



1st Follow-Up Report

Mutual Evaluation of Brunei Darussalam

June 2024





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APG Secretariat
Locked Bag A3000
Sydney South
New South Wales 1232
AUSTRALIA
Tel: +61 2 5126 9110

E mail: mail@apgml.org
Web: www.apgml.org

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BRUNEI DARUSSALAM

1ST ENHANCED FOLLOW-UP REPORT 2024

I. INTRODUCTION

1. The mutual evaluation report (MER) of Brunei Darussalam was adopted in July 2023.
2. This Follow-Up Report (FUR) analyses the progress of Brunei Darussalam in addressing the technical compliance requirements of the Recommendations being re-rated. Technical compliance re-ratings are given where sufficient progress has been demonstrated.
3. This report does not analyse any progress Brunei Darussalam has made to improve its effectiveness.
4. The assessment of Brunei Darussalam's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:
 - *Praveena Rerkjaral, Anti-Money Laundering Office, Thailand*
 - *(Cindy) Ka Sin Chan, the Financial Intelligence Office of the Unitary Police Service, Macao, China*
5. The preparation of the report was supported by Melissa Sevil and Marnie Campbell of the APG Secretariat, with additional support from other Secretariat members.
6. Section IV of this report summarises the progress made to improve technical compliance. Section V contains the conclusion and a table illustrating Brunei Darussalam's current technical compliance ratings.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

7. Brunei Darussalam current ratings¹ are follows:

Effectiveness

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	Mod	Mod	Sub	Mod	Mod	Sub	Sub	Low

Technical compliance

R.	Rating	R.	Rating
1	LC (2023 MER)	21	LC (2023 MER)
2	LC (2023 MER)	22	PC (2023 MER)

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.

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

8. Given these results and the effectiveness ratings, Brunei Darussalam is in the enhanced follow-up process.²

III. PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

9. In keeping with the APG ME Procedures, this FUR considers progress made up until 1 June 2024 and considers 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.

10. This section provides a summary of that progress.

Progress to address technical compliance deficiencies identified in the MER.

11. Brunei Darussalam requested re-ratings of R.10, R.16, R.18, R.19, R.22, R.26, R.27, and R.28 (which were rated PC).

² 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.

12. The APG welcomes the steps that Brunei Darussalam has taken to improve its technical compliance with R.10, R.16, R.18, R.19, R.22, R.26, R.27, and R.28. As a result of this progress, Brunei Darussalam has been re-rated on all eight Recommendations.

Recommendation 10 [R.10] (Originally rated partially compliant)

13. Brunei Darussalam was rated PC for R.10 in its 2023 MER. The report noted moderate shortcomings. There was no explicit requirement to not complete a transaction with the occasional customer where customer due diligence (CDD) has not been fulfilled, and deficiencies with the risk management of life insurance beneficiaries, and the requirements for the identification of beneficial ownership. Since the 2023 MER, the 2023 amendments to the Criminal Asset Recovery Order 2012 (CARO) have come into force and effect and address several deficiencies.

14. **Criterion 10.1** is *met*. No deficiencies were identified in the 2023 MER. The amendment of CARO on s.4 (3) clarifies the requirement for FIs to make a record of the disclosure where a person carries on any business in a particular name and discloses a different name or names by which the person is commonly known, and provide a copy of the record to the supervisory authority upon written request from the Brunei Darussalam Central Bank (BDCB) (s.4 (3), CARO). Overall, there has been no change in this area since the 2023 MER and available material supports the criterion rating as met.

15. **Criterion 10.2** is *met*. No deficiencies were identified in the 2023 MER. The amendment of CARO 5(1)(c) has removed the threshold for FIs to undertake CDD measures for wire transfers. Now FIs are required to undertake CDD when carrying out wire transfer transactions in any amount. This is consistent with Item E.1 of the licensing conditions for remittance business, issued under s.7 of the Money Changers and Remittance Businesses Act (MCRBA), which requires the licensee to submit daily remittance transaction reports, including information on originator and beneficiary. Overall, there has been no change in this area since the 2023 MER and available material supports the criterion rating as met.

16. **Criterion 10.3** is *met*. The 2023 MER noted there were no obligations for FIs to identify and verify legal arrangements separately from their natural persons (trustees, settlor, beneficiary of express trusts and any other parties with authority to manage, vary or otherwise control the arrangement). Section 6(1) of the CARO 2012 has been amended with a new section 6(1) of the CARO 2023 which sets out the obligations imposed on FIs for the identification on customers and beneficial ownership. These requirements apply to customers that are individuals, legal persons and legal arrangements, and any persons acting on behalf of a customer. In addition, section 7(1) of the CARO 2012 has been updated by the CARO 2023 which provides that FIs are required to verify customer information against official records. The minor deficiency in the 2023 MER has been addressed by the CARO amendment, and now FIs are required to identify and verify legal arrangements separately from their respective natural persons (settlor, trustee, or protector and the beneficiary of express trusts and any other parties with authority to manage, vary or otherwise control the arrangement) (s.6 (1) (c) and s.7(1) (a) of CARO). Requirements previously established in the General Guidance Paper (GGP) have now been incorporated into the amended CARO.

17. **Criterion 10.4** is *met*. No deficiencies were identified in the 2023 MER. The CARO amendment on s.6 (1) has no effect on the requirement for FIs to identify, verify and obtain evidence for any persons acting on behalf of a customer (s.6(1), CARO.) There has been no change in this area since the 2023 MER and available material supports the criterion rating as met.

18. **Criterion 10.5** is *mostly met*. No deficiencies were identified in the 2023 MER. The amendment to s.2 of CARO has not significantly changed the definitions of property and beneficial ownership, and FIs are required to identify and verify the identity of the BO (s.5 (2), s.7(1), CARO). However, section 5(2) of CARO 2012 has been amended by CARO 2023 which requires FIs to identify

the BO, except in circumstances in which the BDCB deems that it is not necessary. Although no exemptions pursuant to section 5(2) of CARO have been issued to date, that provision extending exemption from identifying beneficial ownership in circumstances specified by BDCB has resulted in a rating of mostly met for this criterion.

19. **Criterion 10.6** is *met*. The 2023 MER identified that there was no explicit requirement for FIs to obtain information on the nature of the customer's business and its ownership and control structure. Section 6 of CARO, 2012 has been repealed and substituted with a new Section 6 in the CARO, 2023. Section 6(1)(a)(vii), section 6(1)(b)(v) and section 6(1)(c)(vi) of CARO, 2023 provide explicit requirements for FIs to obtain and verify sufficient information to understand the purpose and intended nature of the business relationship, the nature of the customer's business and its ownership and control structure for individuals, legal persons and legal arrangements respectively.

20. **Criterion 10.7** is *met*. Brunei Darussalam's 2023 MER noted that there was no explicit requirement for FIs to ensure the source of funds is consistent with the transactions being conducted. Although FIs were required to maintain current information and records pertaining to the customer and BO, there was no explicit mention of undertaking reviews of existing information. Since the 2023 MER, s.13(1)(b) of CARO has been amended and FIs are explicitly required to ensure source of funds is consistent with the transactions being conducted. FIs are also required to undertake reviews of existing information, particularly for higher risk customers, to ensure information is up to date (s.13(1)(a) of CARO). The minor deficiencies in the 2023 MER have been addressed.

21. **Criterion 10.8** is *met*. No deficiencies were identified in the 2023 MER. S.6 of CARO 2012 has been amended and requirements previously established in the GGP have now been incorporated into the amended CARO. Section 6(1)(b)(v) and section 6(1)(c)(vi) of CARO, 2023 explicitly require FIs to obtain and verify information to understand the nature of the customer's business, and the ownership and control structure of legal persons and legal arrangements. The available material supports the criterion rating as met.

22. **Criterion 10.9** is *mostly met*. The 2023 MER identified that there was no requirement for FIs to obtain and verify the identity of a legal person or arrangement through a principal place of business if different to the registered office. Since the 2023 MER, s.6 of CARO has been amended and FIs are explicitly required to obtain and verify principal place of business information or registered office address information of customers who are legal persons or legal arrangements, but not both (s.6(1)(b)(iii), s.6(1)(c)(iv), CARO). There is still no requirement to obtain and verify principal place of business information, if it is different from the registered office address. The minor deficiency in the 2023 MER has not been fully addressed.

23. **Criterion 10.10** is *met*. The 2023 MER noted that there was no enforceable obligation for FIs to identify and take reasonable measures to verify the identities of BOs who exercise control of a legal person/ arrangement through other means, when there is doubt concerning the stated BO or where no natural person exerts control through ownership interests. There was also no obligation to verify the identity of a person who is the senior managing official of a customer.

24. Since the 2023 MER, s.6 of CARO has been amended and requirements previously established in the GGP have now been incorporated into the amended CARO. In cases where FIs are in doubt about whether the person with the controlling ownership interest is the BO, or where no natural person exerts control through ownership, FIs are required to identify the natural person who is exercising control of legal person and legal arrangements through other means (s.6 (1) (b)(ix), CARO). The CARO amendments also explicitly require FIs to verify and identify of the natural persons who hold an equivalent position of senior managing official of the customers where no natural person can otherwise be identified (s.6 (1) (b)(x), CARO). The deficiencies in the 2023 MER have been addressed, and the available materials support the criterion rating as met.

25. **Criterion 10.11** is *mostly met*. Brunei Darussalam's 2023 MER identified that there were no clear obligations for FIs to identify those exercising ultimate control over a trust. The amended CARO 2023 requires FIs to obtain and verify the name of the legal arrangement, the identity of the settlor, trustee or protector, if any, and the beneficiaries and any other natural persons having effective control over the trust (s.6(1)(c), s.7 (1), s.7 (7) CARO). The class of beneficiaries is not explicitly included as a requirement for identification and verification. The deficiency in the 2023 MER has not been fully addressed and the available materials support the criterion rating as mostly met.

26. **Criterion 10.12** is *mostly met*. The 2023 MER noted that there were no CDD requirements for FIs pertaining to life insurance beneficiaries or other investment-related insurance policies. Section 6(2) of CARO 2023 sets out that FIs that issue life insurance policies or family takaful business and other related insurance policies are required to identify and obtain information about the beneficiary at the time to pay out, and prior to making payment (s.6(2), CARO). This is in addition to the identification and verification elements set out in s.6(1) of CARO. However, this provision does not appear to cover other investment related insurance policies.

27. **Criterion 10.13** is *met*. Brunei Darussalam's 2023 MER identified that FIs were not required to include beneficiaries of life insurance policies as risk factors when determining overall ML/TF risk to determine whether enhanced CDD measures apply. Section 9(2) of CARO 2023 outlines the requirement to include BOs and beneficiaries of life insurance policies as relevant risk factors in determining whether enhanced CDD measures are applicable. In addition, FIs and DNFBPs are to conduct enhanced due diligence (EDD) on determining if a BO of a beneficiary or a beneficiary of a life insurance is (a) a domestic politically exposed person (PEP) at high risk of ML/TF, (b) a foreign PEP, or (c) a beneficiary of life insurance, family takaful business or other related insurance policy and is assessed as higher risk. FIs must inform the senior management where a beneficiary of a life insurance policy or other related insurance policy is considered higher risk before the payout of the policy proceeds and to consider filing a STR (s.9(2)(c), CARO), including identifying and verifying the beneficiary at the time of payout (s.6(2)(c), CARO).

28. **Criterion 10.14** is *met*. No deficiencies were identified in the 2023 MER. There has been no significant change in this area since the 2023 MER. FIs are required to conduct CDD before establishing an account or a business relationship (s.8, CARO), and the CARO amendments extend this requirement to occasional customers. FIs are permitted to conduct business prior to the completion of CDD, but only if ML/TF risks are effectively managed, verification delays are essential to not interrupt the normal conduct of business, and CDD is undertaken as soon as reasonably practicable (s.8(1) CARO). The available material supports the criterion rating as met.

29. **Criterion 10.15** is *met*. The 2023 MER noted that there were no obligations for FIs to adopt risk management procedures concerning the conditions under which a customer may utilise a business relationship prior to CDD verification. The deficiency outlined in the 2023 MER has been addressed by extending the obligation for FIs to adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification (s.8(2), CARO).

30. **Criterion 10.16** is *met*. The 2023 MER identified that there were no requirements for FIs to conduct CDD on existing relationships at appropriate times, taking into account whether and when CDD has been previously performed and the adequacy of data obtained. Since the 2023 MER, CARO has been amended to include requirements for FIs to conduct CDD on existing customers based on materiality and risk, and at appropriate times. Section 13 of CARO now requires FIs to maintain up-to-date and relevant information and records relating to the customers and BOs, particularly of higher risk customers. FIs are also required to consider whether and when CDD has been previously performed and the adequacy of data obtained (s.13(2), CARO). The deficiencies outlined in 2023 MER have been addressed.

31. **Criterion 10.17** is *met*. No deficiencies were found in Brunei Darussalam's 2023 MER. Section 2 of CARO 2023 defines EDD to set out the obligations for FIs. The amendments to CARO 2023 require FIs to conduct EDD on the identification of customers or BOs whose activities may pose a higher risk of ML/TF (s.9(2)(a) of CARO). The available materials support the criterion rating as met.

32. **Criterion 10.18** is *partly met*. At the time of Brunei Darussalam's 2023 MER, simplified due diligence was not permitted and this criterion was rated N/A. Since the 2023 MER, CARO has been amended to allow FIs to adopt simplified measures for due diligence, provided the simplified measures are made in writing and there is prior approval from BDCB for its implementation (s.6(4), CARO). However, there are no clear criteria or limitations for the BDCB to only approve simplified due diligence where lower risks have been identified and there is no measure that provides that simplified due diligence is unacceptable where there is suspicion of ML/TF, or specific higher risk scenarios apply. At this stage, there have been no requests for approval for the implementation of simplified due diligence.

33. **Criterion 10.19** is *met*. The 2023 MER found that there was no explicit obligation for an FI to not complete a transaction with an occasional customer where CDD has not been completed and rated this criterion as mostly met. Since the 2023 MER, the identified deficiency has been addressed by the amendment of S.11 of CARO to set the obligation for FIs not to complete a transaction with an occasional customer when CDD has not been completed. Now FIs are not permitted to establish an account or maintain a business relationship or carry out an occasional transaction with a customer if they are unable to comply with CDD measures set out under Sections 5 to 10 of CARO (S. 11, CARO). FIs are also required to make a report to the FIU if they are unable to fulfil CDD obligations.

34. **Criterion 10.20** is *met*. There were no deficiencies identified in Brunei Darussalam's 2023 MER. Section 6(3) of CARO has been amended to explicitly allow FIs to refrain or cease to perform CDD measures if this will tip-off the customer, and to file an STR. There has been no significant change in this area since the 2023 MER, and available material supports the criterion rating as met.

Weighting and conclusion

35. Major and minor deficiencies identified in the 2023 MER have been addressed mostly by the 2023 amendment of CARO. The positive progress on CDD framework for FIs on requirements has been strengthened. However, for simplified CDD, there are no clear criteria or limitations for the BDCB in approving simplified CDD commensurate with the lower risk factors. There is also no provision that simplified due diligence is unacceptable where there is suspicion of ML/TF, or where specific higher risk scenarios apply. These remaining deficiencies are minor.

36. **Recommendation 10** is *re-rated to largely compliant*.

Recommendation 16 [R.16] (Originally rated partially compliant)

37. Brunei Darussalam was rated PC for R.16 in its 2023 MER. The report noted moderate shortcomings. There were several gaps regarding ordering and intermediary FIs' obligations for wire transfers and particularly with respect to beneficiary information. There were no obligations for intermediary or beneficiary FIs to have risk-based policies and procedures in place. There was no explicit requirement for MVTs providers to take into account all information from ordering and beneficiary sides to determine whether an STR must be filed. Since the 2023 MER, the 2023 amendments to the Criminal Asset Recovery Order 2012 (CARO) have come into force and effect and address several deficiencies.

38. **Criterion 16.1** is *met*. There were no deficiencies identified in the 2023 MER. The definition of wire transfers in Section 2 of the CARO, 2023 does not differentiate between domestic and cross-border wire transfers. The threshold of BND1,500 for wire transfers has been removed (s.5 (1)(c), CARO, 2023) and FIs shall undertake identification and verification requirements for all wire transfer transactions, including cross border wire transfers. The addition of a new Section 6A(1) in the CARO, 2023 addresses wire transfer requirements for c.16.1, outlining the information required to be collected included the originator's name, account number and address, as well as the name of the beneficiary and account number.

39. **Criterion 16.2** is *met*. No deficiencies were identified in Brunei Darussalam's 2023 MER. Section 6A (2) of CARO, 2023 provides BDCB with the powers to issue directions to modify the requirements of Section 6A (1) of CARO, 2023 with respect to cross-border transfers where individual transfers from a single originator are bundled in a batch file, provided that the originator's account number or unique reference number is still included, and that the batch file contains full originator information that is fully traceable in the recipient country. Though BDCB has not issued any directions pursuant to Section 6(2) of CARO 2023, the requirements under Section 6A (1), as outlined in criterion 16.1 above, apply for individual cross-border transfers that are bundled in a batch file.

40. **Criterion 16.3** is *not applicable*. As the threshold of BND1,500 has been removed in the amended section 5(1)(c) of CARO, 2023, this criterion is not applicable.

41. **Criterion 16.4** is *met*. No deficiencies were identified in Brunei Darussalam's 2023 MER. FIs shall undertake identification requirements when carrying out all wire transfers, including those with a suspicion of ML/TF (s. 5(1)(c) and 5(1)(d) of CARO, 2023). FIs shall be required to verify the accuracy of this information and ensure that such information remains with all the wire transfers or related messages throughout the payment chain (s.6A(1), CARO, 2023).

42. **Criterion 16.5** is *met*. No deficiencies were identified in Brunei Darussalam's 2023 MER. The definition of wire transfers in Section 2 of the CARO, 2023 does not differentiate between domestic and cross-border wire transfers. Domestic wire transfers are required to be accompanied by the same information as cross-border wire transfers as illustrated in c.16.1. Section 6A(2)(a) allows for the Authority to modify the requirements for information accompanying domestic wire transfers as long as the full originator information can be made available to the beneficiary FI and appropriate authorities by other means, but no directions have been issued under this section.

43. **Criterion 16.6** is *not applicable*. The 2023 MER rated this criterion as 'not applicable'. In Brunei Darussalam there are no distinctions drawn between domestic and cross-border wire transfers. Domestic wire transfers are required to be accompanied by the same information as cross-border wire transfers; that is the originator's name, unique identifying number, and address.

44. **Criterion 16.7** is *met*. No deficiencies were identified in Brunei Darussalam's 2023 MER. The ordering FI is required to maintain all originator and beneficiary information as illustrated in c.16.1. The ordering FIs are required to maintain all necessary records on transactions, both domestic and international, for at least 7 years from the date the relevant transaction was completed or upon which action was last taken (s.14(4), CARO, 2023). All the records obtained through CDD measures, account files and business correspondence and results of any analysis undertaken, must also be retained for at least seven years, from the date the relevant transaction was completed or upon which action was last taken (s.14, CARO, 2023). The record-keeping requirements in the Section 14 of CARO, 2023 are sufficient to permit reconstruction of individual transactions. All CDD information and transaction records are available to the competent authority in Brunei Darussalam within a reasonable time or such period as may be specified by the requesting authority (s.14(4A), CARO, 2023).

45. **Criterion 16.8** is *met*. The 2023 MER identified that there was no requirement for ordering FIs to take reasonable measures to obtain and verify missing beneficiary information prior to executing wire transfers, or to otherwise refuse the transaction. The new Section 6A (4) of CARO, 2023, specifies that no wire transfer is executed that does not comply with the requirement under Sections 6A and 14 of CARO, 2023. Sections 6A and 14 contain the requirements for criteria 16.1 to 16.7. This amendment addresses the identified deficiency.

46. **Criterion 16.9** is *met*. No deficiencies were identified in Brunei Darussalam's 2023 MER. An intermediary FI of a cross-border wire transfer should ensure that all originator and beneficiary information that accompany a wire transfer is retained with it (s.6A(5)(a), CARO, 2023).

47. **Criterion 16.10** is *met*. No deficiencies were identified in Brunei Darussalam's 2023 MER. Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary FI should keep a record for at least 7 years from the day of the transaction of all the information received from the ordering or other intermediary FI, as required by s.14(4) of CARO (s.6A(5)(b), CARO, 2023).

48. **Criterion 16.11** is *met*. The 2023 MER noted that intermediary FIs are not required to perform reasonable measures to identify cross-border transfers that lack required beneficiary information. The new addition of Section 6A(5)(c) of CARO, 2023, requires that a FI processing an intermediary element of a wire transfer should take reasonable measures, which are consistent with straight-through processing, to identify cross-border wire transfers that lack required originator information or required beneficiary information. This amendment addresses the identified deficiency.

49. **Criterion 16.12** is *met*. The 2023 MER outlined the absence of obligations for intermediary FIs to have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information, or to determine the appropriate follow-up action. The new addition of Section 6A(5)(c) of CARO, 2023 obliges a FI processing an intermediary element of cross-border wire transfers to apply risk-based policies and procedures to determine whether to execute, reject or suspend a cross-border wire transfer that lack full and accurate originator and beneficiary information and appropriate follow-up action. This amendment addresses the identified deficiencies.

50. **Criterion 16.13** is *met*. The 2023 MER highlighted that there were no requirements for FIs to take reasonable measures to identify cross-border wire transfers that lack required beneficiary information. The new addition of Section 6A (6) of CARO, 2023 outlines the requirements for FIs receiving wire transfers. Beneficiary FIs are required to take reasonable measures which may include post-event monitoring or real time monitoring where feasible, to identify cross border wire transfers that lack required originator information or required beneficiary information.

51. **Criterion 16.14** is *met*. No deficiencies were identified in Brunei Darussalam's 2023 MER. The threshold of BND1,500 has been removed in the amended Section 5(1)(c) of CARO, 2023. As such, the beneficial information requirements under section 6A of CARO, 2023 apply to all wire transfers irrespective of amount. Section 6A(1) of CARO requires verification of the name of the beneficiary and the beneficiary account number and section 14 requires this information to be kept for 7 years. In addition, the identity of the beneficiary must have already been verified as beneficiary FIs are covered by the general obligation for all FIs to identify and verify their customers prior to establishing business relations or carrying on further business (s. 8(1), CARO). As in c.16.4, all wire transfer transactions should be identified and verified and there are no deficiencies identified for record keeping as in c.16.7. It applies to both ordering and beneficiary FIs.

52. **Criterion 16.15** is *met*. The 2023 MER outlined the deficiencies in compliance with this criterion, including no obligations for beneficiary FIs to have risk-based policies and procedures for

determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information, nor to determine the appropriate follow-up action. The new addition of Section 6A (6) of CARO, 2023 outlines the requirements for a FI receiving a wire transfer to have risk-based policies and procedures to determine whether to execute, reject or suspend a cross-border wire transfer that lacks required originator information or required beneficiary information and determine appropriate follow-up action.

53. **Criterion 16.16** is *met*. As found in Brunei Darussalam's 2023 MER, remittance companies are required to have a valid remittance license from BDCB issued under the Money Changers and Remittance Businesses Act, Chapter 174 to operate in Brunei Darussalam and therefore must comply with the laws and regulations that apply to them. These include the licensing conditions issued by BDCB as well as the relevant provisions of CARO. Remittance companies are not allowed to open domestic branches, or foreign subsidiaries or branches, and therefore do not operate in other countries, either directly or through agents. Money changing and remittance businesses are defined as FIs under s. 2, CARO and therefore the wire transfer obligations set out under c.16.1 to c.16.15 and c.16.18 apply to them. There has been no change in this area since the 2023 MER and available material supports the criterion rating as met.

54. **Criterion 16.17** is *partly met*. The 2023 MER identified two deficiencies: i) no explicit requirement for an MVTs provider to take into account all information from ordering and beneficiary sides to determine if an STR must be filed (16.17(a)); ii) no explicit obligation for MVTs providers to file STRs in any jurisdiction affected by a suspicious wire transfer (16.17(b)). The deficiencies identified by this criterion remain. There is no explicit requirement for an MVTs provider to take into account all the information from ordering and beneficiary sides to determine whether an STR must be filed, but overall STR reporting obligations would still apply to MVTs. No explicit obligation for MVTs providers to file STRs in any jurisdiction affected by a suspicious wire transfer. MVTs providers like other FIs, are required to make relevant transaction information available to the FIU in Brunei Darussalam (s.15, CARO, 2023), but there is no explicit requirement for making information available to the FIU in other jurisdictions.

55. **Criterion 16.18** is *met*. No deficiencies were identified in Brunei Darussalam's 2023 MER. In keeping with the analysis at R.6 and the analysis of c.16.18 in the MER 2023, in the context of processing wire transfers, FIs are required to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities, as per obligations set out in UNSCRs 1267 and 1373, and their successor resolutions. There has been no change in this area since the 2023 MER and available material supports the criterion rating as met.

Weighting and conclusion

56. There are only minor shortcomings remaining for FIs with no explicit requirement for MVTs provider to take into account all information from ordering and beneficiary sides to determine whether an STR must be filed, and no explicit requirement for MVTs to file an STR in any jurisdiction affected by a suspicious STR and to make relevant transaction information available to foreign FIUs.

57. **Recommendation 16** is *re-rated to largely compliant*.

Recommendation 18 [R.18] (Originally rated partially compliant)

58. Brunei Darussalam was rated PC for R.18 in its 2023 MER. There were no legal provisions for the implementation of group-wide programs against ML/TF and no explicit provisions for policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management including STRs. There was also a lack of explicit requirements for safeguarding the use and confidentiality of information exchanged. There were no explicit requirements for financial groups to

apply appropriate additional measures to manage ML/TF risks. Brunei Darussalam's risk and context, particularly the lack of any Brunei Darussalam FIs having foreign branches or subsidiaries, has been taken into account when weighting the deficiencies with this rating. The 2023 amendments to CARO have addressed these deficiencies.

59. **Criterion 18.1** is *met*. No deficiencies were identified in Brunei Darussalam's 2023 MER. FIs are required to develop and implement AML/CFT programs, which have regard to the ML/TF risks and the size of the business, as well as appropriate internal policies, procedures, and controls (s. 22, CARO, 2023). These include (a) designation of compliance officers at management level, (b) adequate screening procedures to ensure high standards when hiring employees, (c) an ongoing employee training program, and (d) an independent audit function to test the system. Requirements previously established in the GGP have now been incorporated into the amended CARO.

60. **Criterion 18.2** is *met*. The 2023 MER noted that there were no enforceable obligations for financial groups to: establish consolidated AML/CFT programs covering subsidiary entities; establish group-wide policies and procedures for sharing information for the purpose of CDD and ML/TF risk management; implement group-wide safeguards that adequately protect confidentiality and use of information exchanged. The 2023 amendments to CARO define a "financial group," which as a group that consists of a parent company or of any other type of legal person exercising control and coordinating functions over the rest of the group for the application of group supervision under the Core Principles, together with branches or subsidiaries that are subject to AML/CFT policies and procedures at the group level. Financial groups are required to implement group-wide programs against ML/TF, which are applicable, and appropriate to, all branches and majority-owned subsidiaries of the financial group. The measures for c.18.2 (a) to (c) are set out in Section 28(3) of CARO. These amendments address the deficiencies.

61. **Criterion 18.3** is *met*. Brunei Darussalam's 2023 MER identified the absence of requirement for financial groups to apply appropriate measures to manage ML/TF risks if the host country does not permit the proper implementation of AML/CFT measures consistent with home country requirements. Section 28 of CARO, 2012, as amended by the CARO, 2023, provides requirements for financial groups to apply appropriate measures to manage ML/TF risks if the host country does not permit the proper implementation of AML/CFT measures consistent with home country requirements. Financial groups in Brunei Darussalam apply AML/CFT measures consistent with the home country requirements, where the minimum AML/CFT requirements of the host country are less strict than those of Brunei Darussalam, to the extent that host country laws and regulations so permit (s. 28(1), CARO, 2023). If the host country does not permit the proper implementation of AML/CFT measures consistent with the home country requirements, financial groups are required to apply appropriate additional measures to manage the ML/TF risks and notify the Authority. (s. 28(2), CARO, 2023).

Weighting and conclusion

62. The Recommendation is *met*.

63. **Recommendation 18** is *re-rated to compliant*.

Recommendation 19 [R.19] (Originally rated partially compliant)

64. Brunei Darussalam was rated PC for R.19 in its 2023 MER. As noted in the MER, Brunei Darussalam required FIs to apply EDD on business relations and transactions involving persons from or in countries identified as having weak compliance with AML/CFT international standards, with the list managed by the FIU. However, there was no statutory basis to apply countermeasures to higher-risk countries. The 2023 amendments to CARO have addressed most of these deficiencies.

65. **Criterion 19.1** is *met*. The 2023 MER found that although FIs were required to conduct EDD on business relationships and transactions with natural and legal persons having weak compliance with AML/CFT international standards, there was no requirement in CARO 2012 that this be proportionate with the risks. The GGP provided clarification on the procedures and established this requirement.

66. Section 2 of CARO, 2023 defines “person” as any natural or legal person. The 2023 amendments to CARO provide that FIs shall conduct EDD proportionate to the risks on its business relations and transactions with persons or organisations from countries identified by the FATF (s.9A(1), CARO, 2023). The requirement for EDD to be proportionate to risks, previously established in the GGP has now been incorporated into the amended CARO. This amendment addresses the deficiency.

67. **Criterion 19.2** is *met*. The 2023 MER noted that there was no statutory basis for competent authorities to apply countermeasures proportionate to the risks. The new section 9A of CARO, 2023 requires FIs to apply countermeasures proportionate to the risks, whenever required by the FATF or the Government. Requirements previously established in the GGP have now been incorporated into the amended CARO. This amendment addresses the deficiency.

68. **Criterion 19.3** is *mostly met*. The 2023 MER identified that Brunei Darussalam had no measures beyond the FATF ICRG statements. As illustrated in the 2023 MER, the FIU maintains a list of countries specified by the FATF as referred to under criterion 19.1 and 19.2 above and disseminates this to FIs and DNFBPs via its Integrated Financial Intelligence System and through the publication of the FIU Info-circular. However, the minor deficiency has still not been addressed as there are no other measures in place to alert FIs of concerns about weaknesses in the AML/CFT systems of other countries other than the FATF listings.

Weighting and conclusion

69. The revised CARO, 2023 has provided statutory basis to apply countermeasures required by the FATF and to conduct EDD proportionate to the risks, however, there is still a minor shortcoming as no other measures are in place to alert FIs of concerns about weaknesses in the AML/CFT systems of other countries other than the FATF listings.

69. **Recommendation 19** is *re-rated to largely compliant*.

Recommendation 22 [R.22] (Originally rated partially compliant)

70. Brunei Darussalam was rated PC for R.22 in its 2023 MER. The report identified that the gaps outlined in R.10, 11, 12, 15 and 17 apply equally to DNFBPs. Other deficiencies included: ambiguity in the legal obligations for DNFBPs to retain account files, business correspondence and results of any analysis undertaken; and a lack of obligations for authorities or DNFBPs to identify and assess ML/TF risks arising from new products and business practices, or to undertake risk assessments prior to the launch or use of products, business practices or technologies. The 2023 amendments to CARO have addressed most of these deficiencies.

71. **Criterion 22.1** is *mostly met*. Brunei Darussalam’s 2023 MER noted that gaps identified in R.10 apply equally to DNFBPs, with the additional deficiency that the requirement to adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification does not apply to DNFBPs (s.8(2) CARO 2023).

72. Section 2 of CARO 2023 defines DNFBPs in line with the FATF standards, including casinos, real estate agents, dealers in precious metals and stones as well as jewelers, lawyers and accountants, and trust and company service-providers (when the latter two undertake specified activities under c.22.1(d) and (e)). The activity-based definition of company service providers extends to businesses

undertaking partnership services. Casinos and gambling establishments are effectively prohibited in Brunei (s. 4, Ch. 28 of the Common Gaming Houses Act). Brunei Darussalam has significantly strengthened CDD measures and the framework for FIs and DNFBPs to address deficiencies in the 2023 MER by the amendment of CARO, and DNFBPs are covered by the same CDD requirements which apply to FIs (s.4 -13 of CARO) and record retention requirement (s.14, CARO).

73. DNFBPs are required to comply with the CDD requirements set out in R.10, with the following minor deficiencies:

- 10.5 - Although DNFBPs are required to identify the BO of the customer, there is an exemption from this requirement in circumstances in which the BDCB deems it unnecessary;
- 10.9(c) – DNFBPs have no requirement to obtain and verify principal place of business information, if it is different from the registered office address;
- 10.15 - The requirement to adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification does not apply to DNFBPs (s.8(2) CARO 2023); and
- 10.18 - New provisions under the 2023 amendments to CARO for DNFBPs to adopt simplified measures for due diligence, do not include clear criteria or limitations for the Authority to only approve simplified due diligence commensurate with the lower risk factors or provide that simplified due diligence is unacceptable where there is suspicion of ML/TF, or specific higher risk scenarios apply.

74. **Criterion 22.2** is *met*. Brunei Darussalam's 2023 MER noted that gaps identified in R.11 apply equally to DNFBPs, i.e., there were no specific obligations to maintain account files and business correspondence and the results of any analysis undertaken. Section 14 of CARO 2023 requires DNFBPs and FIs to maintain records for all transactions and CDD measures undertaken for seven years (s.14(4)) and to make available any information in a timely manner in response to a lawful request (s.14(4A)). This includes keeping account files and business correspondence, and results of any analysis undertaken, which addresses the minor deficiency in the 2023 MER (s.14(1)(fa) of CARO). In addition, the records required to be kept and maintained under s.14(3) are sufficiently detailed so as to permit reconstruction of individual transactions. The deficiency outlined in 2023 MER has been addressed by the 2023 amendments.

75. **Criterion 22.3** is *met*. Brunei Darussalam's 2023 MER noted that gaps identified in R.12 apply equally to DNFBPs, i.e., DNFBPs are not explicitly required to determine the source of wealth, and source of funds of BOs of foreign PEPs or of BOs of foreign PEPs. The deficiencies outlined in 2023 MER have been addressed through amendments to the CARO. The definition of PEP has been amended and addresses the deficiency on the scope of family members and close associates, including business partners (s.2 of CARO). Requirements previously established in the GGP have now been incorporated into the amended CARO. DNFBPs are now required to determine if a customer or a BO is a PEP, and if so, to impose EDD which includes obtaining additional information, obtaining approval from senior management before establishing a business relationship, and identifying the source of wealth, funds and other assets, and providing increased and ongoing monitoring (S.2, S. 9(1), S.9 (2), CARO). These requirements extend to family members or close associates of PEPs (S.2, CARO). DNFBPs are also required to inform senior management before the payout of the life insurance policy proceeds where the beneficiary or BO of the beneficiary is identified as a PEP and to consider filing a suspicious transaction report (s.9(2)(c), CARO).

76. **Criterion 22.4** is *met*. Brunei Darussalam's 2023 MER noted that gaps identified in R.15 apply equally to DNFBPs, i.e., limited steps to assess risks from new technologies and no requirement to assess and manage risks of new products, business practices or technologies. The deficiencies outlined in 2023 MER have been addressed with the amendments to CARO. DNFBPs are required to identify, assess and prevent the risks of ML/TF resulting from the development of new products and business practices, including new delivery mechanisms and the use of new or developing technologies for new and pre-existing products (S.22 (1)(d), CARO). DNFBPs are also required to undertake these risk assessments prior to the launch and usage of products, business practices and technologies (S.22 (1)(d)(i), CARO) and take appropriate measures to manage and mitigate such risks (S.22 (1)(d)(ii), CARO).

77. **Criterion 22.5** is *mostly met*. The 2023 MER noted that gaps identified in R.17 apply equally to DNFBPs, i.e., there is a very minor gap for FIs to rely on intermediaries or third parties to perform identification procedures as there is no requirement for the information on the nature of the business to be obtained immediately.

78. The amendments to CARO still require DNFBPs to provide customer and beneficiary information immediately upon account opening or commencement of the business relationship (s.5(3)(b), CARO 2023), but not on the purpose and intended nature of the business relationship. This deficiency outlined in the 2023 MER remains.

79. For DNFBPs to rely on a third party that is part of the same financial group, s.5 of CARO has been amended to require that the third party implement due diligence, record keeping requirements and the financial group's programmes for the prevention of ML/TF, consistent with s.6 of CARO, and its implementation is supervised by a competent authority; and the financial group has adequately mitigated any higher country risk. Section 6 of the CARO covers the information to be obtained and verified on customers, however, it is not clear that this extends to the implementation of all CDD measures set out in R.10, the record keeping requirements of R.11 or the requirements for PEPs as set out in R.12.

Weighting and Conclusion

80. Since the 2023 MER, Brunei Darussalam has taken positive progress to strengthen the legal and regulatory framework to address deficiencies by the amendment of CARO, especially on CDD requirements which equally apply for FI and DNFBPs. Most gaps in DNFBPs on CDD measures have been addressed. DNFBPs also are required to retain account files, business correspondence and results of any analysis undertaken, and DNFBPs are required to identify, assess and prevent ML/TF risks arising from new products and business practices, and to undertake risk assessments prior to the launch or use of products, business products, or technologies

81. However, the deficiency found in the 2023 MER on reliance on third parties remains in relation to the information on the purpose and intended nature of the business to be obtained immediately. There is also a minor gap for DNFBPs relying on intermediaries or third parties in the same financial group, as there is no explicit requirement to consider the implementation of all CDD measures set out in R.10, the record keeping requirements of R.11, or the PEP requirements set out in R.12.

82. **Recommendation 22** is *re-rated to largely compliant*.

Recommendation 26 [R.26] (Originally rated partially compliant)

83. Brunei Darussalam was rated PC for R.26 in its 2023 MER. There was no formal designation of supervisors that have responsibility for regulating and supervising (or monitoring) FI's compliance

with the AML/CFT requirements, although in practice BDCB is AML/CFT supervisor for FIs and DNFBPs. There were a number of deficiencies relating to fit and proper controls across FIs. The 2023 amendments to CARO have addressed most of these deficiencies.

84. **Criterion 26.1** is *met*. The addition of new Section 25A in CARO, 2023 clarifies and outlines the functions and powers of the BDCB including the designation of the BDCB as the AML/CFT supervisor for FI and DNFBPs. The deficiency outlined in the 2023 MER has been addressed.

85. **Criterion 26.2** is *met*. No deficiencies were identified in the 2023 MER. There has been no change in this area affecting the rating, and available material supports the criterion rating as met.

86. **Criterion 26.3** is *partly met*. The 2023 MER identified that there were no controls ensuring criminal associates do not own or control FIs, there was an uneven range of fit and proper controls across different types of FIs and there were limited measures for checking fitness and propriety on an ongoing basis. There have been no changes since the 2023 MER and available material supports the rating of partly met.

87. **Criterion 26.4** is *mostly met*. Brunei Darussalam's 2023 MER noted gaps in group supervision. There is no external report available to demonstrate Brunei Darussalam's level of compliance with Basel, IOSCO and IAIS principles for AML/CFT. BDCB undertakes group supervision for AML/CFT purposes, but not for prudential purposes. BDCB regulates and supervises money service businesses, with the frequency of their licence renewal process (which includes an assessment of their AML/CFT programme) in accordance with their level of compliance and their overall risk rating. The AML/CFT assessment of payment service operators is conducted during market entry and if there are any material changes to business operations, including the launch of new products. The deficiencies outlined in 2023 MER remain.

88. **Criterion 26.5** is *met*. The 2023 MER noted that BDCB had only limited documentation and information to support institution specific ML/TF risk assessments, including the ML/TF risk profile of individual FIs. Brunei Darussalam completed an institutional risk assessment of all FIs in December 2022. The assessment used a similar methodology to the risk assessment conducted in early 2021 and considered the inherent risks, quality of controls and procedures implemented, and threats faced by each FI, as well as the results of the updated sectoral risk assessment updated in late 2021. The ranking of risk has been utilised by the AML/CFT supervisor for onsite and offsite supervision, to prioritise and allocation of resources, and the outcome was also shared with the prudential supervisors in Q1 2023. The minor deficiency outlined in 2023 MER has been addressed.

89. **Criterion 26.6** is *met*. There were no deficiencies outlined in 2023 MER. The FIU conducts a review of the institutional ML/TF risk at least every three years or when there are changes in circumstances, such as changes in management, structure and operations following any or actions taken by the supervisors on any particular institution; of when there are new policies or legislation affecting the sector. There has been no change in this area, and available material supports the criterion rating as met.

Weighting and conclusion

90. Brunei Darussalam has addressed the main deficiencies on the 2023 MER. Responsibility for AML/CFT supervision is delegated to BDCB as AML/CFT supervisor (S. 25A of CARO), but the deficiencies on fit and proper controls across FIs remain. There are a range of deficiencies in fit and proper controls across different types of FIs and limited measures for checking fitness and propriety on an ongoing basis, especially no controls ensuring criminal associates do not own or control for some types of FIs. Brunei Darussalam has also completed the institutional risk assessment of all FIs and

utilised by AML/CFT supervisor for onsite and offsite supervision plan and a gap on prudential supervisor does not undertake group supervision. The deficiencies have been mostly addressed.

91. **Recommendation 26 is re-rated to largely compliant.**

Recommendation 27 [R.27] (Originally rated partially compliant)

92. Brunei Darussalam was rated PC for R.27 in its 2023 MER. The MER found that there were no explicit powers to supervise or monitor FIs' compliance with AML/CFT requirements. There was no explicit authority for supervisors to require production of information relevant to monitoring AML/CFT compliance. In addition, it was unclear whether supervisors have the authority to inspect pawnbrokers, and Perbadanan Tabung Amanah Islam Brunei (TAIB) (a wholly government owned Islamic FI established through statute) was not subject to supervision. The 2023 amendments to CARO have addressed these deficiencies.

93. **Criterion 27.1** is *met*. Brunei Darussalam's 2023 MER identified that competent authorities do not have explicit powers to supervise/monitor FIs' compliance with AML/CFT requirements. Under the amendments to Section 25A of CARO, the authority, BDCB, now has the function and powers to monitor and ensure FIs' compliance with AML/CFT requirements (S.25A (a), CARO), and impose sanctions for breaches of AML/CFT obligations (S. 26 CARO). The deficiencies outlined in 2023 MER have been addressed.

94. **Criterion 27.2** is *met*. The 2023 MER highlighted that it was unclear whether supervisors have authority to inspect pawnbrokers (n.b. there is only one licensed pawnbroker in Brunei Darussalam which is part of a local bank and is therefore subject to banking supervision) and TAIB was not subject to supervision. Since the 2023 MER, s.2 of CARO has been amended to expand the definition of FI to cover VASP businesses, government banks and any persons as determined by the minister, or other FIs which are licensed, approved, registered or regulated under any written law. This expanded definition then provides for BDCB to inspect these FIs under section 25A (b) of CARO. Pawnbrokers are licensed under the Pawnbrokers Order 2002. Perbadanan TAIB (s.2(a)(ii) CARO 2023) and Pawnbrokers (s.2(a)(vii) CARO 2023) are now subject to inspection under the definition of FIs. The deficiencies outlined in 2023 MER have been addressed

95. **Criterion 27.3** is *met*. The 2023 MER noted the limited authority for supervisors to require production of information relevant to AML/CFT compliance. The amendment of CARO by adding section 25A which states that the Authority, defined as the BDCB, has functions and powers to compel production of information which may be relevant to discharging its obligations in monitoring compliance (S.25A (d), CARO), so the deficiency outlined in the 2023 MER has been addressed.

96. **Criterion 27.4** is *met*. Although there are no deficiencies in the 2023 MER, there are some changes in this area by the amendment of CARO. BDCB has functions and powers to impose sanctions for breach of the required obligation (S.25A(c), CARO) and the disciplinary sanctions range from written warnings and orders to comply and provide reports on measures undertaken, to suspension, restriction, or withdrawal of the FI's (or DNFBP's) license, and impose financial penalties (S. 26(a) to (h), CARO). The available material supports the criterion rating as met.

Weighting and conclusion

97. Brunei Darussalam has made progress to address the deficiencies by the amendment of S.25A and S.26 of CARO to widen the supervisory power of the authority. Now BDCB explicitly has the functions and powers to monitor FIs' compliance with AML/CFT requirements, conduct inspections, impose measures and sanctions, compel production of information relevant to discharging its

obligations in monitoring compliance, and transmit information spontaneously or on request to a correspondent authority that performs similar described functions (S.25A, S.26 (CARO)).

98. **Recommendation 27 is re-rated to compliant.**

Recommendation 28 [R.28] (Originally rated partially compliant)

99. Brunei Darussalam was rated PC for R.28 in its 2023 MER. The MER noted moderate shortcomings in Brunei Darussalam's supervisory framework for DNFBPs including: a lack of designation of a supervisory authority; and lack of market entry requirements in trust and company service-providers, dealers in precious metals, precious stones and jewellery. There were also deficiencies with respect to: the lack of administrative fines for non-compliance with most AML/CFT preventive measures; and no explicit legal provisions for conducting inspections and to compel production of any information relevant to monitoring compliance for AML/CFT supervisor. The 2023 amendments to CARO have addressed most of these deficiencies.

100. **Criterion 28.1 is not applicable.** The Common Gaming Houses Act explicitly proscribes a range of activities which has the practical effect of prohibiting casinos and other gaming establishments.

101. **Criterion 28.2 is met.** Deficiencies identified in the 2023 MER included no formal designation of responsibility for supervision over DNFBPs, although in practice it is undertaken by the BDCB. The amendments in CARO, 2023 clarify and outline the functions and powers of the BDCB including the designation of the BDCB as the AML/CFT supervisor for FI and DNFBPs responsible for monitoring and ensuring compliance of DNFBPs with AML/CTF requirements (Sections 2 and 25A(a), CARO, 2023). The FIU under the BDCB has assumed the primary responsibility for AML/CFT supervision of all FIs and DNFBPs. The identified deficiencies have been addressed.

102. **Criterion 28.3 is met.** No deficiencies were identified in the 2023 MER. The FIU undertook full responsibility for AML/CFT supervision since July 2017. It ensures DNFBPs have taken appropriate actions and sufficient measures in complying with AML/CFT obligations specified in CARO, ATO and Guidance on Obligations under ATR. Amendments to CARO enacted in 2023 provided a legal basis for this responsibility (S.25A, CARO).

103. **Criterion 28.4 is mostly met.** Brunei Darussalam's 2023 MER noted several deficiencies under this criterion. These were: (i) limited authority for supervisors to require production of information relevant to AML/CFT compliance; (ii) limited fit and proper controls for DNFBPs including insufficient market entry controls for valuers and real estate agents; (iii) no market entry requirements for TCSPs, precious metals/stones dealers, and jewellers; and (iv) lack of clarity as to whether there are financial sanctions available to supervisors.

104. Brunei Darussalam introduced amendments to CARO in 2023 to provide the BDCB with powers to perform its functions as the designated as AML/CFT supervisor for DNFBPs, including powers to monitor compliance, conduct onsite inspections, compel production of relevant information and to impose sanctions, including sanctions for breaches of AML/CFT obligations under CARO (s.25A). Section 141C of Companies Act, Chapter 39, provides the legal basis to prevent criminals or their associates from holding the position of Director or taking part in the management of a company or of a company incorporated outside Brunei Darussalam in a DNFBP but does not extend to holding a significant controlling interest.

105. Requirements to take the necessary measures to prevent criminals or their associates from being professionally accredited or holding a significant position or function in a DNFBP have been partially demonstrated. Applicants to become advocates, solicitors, and notaries are required to provide documentary evidence to the Chief Justice that no disciplinary proceedings were pending or

contemplated against them, and that their professional conduct was not under investigation (s.5, Legal Profession Act). Petitioners are required to provide two Certificates of Good Character (The Legal Profession [Practicing Certificate] Rules). Accountants are subject to a fit and proper test (s.14(4) of the Accountants Order 2010), which includes consideration of whether they have previously had their license to practice as a public accountant withdrawn, suspended, cancelled, or revoked in any other country. Applicants for registration as valuers or estate agents have to declare whether they have been convicted of a criminal offence, and/or if they have been subject to investigation and conviction of a criminal offence in Brunei Darussalam or any other country (s. 22, Valuers and Estate Agents Order).

106. However, there are no explicit requirements for preventing criminals or their associates being the BO or holding a significant or controlling interest in a DNFBP. In addition, there are no market entry requirements for TCSPs or DPMS.

107. The BDCB can impose a range of disciplinary sanctions, including financial sanctions on DNFBPs for non-compliance with AML/CFT requirements as illustrated in c.35.1 in Brunei Darussalam's 2023 MER. The deficiency for a lack of administrative fines for non-compliance with most AML/CFT preventive measures has been addressed by amendments made to Section 26 (h) of CARO in 2023.

108. **Criterion 28.5** is *mostly met*. Brunei Darussalam's 2023 MER found that the frequency and intensity of DNFBP supervision is determined by risk assessment findings only to some extent. As outlined in the 2023 MER, the BDCB adopted a similar approach to AML/CFT supervision for both FIs and DNFBPs. The supervision of DNFBPs involved an institutional risk assessment to identify the high-risk businesses/professions within the DNFBP sector. Although BDCB conducted supervision on a risk-sensitive basis and also took into account the ML/TF risk profile of DNFBPs, there was no indication of the intensity of supervision being determined by ML/TF risks. In addition, supervision had been postponed due to the COVID-19 pandemic.

109. Since 2023, with the four Payment System Operators (PSO) in operation, the AML/CFT supervisor has revised the supervisory priorities and has now prioritised the close monitoring and engagement of the PSOs while continuing with offsite and onsite supervision of the FIs which are considered higher risk when compared with the DNFBP sector. For DNFBPs, supervision focuses on Advocates and Solicitors and Real Estate based on risks. Onsite inspection is postponed until the end of 2024. Overall, there has been no change in this area since the 2023 MER and available material supports retaining the criterion rating as mostly met.

Weighting and conclusion

110. There are minor shortcomings for R.28 with no explicit requirements for preventing criminals or their associates being the BO or holding a significant or controlling interest in a DNFBP and there are no market entry requirements for TCSPs or DPMS. In addition, the frequency and intensity of DNFBP supervision is determined by risk assessment findings only to some extent.

111. **Recommendation 28** is *re-rated to largely compliant*.

IV. CONCLUSION

112. Overall, Brunei Darussalam has made progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated to LC on R.10, 16, 19, 22, 26 and 28 and re-rated to C on R.18 and R.27.

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

114. Overall, in light of the progress made by Brunei Darussalam since its MER was adopted, its technical compliance with the FATF Recommendations as follows as of the reporting date 1 June 2024:

R.	Rating	R.	Rating
1	LC (2023 MER)	21	LC (2023 MER)
2	LC (2023 MER)	22	PC (2023 MER), ↑ LC (2024 FUR)
3	LC (2023 MER)	23	LC (2023 MER)
4	C (2023 MER)	24	PC (2023 MER)
5	LC (2023 MER)	25	NC (2023 MER)
6	LC (2023 MER)	26	PC (2023 MER), ↑ LC (2024 FUR)
7	NC (2023 MER)	27	PC (2023 MER), ↑ C (2024 FUR)
8	LC (2023 MER)	28	PC (2023 MER), ↑ LC (2024 FUR)
9	C (2023 MER)	29	C (2023 MER)
10	PC (2023 MER), ↑ LC (2024 FUR)	30	C (2023 MER)
11	LC (2023 MER)	31	LC (2023 MER)
12	LC (2023 MER)	32	C (2023 MER)
13	LC (2023 MER)	33	LC (2023 MER)
14	LC (2023 MER)	34	LC (2023 MER)
15	PC (2023 MER)	35	LC (2023 MER)
16	PC (2023 MER), ↑ LC (2024 FUR)	36	LC (2023 MER)
17	LC (2023 MER)	37	LC (2023 MER)
18	PC (2023 MER), ↑ C (2024 FUR)	38	LC (2023 MER)
19	PC (2023 MER), ↑ LC (2024 FUR)	39	LC (2023 MER)
20	LC (2023 MER)	40	LC (2023 MER)

115. Brunei Darussalam has 36 Recommendations rated C/LC and is no longer required to file a follow-up report with re-rating requests. Brunei Darussalam should continue to file progress reports without re-rating requests. Brunei Darussalam's next progress report is due 1 June 2025.

Summary of Technical Compliance –Deficiencies underlying the ratings³

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating ⁴
10. Customer due diligence	PC LC (FUR 2024)	<p>c.10.9(c): There is no requirement to verify its identity through a principal place of business if different to the registered office</p> <p>c.10.11: no explicit requirement to identify and verify the identity of beneficial owners through ‘class of beneficiaries’ information</p> <p>c.10.12: No CDD requirements for FIs pertaining to other investment-related insurance policies.</p> <p>c.10.13: No requirement to include beneficiaries of life insurance policies as risk factors when determining overall ML/TF risk.</p> <p>c.10.18 at the time of Brunei Darussalam’s 2023 simplified due diligence was not permitted. there are no clear criteria or limitations for the Authority to only approve simplified due diligence commensurate with the lower risk factors and there is the lack of a provision that simplified due diligence is unacceptable where there is suspicion of ML/TF, or specific higher risk scenarios apply (FUR 2024).</p>
16. Wire transfers	PC LC (FUR 2024)	c.16.17: No explicit requirement for an MVTs provider to take into account all information from ordering and beneficiary sides to determine if an STR must be filed; no explicit obligation for MVTs providers to file STRs in any jurisdiction affected by a suspicious wire transfer
18. Internal controls and foreign branches and subsidiaries	PC C (FUR 2024)	
19. Higher-risk countries	PC LC (FUR 2024)	19.3: no measures beyond the FATF ICRG statements

³ Ratings and factors underlying the ratings are only included for those recommendations under review in this FUR.

⁴ Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating ⁴
22. DNFBPs: Customer due diligence	PC LC (FUR 2024)	c.22.1: relevant gaps identified in R.10 apply equally to DNFBPs c.22.5: Gaps identified in R.17 apply equally to DNFBPs
26. Regulation and supervision of financial institutions	PC LC (FUR 2024)	c.26.3: No controls ensuring criminal associates do not own or control FIs. Uneven range of fit and proper controls across different types of FIs. Limited measures for checking fitness and propriety on an ongoing basis c.26.4: gaps in group supervision
27. Powers of supervisors	PC C (FUR 2024)	
28. Regulation and supervision of DNFBPs	PC LC (FUR 2024)	c.28.4: No explicit requirements preventing criminals or their associates from being the beneficial owner or holding a significant controlling interest in a DNFBP (FUR 2024); nil market entry requirements for TCSPs, precious metals/stones dealers, and jewellers. c.28.5: the frequency and intensity of DMFBP supervision is determined by risk assessment findings only to some extent.