2021)		33	**LC** (MER 2017)
14	**LC** (MER 2017)		34	**LC** (MER 2017)
15	**LC** (MER 2017)		35	**PC** (MER 2017)
16	PC (MER 2017) ↑ **LC** (FUR 2021)		36	**LC** (MER 2017)
17	**C** (MER 2017)		37	**LC** (MER 2017)
18	**LC** (MER 2017)		38	**C** (MER 2017)
19	PC (MER 2017) ↑ **LC** (FUR 2021)		39	**LC** (MER 2017)
20	PC (MER 2017) ↑ **LC** (FUR 2021)		40	**LC** (MER 2017)

34.   Thailand has 33 Recommendations rated C/LC. Thailand will remain in enhanced follow-up. Thailand's next progress report is due 1 February 2024.

Summary of Technical Compliance –Deficiencies underlying the ratings [4]

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**[5]
1. Assessing risks & applying a risk-based approach	LC (FUR 2023)	• (c.1.9) Not all DNFBPs are covered under the AMLA and are therefore not subject to supervision of risk mitigation requirements. • (c.1.10) not all DNFBPs are covered under the AMLA and are therefore not subject to risk assessment obligations.
26. Regulation and supervision of Financial Institutions	LC (FUR 2023)	• (26.3) Thailand has limits on the range of criminal conduct that would be the basis for regulators to exclude a licensee. • (26.4) Leasing companies and cooperatives with capital less than approximately USD58,000 are not subject to AML/CFT supervision. • (26.5) The Guidance on supervision does not differentiate the timeframe for risk-based supervision based on risk • (26.6) It is not clear whether the rating of the risk level is adjusted to changing circumstances.

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[4] Ratings and factors underlying the ratings are only included for those recommendations under review in this FUR.

[5] Deficiencies listed are those identified in the MER or confirmed in a subsequent FUR.