



5th Follow-Up Report

Mutual Evaluation of Cambodia

August 2022





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Bas-relief, Angkor Wat Temple

CAMBODIA: 5TH ENHANCED FOLLOW-UP REPORT 2022

I. INTRODUCTION

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

2. This report does not analyse any progress Cambodia has made to improve its effectiveness.

3. The assessment of Cambodia's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:

- *Mr. Rizumu Yokose, International Bureau, Ministry of Finance, Japan*
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- *Mr. Gavin Raper and Mrs. Sue Maggiore, 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 Cambodia's current technical compliance ratings.

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

5. Cambodia's MER ratings¹ and updated ratings based on earlier FURs² are as follows:

R.	Rating	R.	Rating
1	PC (MER 2017) ↑ LC (FUR 2021)	21	LC (MER 2017)
2	PC (MER 2017) ↑ LC (FUR 2019)	22	PC (MER 2017)
3	LC (MER 2017)	23	LC (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) ↑ PC (FUR 2021)	27	LC (MER 2017)
8	PC (MER 2017)	28	PC (MER 2017)
9	C (MER 2017)	29	LC (MER 2017)
10	LC (MER 2017)	30	LC (MER 2017)

¹ There four possible levels of technical compliance are: 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 Current ratings and the year confirmed are indicated based on the original MER or follow-up re-ratings.

11	LC (MER 2017)	31	LC (MER 2017)
12	PC (MER 2017) ↑ LC (FUR 2021)	32	LC (MER 2017)
13	PC (MER 2017)	33	PC (MER 2017) ↑ LC (FUR 2021)
14	LC (MER 2017)	34	PC (MER 2017) ↑ LC (FUR 2018)
15	C (2017 MER) ↓ NC (FUR 2021)	35	PC (MER 2017)
16	PC (MER 2017)	36	LC (MER 2017)
17	LC (MER 2017)	37	PC (MER 2017) ↑ LC (FUR 2021)
18	PC (MER 2017)	38	PC (MER 2017) ↑ LC (FUR 2021)
19	PC (MER 2017) ↑ LC (FUR 2018)	39	LC (MER 2017)
20	LC (MER 2017)	40	PC (MER 2017)

6. Given the MER and FUR results, Cambodia was placed on enhanced follow-up as of the last FUR³.

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

7. In keeping with the APG ME Procedures, this FUR considers progress made up until 1 February 2022. 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 previous FURs 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.

8. This section summarises the progress made by Cambodia to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER and previous FUR.

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

9. Cambodia requested re-ratings of the following Recommendations: R. 8, 13, 16, 18, 22, 24, 26, 28, 35 and 40 which were all rated PC.

10. The APG welcomes the steps that Cambodia has taken to improve its technical compliance with R. 8, 13, 16, 18, 22, 24, 26, 28, 35 and 40. As a result of this progress, Cambodia has been re-rated on R. 13, 16, 18, 22 and 35. However, insufficient progress has been made to justify a re-rating of R. 8, 24, 26, 28 and 40.

Recommendation 8 (Originally rated PC)

11. Cambodia was rated Partially Compliant for R.8 in its 2017 MER. Deficiencies included significant shortcomings in the regulation and supervision of NPOs. Cambodia had not yet conducted a review of its non-profit organisations (NPO) sector. Findings of terrorist financing (TF) were not communicated to the NPO sector. Outreach to the NPO sector was planned but had not commenced and

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.

competent authorities did not have guidelines or best practices in place for coordinated management of TF risks in NPOs.

12. **Criterion 8.1** is *partly met*.

13. *Criterion 8.1(a)*: The Ministry of Foreign Affairs and International Cooperation (MFAIC) established a taskforce with draft terms of reference in November 2021 to begin preparations for an NPO risk assessment. The task force includes representatives from the Department of International Organizations, the Department of Legal and Treaty Affairs and the Department of Accounting and Finance. The task force has drafted an initial framework and methodology for the NPO risk assessment. A draft self-assessment questionnaire on money laundering (ML) and TF for the NPO sector has also been prepared

14. As this work only began recently, Cambodia is yet to identify which subset of organizations within its non-governmental organisation (NGO) sector fall within the FATF definition of an NPO and identify those likely to be at risk of TF abuse.

15. *Criterion 8.1(b)*: Cambodia is yet to commence its national risk assessment of the NPO sector and identify the nature of threats posed by entities to NPOs that are at risk as well as how or whether terrorist actors abuse those NPOs.

16. *Criterion 8.1(c)*: Cambodia is yet to commence a review of the adequacy of measures, including laws and regulations that related to the NPO sector that may be abused by terrorism financing. As described in the MER, the Law on Associations and Non-Governmental Organisations (the Law on Associations and NGOs) contains a range of sanctions that may be applied to address identified risks. Once Cambodia determines which subset of the NPO sector may be abused for TF support, it will be able to take proportionate and effective actions to address the risks identified.

17. *Criterion 8.1(d)*: Cambodia is yet to commence assessments of the NPO sector for potential vulnerabilities to TF. As described in the MER, new information can be collected and assessed through the Law on Associations and NGOs. Domestic associations or NGOs must register with, and provide information to Ministry of Interior (MoI) and update the MoI on changes to amendment of its statute, relocation of its office, replacement of its president or executive director, or a change of its bank account information (articles 6, 7, 10, 13, 15 and 17 of the Law on Associations and NGOs). Similarly, foreign associations or NGOs must register with MFAIC, provide documents on its operations, and advise of relocation of its representative office or replacement of its country representative or any change of its bank account information.

18. **Criterion 8.2** is *partly met*.

19. *Criterion 8.2(a)*: Although Cambodia established a taskforce under the MFAIC, policies to promote accountability, integrity and public confidence in the administration and management of NPOs are yet to be developed. The NGO registration and reporting regime described in the MER, and enhanced information requirements for foreign NGOs introduced on 1 January 2022 do contribute towards promoting accountability, integrity and public confidence in the administration and management of NPOs.

20. *Criterion 8.2(b)*: The planned self-assessment questionnaire for NPOs referred to in criterion 8.1 may facilitate some awareness raising among NPOs of vulnerabilities to TF abuse and risks, however Cambodia is yet to commence these activities.

21. *Criterion 8.2(c)*: Cambodia is yet to commence work with NPOs to develop and refine best practices to address TF risks and vulnerabilities however, as per the MER, MFAIC and MOI inform associations and NGOs of their legal obligations during the registration process.

22. *Criterion 8.2(d)*: Cambodia is yet to commence activities that encourage NPOs to conduct transactions via regulated financial channels. As described in the MER, Cambodian authorities perceive that Cambodia is primarily a beneficiary country and if accurate, requirements of the Law on Associations and NGOs require all domestic and foreign NGOs to disclose their operation's bank accounts, thereby allowing competent authorities to monitor funds.
23. **Criterion 8.3** is *partly met* (as per MER). The analysis in the MER and available material supports the criterion rating.
24. **Criterion 8.4** is *partly met*.
25. *Criterion 8.4(a)*: Article 4.14 of the Law on Anti-Money Laundering and Combating the Financing of Terrorism (Law on AML/CFT) that entered into force in June 2020 defines NGOs and foundations engaging in business activities and fundraising as reporting entities. This means that the Cambodian FIU (CAFIU) has the legal authority to supervise NGOs for compliance with AML/CFT requirements, to issue remedial directions and to impose a range of administrative and criminal sanctions for contravention of the Law on AML/CFT. No information was provided to indicate that AML/CFT supervision of NGOs had commenced since the passage of the Law on AML/CFT in 2020.
26. To date, monitoring of NGOs by Cambodian authorities has been limited to MFAIC monitoring of financial reporting and accountability requirements for Foreign NGOs. Cambodia did not demonstrate that CAFIU monitors compliance of NPOs and risk-based measures for NPOs at risk of abuse for TF.
27. *Criterion 8.4(b)*: The Law on AML/CFT sets out sanctions CAFIU is able to apply (Chapter 7). CAFIU is empowered to determine and instruct an NPO to take remedial actions to rectify non-compliance (art. 23). How sanctions are applied to persons acting on behalf of an NPO is unclear. Cambodia did not demonstrate the application of effective, proportionate and dissuasive sanctions for violations by NPOs or persons acting on their behalf.
28. **Criterion 8.5** is *partly met*
29. *Criterion 8.5(a)*: The analysis in the MER and available material supports the criterion rating.
30. *Criterion 8.5(b)*: The MFAIC provided training for officials in May 2021 to raise awareness about ML, TF and proliferation financing among officials responsible for supervising the foreign NGO sector in Cambodia but it is unclear how and to what extent this training supported the development of TF expertise amongst officials responsible for investigations.
31. *Criterion 8.5(c)*: On 1 January 2022, Cambodia introduced requirements for an expanded range of information on the legal structure, governance and project plans and budget to be declared when foreign NPOs apply for registration and upon renewal every three years. The additional information requested is not targeted to terrorism financing risks or vulnerabilities, but may facilitate follow-up action by authorities (e.g. by identifying bank accounts) in the event that it is required.
32. *Criterion 8.5(d)*: The analysis in the MER and available material supports the criterion rating.
33. **Criterion 8.6** is *mostly met*. On 26 November 2021, Cambodia established two task forces to act as points of contact for international requests within the MFAIC: The Taskforce for Anti-Money Laundering, Terrorism Financing and Proliferation Financing acts as the MFAIC's point of contact for all matters related to AML/CFT/CPF. The Taskforce for Conducting a Risk Assessment of the Non-Governmental Organizations or Non-Profit Organizations deals particularly with matters related to Foreign NGOs in Cambodia. Further information is required to understand the relationship between these two task

forces, i.e. which task force foreign governments should direct requests to regarding NPOs suspected of being connected to TF.

Weighting and Conclusion

34. A number of measures in place at the time of the MER continue and Cambodia has taken important steps towards the MFAIC undertaking an NPO risk assessment to identify the sub-set of NPOs at risk of abuse for TF, but this is not yet complete. Completing this assessment will benefit from engaging with the NPO sector and consultation with other relevant ministries and agencies (including LEAs and the FIU). The lack of a completed NPO risk assessment is weighted most heavily, as this provides the foundation for many other recommended actions.

35. Other remaining deficiencies include; developing policies to promote accountability, integrity and public confidence in the administration and management of NPOs and apply risk-based measures and targeted outreach to vulnerable NPOs. Gaps remain in relation to TF focussed outreach and educational activities; working with NPOs to develop best practices to address TF risk and vulnerabilities to protect them from TF abuse; and encouraging NPOs to transact via regulated financial channels where feasible.

36. There are deficiencies related to monitoring NPOs including the power to apply effective, proportionate and dissuasive sanctions. Practical mechanisms for sharing information among authorities about suspicions of TF connected with NPOs are not yet established. ***Recommendation 8 remains Partially Compliant.***

Recommendation 13 (Originally rated PC)

37. Cambodia was rated Partially Compliant for R.13 in its 2017 MER. There was no explicit requirement for banks to understand and assess respondent banks' nature of business, reputation, the quality of supervision, AML/CFT responsibilities including performing customer due diligence (CDD) obligations and providing CDD upon request. The prohibition on shell banks only partly met the FATF definition and there was no requirement for financial institutions to satisfy themselves that respondent financial institutions were not shell banks.

38. Since publication of the MER, Cambodia's legal framework has changed with the Law on AML/CFT and the Directive on Correspondent Banking and Other Similar Relationship (Correspondent Banking Directive) entering into force in January 2022. The definition of a reporting entity in article 4 of the Law on AML/CFT includes all financial institutions (FIs) as defined by the FATF Standards.

39. **Criterion 13.1 is met.**

40. *Criterion 13.1(a):* The Correspondent Banking Directive 2022 obliges FIs to gather and assess a range of publicly available information to fully understand the respondent's business and to determine the reputation of the institution and quality of supervision, including whether it has been subject to ML/TF investigation or regulatory action (Para. 3.2).

41. *Criterion 13.1(b):* The Correspondent Banking Directive requires the FIs to assess the AML/CTF measures and controls of the respondent bank (Para 3.2(f)).

42. *Criterion 13.1(c):* The Correspondent Banking Directive requires approval of the FI's senior management to establish or continue a correspondent banking relationship (Para 3.3).

43. *Criterion 13.1(d):* The Correspondent Banking Directive provides that approval of the correspondent banking relationship by senior management can only be granted once senior management are satisfied that the AML/CFT responsibilities of both parties to the relationship are understood (Para 3.3).

44. **Criterion 13.2** is met.

45. *Criterion 13.2(a)*: The Correspondent Banking Directive requires the FI to ensure that the respondent financial institutions have conducted CDD and ongoing monitoring of its business for customers having direct access to the payable-through account (Para 3.6).

46. *Criterion 13.2(b)* The Correspondent Banking Directive requires the FI to ensure that the respondent institutions can make available CDD information upon request by a reporting entity or by CAFIU (para 3.6).

47. **Criterion 13.3** is met. The Correspondent Banking Directive addresses the earlier deficiency relating to the definition of a shell bank and now meets the FATF definition. Further, the Directive (Para 3.4) requires the reporting entity to terminate, or not establish or continue a correspondent banking relationship or occasional transactions with shell banks. The Directive (Para 3.5) requires the reporting entity to satisfy itself that the respondent institution does not permit their accounts to be used by shell banks.

Weighting and Conclusion

48. As a result of the Correspondent Banking Directive entering into force in January 2022, Cambodia now meets all the requirements of Recommendation 13. **Recommendation 13 is re-rated to Compliant.**

Recommendation 16 (Originally rated PC)

49. Cambodia was rated Partially Compliant for R.16 in its 2017 MER. There were moderate shortcomings with respect to the collection of beneficiary customer information, traceability of batch file transactions, enhanced due diligence on outgoing wire transfers and record-keeping requirements.

50. Since publication of the MER, Cambodia's legal framework has changed with the Law on AML/CFT and the Directive on Remittance and Wire Transfer (Remittance Directive) entering into force on 11 January 2022. The definition of a reporting entity in article 4 of the Law on AML/CFT is unchanged from the previous legal framework.

51. **Criterion 16.1** is met.

52. *Criterion 16.1(a)*: The Remittance Directive 2022 requires a FI to include and verify the originator's name, account number or unique reference number, an address or customer identification number or national identity number or personal identification number, and transaction purpose. These requirements apply to all cross-border wire transfers equal to or above Cambodian Riel (KHR) 4,000,000 (approx. USD 1,000) (Para 3.1).

53. *Criterion 16.1(b)*: The Remittance Directive requires a FI to include the beneficiary's name and account number or unique reference number for cross-border wire transfers equal to or above KHR 4,000,000 (approx. USD 1,000) (Para 3.2).

54. **Criterion 16.2** is met. Where several cross-border transfers from a single originator within a day have a total value equal to or above KHR 4,000,000 (approx. USD 1,000), or foreign currency equivalent, the Remittance Directive requires the batched file to include the originator and beneficiary information. This includes the originator's account information or where no account number is available, a unique transaction reference number. The information must be fully traceable within the beneficiary country (Para 3.3).

55. **Criterion 16.3** is *met*.

56. **Criterion 16.3(a)**: For cross-border wire transfers below KHR 4,000,000 (approx. USD 1,000), the Remittance Directive requires inclusion of the required originator information (Para 3.4).

57. **Criterion 16.3(b)**: For cross-border wire transfers below KHR 4,000,000 (approx. USD 1,000), the Remittance Directive requires inclusion of the required beneficiary information (Para 3.4).

58. **Criterion 16.4** is *met*. Where a suspicion of ML or TF arises, the Remittance Directive requires FIs to verify the customer's details collected in c.16.3 as soon as practicable (Para 3.5).

59. **Criterion 16.5** is *met*. The Remittance Directive requires wire transfers between domestic FIs to include the originator and beneficiary information unless the information can be made available to the beneficiary institution by other means (Para 3.6). Where made available by other means, FIs must include the account number or unique transaction reference of the originator and beneficiary with the transfer instruction to the beneficiary institution.

60. **Criterion 16.6** is *mostly met*. The Remittance Directive requires the ordering FI to provide full originator information to the beneficiary financial institution or CAFIU within three business days of receiving a request (Para 3.7). A gap exists as there is no mechanism in the Remittance Directive that enables law enforcement authorities to compel the immediate production of information. Where a wire transfer is related to a cash or suspicious transaction report, paragraph 12.4 of the Law on AML/CTF does enable a law enforcement agency to request information related to a transaction from the reporting entity, however no time period for production of information is specified.

61. **Criterion 16.7** is *met*. The Remittance Directive requires FIs to maintain all originator and beneficiary information in accordance with article 11 of the Law on AML/CFT (Para 3.8). Article 11 requires FIs to maintain the record for at least five years after the account has been closed or the business relationship with the customer has ended.

62. **Criterion 16.8** is *partly met*. The Remittance Directive prohibits FIs from executing a wire transfer if it is unable to comply with the requirements relating to originator information only (Para 3.9). There is no prohibition on executing a wire-transfer if criteria 16.1(b) and 16.2-16.7 are not complied with.

63. **Criterion 16.9** is *met*. The Remittance Directive requires FIs acting as intermediaries to ensure that all originator and beneficiary information accompanying a wire transfer is retained with the wire transfer (Para 4.1).

64. **Criterion 16.10** is *met*. Where technical limitations prevent the required originator and beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the Remittance Directive requires financial institutions acting as intermediaries to keep records of all information received from the ordering FI or another intermediary FI for at least five years from the date of the transaction (Para 4.2).

65. **Criterion 16.11** is *met*. The Remittance Directive requires the intermediary FI to have procedures in place, that are consistent with straight-through processing, to identify incoming cross-border wire transfer that lack either the originator or beneficiary information in incoming or outgoing wire transfers (Para 4.3).

66. **Criterion 16.12** is *met*. The Remittance Directive requires intermediary FIs to have risk-based policies and procedures in place for determining, whether to execute, reject or suspend a wire transfer lacking the required originator or beneficiary information, and the appropriate follow-up actions (Para 4.4)

67. **Criterion 16.13** is *met*. The Remittance Directive requires a beneficiary FI to have procedures in place for undertaking post-event monitoring or real-time monitoring of incoming wire transfers to identify cross-border wire transfers that have insufficient and incorrect information of the originator or beneficiary (Para 5.1).

68. **Criterion 16.14** is *met*. The Remittance Directive requires FI processing incoming wire transfers equal to or above KHR 4,000,000 (approx. USD 1,000) or foreign currency equivalent to verify the identity of the beneficiary if not previously identified and verified, and retain this information in accordance with article 11 (record-keeping) of the Law on AML/CFT (Para 5.2).

69. **Criterion 16.15** is *met*. The Remittance Directive requires a beneficiary FI to have risk-based policies and procedures in place to determine whether to execute, reject or suspend a wire transfer lacking the required originator or beneficiary information, and to have appropriate follow-up actions which may include restricting or terminating business relationships (Para 5.3).

70. **Criterion 16.16** is *met*. The Remittance Directive requires FIs offering Money or Value Transfer Services (MVTs), whether directly or as an agent, to comply with all relevant requirements of the Directive whether they operate, directly or through their agents, in any country (Para 6.1).

71. **Criterion 16.17** is *met*.

72. *Criterion 16.17(a)*: The Remittance Directive requires FIs offering MVTs that control both the ordering and the beneficiary sides of a transaction to take into account all information from both the ordering and beneficiary sides in order to determine whether to file an STR with CAFIU (Para 6.2).

73. *Criterion 16.17(b)*: The Remittance Directive requires FIs offering MVTs to file an STR in any country affected by the suspicious wire transfer and make relevant transaction information available to CAFIU (Para 6.2).

74. **Criterion 16.18** is *met*. Part 7 of the Remittance Directive requires FIs that process wire transfers to take freezing actions and comply with prohibitions from conducting transactions with designated persons and entities, as per the Sub-Decree on Freezing of Property of Designated Terrorists and Organisations, inclusive of UNSCRs 1267 and 1373 (article 12). The 2017 MER found no deficiencies in the Sub-Decree.

Weighting and Conclusion

75. Following the Remittance Directive coming into force in January 2022, only minor gaps in Cambodia's framework remain. These gaps include no prohibition on the execution of wire transfers that do not comply with criteria 16.1-16.7, limited circumstances in which law enforcement can compel the immediate production of information related to domestic wire transfers and no specified timeframe for production of this information. ***Recommendation 16 is re-rated to Largely Compliant.***

Recommendation 18 (Originally rated PC)

76. Cambodia was rated Partially Compliant for R.18 in its 2017 MER. There were moderate shortcomings with no obligation for financial groups to implement group-wide programs, including information sharing mechanisms and no obligation to ensure that foreign branches and majority owned subsidiaries complied with AML/CFT measures in Cambodia.

77. Since publication of the MER, Cambodia's legal framework has changed with the Law on AML/CFT and the Directive on Internal Controls for Reporting Entity (Directive on Internal Controls) entering into force. The Directive on Internal Controls entered into force on 11 January 2022 and applies to all financial institutions as defined by the FATF Standards.

78. **Criterion 18.1** is met.

79. *Criterion 18.1(a)*: The Directive on Internal Controls requires internal policies, procedures and systems and controls for AML/CFT must be commensurate with the nature and size of the reporting entity, its complexity of operations and the assessed levels of risk. It sets out a range of internal control measures for the management of compliance arrangements and describes the appointment of the AML/CFT Compliance Officer, their functions and rights to access documents and information (Sections 2 and 4). The AML/CFT Compliance Officer must be at a senior management level (Para 16.2 of the Law on AML/CFT).

80. *Criterion 18.1(b)*: The Directive on Internal Controls requires FIs', as part of their AML/CFT systems, to establish an employee assessment system to screen new and existing employees to ensure their competency and integrity (Part 3).

81. *Criterion 18.1(c)*: The Directive on Internal Controls requires FIs to implement ongoing awareness and training programs for employees. The training program must ensure the effective implementation of the FI's's AML/CFT policies and procedures (Part 5).

82. *Criterion 18.1(d)*: The Directive on Internal Controls requires FIs to ensure that independent internal and external audit is regularly undertaken to test the adequacy of AML/CFT policies and procedures and systems and controls (Para 2.5).

83. **Criterion 18.2** is mostly met.

84. *Criterion 18.2(a)*: The Directive on Internal Controls requires FIs that are part of financial groups or that have foreign branches or majority owned subsidiaries to implement group wide programs (Part 7). These programs must incorporate all the elements of criterion 18.1 and incorporate policies and procedures for the sharing of information between members of the group for the purposes of CDD and ML/TF risk management (Para 7.2).

85. *Criterion 18.2(b)*: The Directive on Internal Controls requires a group wide program incorporate customer information at group level of audit, compliance and ML/TF risk management and mitigation for the purpose of AML/CFT (Para 7.2). However, it is not clear whether account or transaction information, or information concerning analysis of transactions or unusual activities, is included in group-wide information sharing.

86. *Criterion 18.2(c)*: The Directive on Internal Controls requires a group wide program include policies and procedures to maintain confidentiality and appropriate use of the information, as well as to prevent tipping-off (Para 7.2).

87. **Criterion 18.3** is met. The Directive on Internal Controls requires FIs that have foreign branches or majority owned subsidiaries to ensure the branches or subsidiaries comply with Cambodian AML/CFT measures if the host country imposes less strict requirements; or comply with host country requirements if Cambodia measures are less strict to the extent permitted by Cambodian law (Para 7.3).

88. When the law of the host country does not permit the foreign branches or majority owned subsidiaries to comply with Cambodian AML/CFT requirements, financial groups are required to devise appropriate additional measures to manage and mitigate ML/TF risks and notify CAFIU.

Weighting and Conclusion

89. The Directive on Internal Controls (January 2022) addresses most of the deficiencies from the 2017 MER. A minor gap remains with group level compliance, audit and AML/CFT functions as it unclear

whether account or transaction information or analysis of transactions or unusual activities is included in group-wide information sharing. **Recommendation 18 is re-rated to Largely Compliant.**

Recommendation 22 (Originally rated PC)

90. Cambodia was rated Partially Compliant for R.22 in the 2017 MER. There were moderate shortcomings, including gaps in the CDD requirements as identified under the analysis of R.10, R.12, R.15 and R.17. In addition, the CDD threshold of USD 10,000 for financial transactions in casinos was above the FATF Standard's threshold of USD 3,000.

91. Since publication of the MER, Cambodia's legal framework has changed with the Law on AML/CFT, Directive on the Designated Threshold for Customer Due Diligence for Casinos and Other Gambling Institutions and Directive on Customer Due Diligence Measures (the CDD Directive) entering into force in November 2020.

92. **Criterion 22.1** is mostly met.

93. *Criterion 22.1(a):* The CDD Directive reduced the threshold from USD 10,000 to KHR 12,000,000 (approx. USD 3,000) for financial transactions in casinos (point 4.1.4). The threshold is now in-line with FATF requirements.

94. As described in the 2021 FUR for R.12, the definition of 'beneficial owner' in the Law on AML/CFT is not consistent with the FATF standards. The definition does not cover trusts, or persons who exercise ultimate effective control over a legal person or arrangement. Further, the term 'legal entity' is not clearly defined in Cambodian law. This gap cascades through c.22.1.

95. *Criterion 22.1(b):* The Law on AML/CFT and the CDD Directive requires real estate agents to comply with the CDD requirements set out in R.10 where they are involved in transactions for a client concerning the buying and selling of real estate (article 4). The CDD Directive addresses the deficiencies identified under R.10 other than the beneficial owner gap described in 22.1(a).

96. *Criterion 22.1(c):* The Law on AML/CFT (article 4) and the CDD Directive (Para 4.1) also requires dealers in precious metals and dealers in precious stones to comply with CDD requirements when engaging in cash transactions equal to KHR 40,000,000 (approx. USD 10,000) (which is below the USD 15,000 threshold required by the FATF Standards).

97. *Criterion 22.1(d):* The Law on AML/CFT (article 4) and the CDD Directive (Para 4.1) provides that lawyers, notaries, other independent legal professionals and accountants are required to comply with CDD requirements when involved in the activities identified in 22.1(d).

98. *Criterion 22.1(e):* The Law on AML/CFT (article 4) and the CDD Directive (Para 4.1) provides that trust and company service providers, when preparing for or carrying out transactions for a client concerning the activities identified in 22.1(e), are required to comply with CDD requirements.

99. **Criterion 22.2** is met. Article 11 of the Law on AML/CFT and the CDD Directive (Para 4.11) meets the record-keeping requirements of R.11, including requiring DNFBPs to maintain records of domestic and international transactions, and the results of any analysis undertaken in the relation to the customer including documents associated with suspicious transaction reports. These must be kept for at least for five years after the account has been closed or the business relationship has ended.

100. **Criterion 22.3** is mostly met. PEPs are defined in paragraph 3.11 of the Law on AML/CFT and obligations in Part 8 and Part 10 require DNFBPs to put in place risk management systems and monitor PEP transactions. Further, paragraph 4.7.3 of the CDD Directive also includes a range of enhanced due diligence

measures. However, as per the 2021 FUR, the deficiencies related to the definition of beneficial ownership remains.

101. **Criterion 22.4** is *met*. Part 3 of the CDD Directive requires DNFBPs to risk assess new products, services, delivery channels and technologies prior to their launch. DNFBPs must also take appropriate measures to manage and mitigate risks in accordance with articles 8.1 and 8.3 of the Law on AML/CFT.

102. **Criterion 22.5** is *met*. Part 4.5 of the CDD Directive requires DNFBPs using third parties to undertake CDD measures in accordance with the Law on AML/CFT and the CDD Directive. DNFBPs are required to ensure that third parties are in compliance with FATF standards relating to CDD and record-keeping in other jurisdictions, should not employ third parties to undertake CDD measures if they are based in jurisdictions identified by CAFIU as posing a high level of ML/TF risk. If the entity is part of the same financial group, DNFBPs should apply group wide CDD and record keeping requirements. Third parties relied upon to undertake CDD must make their records available to the reporting entity when required, without delay.

Weighting and Conclusion

103. The Law on AML/CFT and the CDD Directive largely address the deficiencies identified in the MER, however the deficiency relating to the definition of beneficial ownership described in R.12 of the 2021 FUR remains. **Recommendation 22 is re-rated to Largely Compliant.**

Recommendation 24 (Originally rated PC)

104. Cambodia was rated Partially Compliant for R.24 in the 2017 MER. There were moderate shortcomings including; limited availability of beneficial ownership information, no explicit prohibitions of bearer shares, bearer share warrants, nominee shares and nominee directors and no mechanisms in place to mitigate their misuse; limited mechanisms for cooperation between Cambodian and foreign competent authorities and between Cambodia competent authorities and reporting entities in relation to beneficial owner information. Fines and penalties were insufficient to be dissuasive.

105. Since publication of the MER Cambodia amended the Law on Commercial Enterprises and the Law on Commercial Rules and Registration (both in force from January 2022). Cambodia had also issued a number of CDD Directives related to beneficial ownership. Implementing regulations for the Law on Commercial Enterprises had not been issued at the time of this report.

106. **Criterion 24.1** is *mostly met* (as per MER). The amendments to the Law on Commercial Enterprises and the Law on Commercial Rules and Registration did not affect the assessment of this criterion. The available material supports the criterion rating.

107. **Criterion 24.2** is *not met* (as per MER). Cambodia is yet to assess the ML/TF risks associated with all types of legal person created in the country. At the time of writing, a request to the World Bank for technical assistance has been accepted but work to assess the ML/TF risks is yet to commence.

108. **Criterion 24.3** is *mostly met* (as per MER). The amendments to the Law on Commercial Enterprises and the Law on Commercial Rules and Registration did not affect the assessment of this criterion. The available material supports the criterion rating.

109. **Criterion 24.4** is *mostly met* (as per MER). The amendments to the Law on Commercial Enterprises and the Law on Commercial Rules and Registration did not affect the assessment of this criterion. The available material supports the criterion rating.

110. **Criterion 24.5** is *mostly met* (as per MER). The amendments to the Law on Commercial Enterprises and the Law on Commercial Rules and Registration did not affect the assessment of this criterion. The available material supports the criterion rating.

111. **Criterion 24.6** is *mostly met*. Since the MER there have been enhancements to the mechanism to try to ensure that information on the beneficial ownership of a company can be otherwise determined in a timely manner by competent authorities. Cambodia has improved the scope of CDD obligations applying to FIs and DNFBPs as assessed in R.10 (FUR 2021) and R.22 above which further support the availability to competent authorities of a wider range of information on beneficial ownership of legal persons who are customers of FIs/DNFBPs.

112. **Criterion 24.7** is *mostly met* (as per MER). The mechanism outlined above to obtain beneficial ownership obtained through CDD conducted by FI/DNFBPs has limitations, as the requirement on FI/DNFBPs to periodically update CDD may not ensure up to date beneficial ownership information is available to meet the requirements of this criterion.

113. **Criterion 24.8** is *mostly met*. The amended 2022 Law on Commercial Enterprises (Art. 3), requires a company to have a company secretary, who is a permanent resident in the Kingdom of Cambodia and is a legally competent natural person that is responsible for co-operating with the competent authorities on behalf of a company. While the company secretary has authority to receive official papers and documents, including summonses and subpoenas from the courts, it does not explicitly require the secretary to be responsible for providing available beneficial ownership information, and giving further assistance to the authorities, in the absence of a specific summons or subpoena.

114. As per the MER, the Law on AML/CFT provides an offence if a person refuses to provide information to CAFIU and supervisory authorities on the basis of banking or professional secrecy.

115. **Criterion 24.9** is *met*. Article 255 of the Law on Commercial Enterprises requires a company to appoint a licenced accounting or auditing firm as liquidator after issuing a certificate of intent to dissolve. Further, article 62 obliges the liquidator to keep accounting books, financial statements, and any records of the partnership/company for a period of 5 years from the closing of the liquidation.

116. **Criterion 24.10** is *mostly met* (as per MER). The amendments to the Law on Commercial Enterprises and the Law on Commercial Rules and Registration did not affect the assessment of this criterion. The available material supports the criterion rating.

117. **Criterion 24.11** is *met*. Amendments to the Law on Commercial Enterprise removed articles permitting the issuance of bearer shares and bearer share warrants. Prior to these amendments, bearer shares and bearer share warrants were permissible but as noted in the MER, none existed in the Cambodian market.

118. **Criterion 24.12** is *partly met*. As per the MER, legal persons in Cambodia are not explicitly prohibited from having nominee directors and there is no obligation requiring nominee shareholders and directors to disclose the identity of their nominator to the company. Since the MER, the Law on Commercial Enterprise now requires that the appointment of nominee shareholders by a shareholder must be made by a ‘nominee shareholder contract’ and information about the shareholder and the Nominee Shareholder Contract must be filed at the Ministry of Commerce (article 147). However, several gaps remain as the conditions, forms, and procedures for filing the Nominee Shareholder Contract are to be determined by Sub-decree which is yet to be issued.

119. **Criterion 24.13** is *partly met*. Since the MER Cambodia has issued a number of instruments to enhance sanctions available to enforce compliance with transparency obligations. Amendments to the Law on Commercial Rules and Register, which came into effect on 16 December 2021, includes a penalty of between one and five years’ imprisonment for making or assisting in making a false or misleading report

(article 42). A new Prakas (regulation) was issued on 12 May 2021 which doubled fines for failing to file an annual declaration to KHR 2,000,000 (approx. USD 500) and for a merchant or company director that fails to update their registration information within 15 days to KHR 1,000,000 (approx. USD 250). There is also a fine of KHR 1,000,000 (approx. USD 250) for making or assisting in making a false or misleading report. These sanctions are not proportionate and dissuasive.

120. Cambodia indicated that if a merchant or a company director repeatedly breaches these requirements it can be referred to court and charged with ‘making or assisting in making false or misleading report’ for which a penalty of 1-5 year imprisonment can be applied upon conviction. These penalties apply a criminal test and it is not clear if they are proportionate to the offence

121. Cambodia did not demonstrate that dissuasive penalties are available in relation to obligations to file relevant instruments with tax authorities. No update was provided on The Law of Taxation where fines remain unlikely to be dissuasive.

122. **Criterion 24.14** is *partly met*.

123. *Criterion 24.14(a)*: The analysis in the MER and available material supports the criterion rating.

124. *Criterion 24.14(b)*: The framework for cooperation is as per the MER. Cambodia has exchanged information on shareholders on seven occasions with foreign jurisdictions including, the United States, Vietnam, Australia, Thailand and France however the timeliness in responding to requests is unknown.

125. *Criterion 24.14(c)*: The analysis in the MER and available material supports the criterion rating.

126. **Criterion 24.15** is *mostly met* (as per MER). The amendments to the Law on Commercial Enterprises and the Law on Commercial Rules and Registration did not affect the assessment of this criterion. The available material supports the criterion rating.

Weighting and Conclusion

127. Amendments to the Law on Commercial Enterprises strengthened requirements for companies to co-operate with competent authorities. Company secretaries must be Cambodian permanent residents and authorised to cooperate with Cambodian authorities. The amendments also removed the articles permitting bearer shares and nominee shareholders must now be appointed through a contract filed with the MOC. Several deficiencies remain however as Cambodia is yet to risk assess legal persons, the sub-decree which gives effect to the nominee shareholder contract is yet to enter into force, and available monetary penalties for the filing of company registration information are not sufficiently dissuasive.. **Recommendation 24 remains Partially Compliant.**

Recommendation 26 (Originally rated PC)

128. Cambodia was rated Partially Compliant for R. 26 in the 2017 MER. There were moderate shortcomings in meeting all elements of R.26. Additionally, verification processes for ‘fit and proper’ tests were unclear and Cambodia did not take a risk-based approach to supervision of all FIs.

129. **Criterion 26.1** is *met* (as per MER). The analysis in the MER and available material supports the criterion rating.

130. **Criterion 26.2** is *met* (as per MER). The analysis in the MER and available material supports the criterion rating.

131. **Criterion 26.3** is *partly met* (as per MER). The analysis in the MER and available material supports the criterion rating.

132. **Criterion 26.4** is *partly met*.

133. *Criterion 26.4(a)*: The Law on AML/CFT contains a number of requirements that are relevant to the 15 core principles of effective banking supervision however there are many remaining items that are not adequately addressed, in particular Core Principles 5, 6, 7, 8, 9, 12 and 13. Cambodia's response partly addressed elements of Insurance Core Principle (ICP) 22. The competent authority is empowered to issue enforceable means on AML/CFT obligations such as CDD, record-keeping, reporting of suspicious transactions and cooperation between competent authorities. Other ICPs of the International Association of Insurance Supervisors Principles were not addressed. Further, Cambodia provided no information on the regulation and supervision of financial institutions in line with the International Organisation of Securities Commission Principles.

134. *Criterion 26.4(b)*: There is no framework or mechanism for risk-based supervision of FIs other than Commercial Bank/Microfinance Taking Deposit Institution and Payment Service Institution.

135. **Criterion 26.5** is *partly met*.

136. *Criterion 26.5(a)*: As per the MER, CAFIU has developed risk-based supervision (RBS) tools for commercial bank/microfinance taking deposit institutions and payment service institutions which it uses CAFIU to conduct RBS. However, there are no frameworks or mechanisms for risk-based supervision of other financial institutions.

137. *Criterion 26.5(b)*: Beyond ML/TF risks identified through risk assessment of the commercial bank/microfinance taking deposit institution and payment service institution sectors, Cambodia did not demonstrate that the assessment of ML/TF risks present in the country were used to determine the frequency on on-site and off-site supervision.

138. *Criterion 26.5(c)*: Cambodia's RBS tools for the commercial bank/microfinance taking deposit institution and payment service institution sectors incorporate structural risks such as a bank's size, structure and compliance history and inherent risks such as its types of customers, products and services, delivery channels and geographic locations. However, other FI sectors were not assessed.

139. **Criterion 26.6** is *partly met*. CAFIU's RBS tool collects information from commercial bank/microfinance taking deposit institution and payment service institutions on a quarterly basis. CAFIU also issued a risk management questionnaire to all reporting entities in March 2020. A moderate deficiency remains as there is no obligation for CAFIU to undertake such reviews, or a supervisory manual or similar document that describes the methodology or triggers for the review of a financial institutions ML/TF risk profile.

Weighting and Conclusion

140. Cambodia has made progress in strengthening its AML/CFT system by issuing the new Law on AML/CFT. In addition, steady improvement of their supervisory activity has been made through the introduction of a risk-based approach to supervision of the banking, and payment service sectors. However, the frequency and intensity of risk-based supervision of other financial institution sectors remains a gap. Deficiencies also remain in the prevention of criminals and associates from holding, or being the beneficial owner of, a significant or controlling interest in financial institutions and in triggers for reviewing the assessment of ML/TF risk when there are major events or developments. These deficiencies are given particular weight. **Recommendation 26 remains Partially Compliant.**

Recommendation 28 (Originally rated PC)

141. Cambodia was rated Partially Compliant for R.28 in the 2017 MER. There were moderate shortcomings regarding supervision of DNFBPs for their AML/CFT requirements and the power of the supervisors to impose dissuasive and proportionate fines (see also R35). Market entry requirements varied between each category of DNFBP and DNFBPs were not supervised for AML/CFT compliance.

142. Since the MER Cambodia has issued a new legal framework for licencing casinos and gaming. Virtual casinos have been prohibited.

143. **Criterion 28.1** is *partly met*.

144. *Criterion 28.1(a)*: Cambodia requires casinos to be licenced. The Law on the Management of Commercial Gambling entered into force on 14 November 2020 established the Commercial Gambling Management Commission (CGMC). According to the Prakas on the Procedures Formalities and Conditions for Granting, Transferring and Renewing Casino Licence and Game of Chance (the Casino Licence Prakas) only legal entities can operate casino games licenced by the CGMC (Art. 4). The Casino Licence Prakas included transitional arrangements for existing licence holders. Reflecting the transition from the previous licensing regime, at the time of this report 80 casinos had applied to be licensed. 14 casinos had been licensed by CGMC and 66 other applications remained under CGMC consideration.

145. *Criterion 28.1(b)*: The Law on AML/CFT expressly calls on supervisors to put in place fit and proper articles in the terms required by FATF. The necessary legal or regulatory measures are to be set out by the sectoral supervisor. The Casino Licence Prakas requires casino licence applicants to submit a list of shareholders and their criminal records to the CGMC (Art. 8.4). This article extends to ‘governors and special staff’ but it is uncertain what roles this extends to holding a management function or being an operator of a casino. The Chairman of the Board of Directors must also provide their criminal record to the CGMC (Art. 9.2). However, these obligations do not apply to an application for the transfer of a casino licence.

146. The measures are not comprehensive in ensuring that criminals or their associates are prevented from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, or being an operator of a casino.

147. *Criterion 28.1(c)*: Article 23 of the Law on AML/CFT designates CAFIU as the AML/CFT supervisor of reporting entities which are defined in article 4 and includes casinos. Cambodia has conducted onsite supervision of 20 high-risk casinos and followed up with actions including issuing assessment reports and offsite monitoring.

148. **Criterion 28.2** is *met* (as per MER). The analysis in the MER and available material supports the criterion rating.

149. **Criterion 28.3** is *partly met*. CAFIU supervises entities listed in article 4 of the Law on AML/CFT which includes all categories of DNFBPs. CAFIU considered some elements of risk in conducting onsite supervision on 16 high risk real estate agents and 22 high risk real estate developers. Cambodia is yet to demonstrate supervision of lawyers, notaries, accountants and dealers in precious metals and stones (DPMS).

150. **Criterion 28.4** is *partly met*.

151. *Criterion 28.4(a)*: The Law on AML/CFT provides CAFIU with powers to supervise DNFBPs and monitor their compliance. Articles 6 and 23 and Chapter 7 empower CAFIU to issue directives to DNFBPs, require DNFBPs to take remedial actions, and to impose sanctions. Further, there are supervisory

powers in Part 8 of The Directive on Internal Controls which permits CAFIU to enter premises to conduct inspections, request the production of documents, reports and records, and for management to provide information and assistance.

152. *Criterion 28.4(b)*: The Law on AML/CFT requires supervisory authorities to ensure management and shareholders of DNFBPs are fit and proper persons so as to prevent criminals or their associates from being beneficial owners, holding a significant or controlling interest or holding a management function (article 18). The Law on AML/CFT does not define a shareholding threshold for when fit and proper person checks are triggered. With the exception of casinos, supervisory authorities for DNFBPs have not issued implementing instruments to for DNFBPs to ensure management and shareholders of DNFBPs are fit and proper persons so as to prevent criminals or their associates from being beneficial owners, holding a significant or controlling interest or holding a management function.

153. *Criterion 28.4(c)*: In February 2020, Cambodia issued a Prakas on Imposing Financial Disciplinary Sanctions against all Reporting Entities who are not Compliant with Law and Regulations on AML/CFT. The Prakas (regulation) stipulates fines to be imposed (as per R.35).

154. **Criterion 28.5 is partly met.**

155. *Criterion 28.5(a)*: Cambodia completed offsite monitoring of the real estate and casino sectors and conducted onsite supervision of real estate agents, real estate developers and casinos which were deemed to be high risk. However, there are no specific policies or procedures on how the intensity and frequency of AML/CFT supervision on DNFBPs is decided on a risk sensitive basis, taking into consideration the characteristics of DNFBPs. Accountants, lawyers, DPMS and notaries have not been subject to any form of supervision.

156. *Criterion 28.5(b)*: Though DNFBPs are required to assess their risks and apply a risk-based approach in their own management, it is not clear how supervisory authorities utilise these enterprise risk assessments to support their risk-based supervision. There are no specific requirements on how the ML/TF risk profile of DNFBPs is considered and the degree of discretion allowed under the risk-based approach when assessing the adequacy of the AML/CFT internal controls, policies and procedures of DNFBPs.

Weighting and Conclusion

157. Since the 2017 MER, Cambodia has introduced a new licensing and regulatory framework for casinos and has established a new regulatory authority. Virtual casinos have been prohibited. Cambodia has conducted onsite supervision of 20 high-risk casinos and followed up with actions including issuing assessment reports and offsite monitoring. Cambodia has conducted onsite supervision and offsite monitoring on high-risk real estate agents, real estate developers and casinos and issued a Prakas (regulation) for imposing sanctions against all reporting entities, their directors and senior management. There are weaknesses with fit and proper tests of casinos, lawyers and accountants. Furthermore, there are no specific policies or procedures on how the intensity and frequency of AML/CFT supervision on DNFBPs is decided on a risk sensitive basis and Cambodia is yet to commence risk-based supervision of lawyers, notaries, accountants and DPMS. **Recommendation 28 remains Partially Compliant.**

Recommendation 35 (Originally rated PC)

158. Cambodia was rated Partially Compliant for Recommendation 35 in its 2017 MER. There were moderate shortcomings regarding proportionate and dissuasive sanctions imposed to those failing to comply with the AML/CFT requirements of R.6 and 8 to 23. Fines were unlikely to be dissuasive unless applied at the highest end of the available range and not all sanctions were applicable to the directors and senior management of reporting entities.

159. **Criterion 35.1** is mostly met.

160. The Law on AML/CFT has a broad range of sanctions (administrative, civil and criminal). This includes delicensing which could potentially be dissuasive, and Cambodia has applied this sanction to one bank.

161. In February 2020, the National Bank of Cambodia (NBC) in its capacity as AML/CFT supervisor, issued the Prakas on Imposing Financial Disciplinary Sanctions Against all Reporting Entities Who Are Not Compliant With Law and Regulations on AML/CFT (Prakas Imposing Disciplinary Sanctions). The Prakas sets out a comprehensive schedule of monetary penalties for breaches of specific AML/CFT requirements. The schedule sets out a range of generally dissuasive penalties and differentiates between different sectors of reporting entities which supports proportionality of available sanctions.

162. In the Prakas Imposing Disciplinary Sanctions, the maximum available fine applicable to banks is KHR 15bn (approx. USD 3.7 million) which is dissuasive. For casinos, the maximum fine is the minimum capital requirement. Issued in August 2021, the Anukret (Sub decree) on Determination of Minimum Capital Requirement for Casino Operation (Art 4-6) set out casino's minimum capital requirements. For new casinos, capital requirements start at KHR 400,000,000,000 (approx. USD 100,000,000) and for existing casinos, it commences at KHR 50,000,000,000 (approx. USD 50,000,000) and gradually escalates over a period of fifteen years to KHR400,000,000,000 (approx. USD 100,000,000). These fines are dissuasive.

163. The maximum fines for real estate agents is also the minimum capital requirement in the Prakas Imposing Disciplinary Sanctions. For real estate developers, article 10 of the Prakas on Real Estate Developer Business Management sets a minimum capital requirement of 2 percent of construction costs. These fines are dissuasive. However it is uncertain how maximum fines are calculated for real estate businesses other than developers and dissuasive maximum fines for this sub-category of DNFBPs were not demonstrated.

164. For R.6, as per the 2017 MER, concerns remain about the availability of wholly dissuasive or proportionate sanctions as the available sanctions in the Sub-decree on Freezing of Property of Designated Terrorists and Organisations range from a warning letter to fines of KHR 20,000,000 (approx. USD 50,000) to KHR 200,000,000 (approx. USD 50,000). As TF is a transnational phenomenon, fines for breaches of targeted financial sanctions were not likely to be dissuasive in an international context. The fines are low compared to those in the Prakas on Imposing Disciplinary Sanctions. The Sub-decree on Freezing of Property of Designated Terrorists and Organisations has not been amended since the MER.

165. For preventative measures and reporting (R.9-20, 22 and 23) sanctions, article 36.2 of the Law on AML/CFT lists sanctions measures ranging from warnings and reprimands through to fines and revocation of business licences. Article 23 empowers CAFIU to instruct reporting entities, whether they are natural or legal persons, to take remedial actions and impose administrative sanctions under the Law on AML/CFT. Further, article 43 lists a range of additional sanctions applicable to reporting entities that are legal entities including dissolution, judicial supervision, prohibition from carrying out one or more activities, disqualification from public tenders, confiscations and publication or broadcasting of decisions on punishments. Various Directives issued by CAFIU with respect to correspondent banking, remittance and wire transfers, internal controls, and CDD measures also impose sanctions via articles 36 and 37 of the Law on AML/CFT.

166. For R.8, the definition of a reporting entity in the Law on AML/CFT includes non-governmental organisations and foundations engaging in business activities and fund raising to which the sanctions in articles 23, 36.2 and 43 apply.

167. Specific to R.9, under article 39 of the Law on AML/CFT a person who withholds information from CAFIU and supervisory authorities contrary to article 6 (Banking and Professional Secrecy) may be

imprisoned for up to one month or fined up to KHR 100,000,000 (approx. USD 25,000). A legal entity may be declared criminally responsible under article 42 of the Criminal Code and fined up to KHR 200,000,000 (approx. USD 50,000) and have additional penalties applied as per article 43.

168. For R.10, R.11, R.12, R.14, R.15 (obligations for assessing new technologies), R.16, R.19, R.20 and R.22 the administrative sanctions in articles 23.3 and 36.2 and 43 of the Law on AML/CFT apply. Criminal sanctions are available For R.20 and R.21. Articles 40 and 41 of the Law on AML/CFT, an individual who intentionally fails to submit a cash or suspicious transaction report will be fined up to KHR 200,000,000 (approx. USD 50,000) or be sentenced to imprisonment for up to one year. For legal entities the fine is up to KHR 500,000,000 (approx. USD 125,000).

169. The Directives issued by the CAFIU applicable to R.13, R.16, R.17 & R.18 impose the sanctions available under the Law on AML/CFT.

170. For R.21, article 41 of the Law on AML/CFT imposes criminal sanctions on individuals for tipping off breaches of up to one year imprisonment and fines of up to KHR 200,000,000 (approx. USD 50,000). For legal entities the fine is up to KHR 500,000,000 (approx. USD 125,000).

171. **Criterion 35.2** is *partly met*. Sanctions in Cambodia's AML/CFT regime apply to individuals and legal entities. For FIs and DNFBPs, the administrative sanctions applicable to directors and senior managers are limited to demotion (Para 36.2 of the Law on AML/CFT) except in relation to R.9, R.20 and R.21. Monetary and penal sanctions applicable to staff of FIs and DNFBPs for failings related to R.9 and R.20 (article 40 of the Law on AML/CFT) would apply to directors and senior managers.

Weighting and Conclusion

172. Cambodia has strengthened sanctions against those who violate the AML/CFT requirements by issuing a new Law on AML/CFT, which includes a broad range of administrative, civil and criminal sanctions. Cambodia has issued a regulation which, taking into account Cambodia's risk and context, includes a range of mostly proportionate and dissuasive fines. However, for real estate agents other than developers, maximum fines may not be proportionate or dissuasive. Penalties for violation of target financial sanctions related to terrorism and TF and sanctions available for directors and senior managements of reporting entities remain inadequate. **Recommendation 35 is re-rated to Largely Compliant.**

Recommendation 40 (Originally rated PC)

173. Cambodia was rated Partially Compliant for R.40 in its 2017 MER. There were a wide range of mechanisms for international cooperation but these did not provide a basis for cooperation in some circumstances. There was patchy coverage of neighbouring jurisdictions and other jurisdictions that may expose Cambodia to ML/TF risk and the kind of information that can be shared was not broad enough to meet R.40's requirements. There were no provisions to support joint investigations across borders or information exchange with non-counterparts. There was no system for prioritising requests or safeguarding information involved and it was unclear if competent authorities could conduct inquiries on behalf of foreign counterparts and exchange all information available to them domestically.

174. R.40 was reviewed in Cambodia's 2021 FUR, where it remained rated partially compliant. Cambodia had made some progress in relation to providing and receiving feedback, but the deficiencies from the MER remained.

175. **Criterion 40.1** is *mostly met* (as per 2021 FUR). In addition to analysis in the MER, it is noted that as a member of the World Trade Organisation, Cambodia's General Department of Customs and Excise (GDCE) can provide international cooperation pursuant to article 12 on customs cooperation of the WTO Trade Facilitation Agreement (TFA). The WTO TFA does not clearly state whether spontaneous exchange

of information is possible, however GDCE can fully exchange information within member states, particularly upon request. There have been no other relevant changes to the legal framework since the MER, and deficiencies remain with the Cambodian competent authorities' ability to exchange information spontaneously.

176. **Criterion 40.2** is *mostly met*.

177. *Criterion 40.2(a)*: The analysis in the MER and available material supports the criterion rating.

178. *Criterion 40.2(b)*: The General Department of Taxation (GDT) has entered into 11 double taxation agreements for international cooperation since the MER and the Anti-Corruption Unit (ACU) has updated its standard operating procedure for international cooperation. The restriction noted in the MER where CAFIU is required to have a reciprocal arrangement to exchange information with a foreign FIU remains.

179. *Criterion 40.2(c)*: The analysis in the MER and available material supports the criterion rating.

180. *Criterion 40.2(d)*: Cambodia provided an example of a request to the GDCE from a foreign competent authority but no processes for the prioritisation and timely execution of requests were provided for either the GDCE or other competent authorities.

181. *Criterion 40.2(e)*: The Law on the Organisation and Conduct of the National Bank of Cambodia and Prakas (regulation) on Legal Protection for Supervisory Officers require officers of the NBC to safeguard information. Similarly article 478 of the Penal Code and article 23 of the Law on the Special Statute of the National Police Officers. Cambodia indicated the GDT Exchange of Information Manual sets out clear processes for GDT Officers to follow and the GDCE standard operating procedures contain similar processes. However, Cambodia demonstrate the processes by which these legal requirements are implemented.

182. **Criterion 40.3** is *mostly met* (as per MER). The analysis in the MER and available material supports the criterion rating.

183. **Criterion 40.4** is *partly met*. Cambodia described the feedback processes for NBC, GDT, GDCE, GCNP and CAFIU but did not demonstrate the provision of timely feedback or policies and procedures that would support this.

184. **Criterion 40.5** is *mostly met* (as per MER). The analysis in the MER and available material supports the criterion rating. There was no indication that Cambodia had introduced unreasonable or unduly restrictive conditions on information exchange or assistance.

185. **Criterion 40.6** is *mostly met* (as per MER). The analysis in the MER and available material supports the criterion rating.

186. **Criterion 40.7** is *mostly met*. Cambodia provided an update on the GDT for this criterion. Article 26 of the Double Taxation Agreements sets out the information safeguards of the agreement but Cambodia did not demonstrate how authorities are able to refuse to provide information if the requesting authority cannot protect the information.

187. **Criterion 40.8** is *partly met*. The GDCE is able to exchange the information for the purpose of verifying an import or export declaration in identified cases where there are reasonable grounds to doubt the truth or accuracy of the declaration under article 12 (Custom Cooperation) of the Agreement on WTO TFA. However, there is no clear legal basis for the GDCE to conduct inquiries on behalf of foreign counterparts and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically.

188. **Criterion 40.9** is *met* (as per MER). The analysis in the MER and available material supports the criterion rating.
189. **Criterion 40.10 to 40.12** are *mostly met* (as per 2021 FUR). The analysis in the MER and available material supports the criterion rating.
190. **Criterion 40.13** is *met* (as per MER). The analysis in the MER and available material supports the criterion rating.
191. **Criterion 40.14** is *partly met*
192. *Criterion 40.14(a)*: Financial supervisors are able to exchange basic regulatory information.
193. *Criterion 40.14(b)*: MOUs provided that support information exchange between supervisors appear to allow the NBC to exchange prudential information on the banks' business activities, beneficial ownership, management, fit and properness, and AML/CTF information. However, it was not demonstrated that similar arrangements exist for other financial institutions. Cambodia advised that through a series of MOUs entered into between the NBC and foreign supervisory authorities and participating in biennial supervisory college meetings on international banks, prudential and regulatory information is able to be exchanged. However, no supporting documents were provided to verify these claims and no information was provided for any financial supervisors or sectors other than the banking sector.
194. *Criterion 41.14(c)*: The MOUs provided that support information exchange between supervisors appear to cover some AML/CFT information but it is unclear whether this extends to customer due diligence, customer files, samples of accounts and transaction information.
195. **Criterion 40.15** is *partly met* (as per the MER). Cambodia provided the Prakas (regulation) on Home-Host Relations Related to Information Sharing that outlined the framework for cooperation related to information sharing between supervisory authorities and regulators both locally and internationally. However, the Prakas does not address how Cambodian competent authorities are able to act on behalf of a foreign counterpart or facilitate enquiries by that foreign counterpart in Cambodia.
196. Similarly, MOUs entered into by the NBC are broadly drafted and, at least for the supervision of banks, may provide CAFIU with relevant powers given CAFIU sits within the NBC. However, it is not clear that the MOU includes AML/CFT supervision. In the example MOU provided, the MOU only provides the ability for the foreign regulator to enter Cambodia for where there is cross-border establishment of a banking institution. This is a limited scope for the purpose of ML/TF supervision of all financial supervisors (excluding self-regulatory bodies).
197. **Criterion 40.16** is *met* (as per MER). The analysis in the MER and available material supports the criterion rating.
198. **Criterion 40.17** is *partly met*. The analysis in the MER and available material supports the criterion rating.
199. **Criterion 40.18** is *partly met*. The analysis in the MER and available material supports the criterion rating.
200. **Criterion 40.19** is *partly met*. The analysis in the MER and available material supports the criterion rating.
201. **Criterion 40.20** is *partly met*. Cambodia did not demonstrate how competent authorities apply the principles of R.40 to information exchanges with non-counterparts, or how they make clear the purpose and

on whose behalf the request is made, Cambodian competent authorities (GDCE, ACU) have broad agreements on international cooperation on information exchange.

Weighting and Conclusion

202. Cambodia's competent authorities have a wide range of international cooperation mechanisms, however, there are limitations in some circumstances. In particular, there is no clear policy or guideline to ensure timely feedback on the assistance received from foreign authorities and no clear provision to support the information exchange related to ML/TF issues, including to form joint investigative teams so as to conduct cooperative investigations. Furthermore, there is limited ability for Cambodian competent authorities to progress inquiries with foreign counterparts in order to facilitate effective group supervision. Cambodia also not demonstrates on how competent authorities apply the principles of R.40 to information exchanges with non-counterparts. Deficiencies related to supervisors, customs authorities and law enforcement agencies ability to exchange information were given particular weight, taking into account Cambodia's risk and context. **Recommendation 40 remains Partially Compliant.**

IV. CONCLUSION

203. Overall, Cambodia has made good progress in a number of areas including correspondent banking, wire transfers, internal controls, foreign branches, DNFBP customer due diligence and sanctions for non-compliance with AML/CFT measures. As a result of this progress in addressing the technical compliance deficiencies identified in its MER Cambodia has been re-rated on Recommendation 13 from PC to C and on Recommendations 16, 18, 22 and 35 from PC to LC. Cambodia has made progress on R. 8, 24, 26, 28 and 40, but insufficient to support a re-rating.

204. In light of the progress made by Cambodia since its MER was adopted, its technical compliance with the FATF Recommendations is as follows as of February 2022:

R.	Rating
1	PC (MER 2017) ↑ LC (FUR 2021)
2	PC (MER 2017) ↑ LC (FUR 2019)
3	LC (MER 2017)
4	LC (MER 2017)
5	LC (MER 2017)
6	LC (MER 2017)
7	NC (MER 2017) ↑ PC (FUR 2021)
8	PC (MER 2017)
9	C (MER 2017)
10	LC (MER 2017)
11	LC (MER 2017)
12	PC (MER 2017) ↑ LC (FUR 2021)
13	PC (MER 2017) ↑ C (FUR 2022)
14	LC (MER 2017)
15	C (MER 2017) ↓ NC (FUR 2021)

R.	Rating
21	LC (MER 2017)
22	PC (MER 2017) ↑ LC (FUR 2022)
23	LC (MER 2017)
24	PC (MER 2017)
25	PC (MER 2017)
26	PC (MER 2017)
27	LC (MER 2017)
28	PC (MER 2017)
29	LC (MER 2017)
30	LC (MER 2017)
31	LC (MER 2017)
32	LC (MER 2017)
33	PC (MER 2017) ↑ LC (FUR 2021)
34	PC (MER 2017) ↑ LC (FUR 2018)
35	PC (MER 2017) ↑ LC (FUR 2022)

R.	Rating
16	PC (MER 2017) ↑ LC (FUR 2022)
17	LC (MER 2017)
18	PC (MER 2017) ↑ LC (FUR 2022)
19	PC (MER 2017) ↑ LC (FUR 2018)
20	LC (MER 2017)

R.	Rating
36	LC (MER 2017)
37	PC (MER 2017) ↑ LC (FUR 2021)
38	PC (MER 2017) ↑ LC (FUR 2021)
39	LC (MER 2017)
40	PC (MER 2017)

205. Cambodia has 32 Recommendations rated C/LC. Cambodia will remain in enhanced follow-up and will continue to report back to the APG on progress to strengthen its implementation of AML/CFT measures. Cambodia's 6th progress report is due 1 February 2023.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
R.8 Non Profit Organisations	PC	• Cambodia has not yet identified a subset of NPOs which by virtue of their activities or characteristics, are likely to be at risk of TF abuse; or reviewed the adequacy of measures, including laws and regulations, that relate to the subset of the NPO sector that may be abused for TF (c.8.1) • Cambodia does not have clear policies to promote transparency, integrity, and public confidence in NPOs; Cambodia has not conducted CFT outreach or other educational programmes or developed best practices with the NPO sector concerning CFT issues. Cambodia does not actively encourage NPOs to conduct transactions via regulated financial channels, wherever feasible (c.8.2) • Cambodia does not use findings on risk to target NPO sector monitoring or supervision (c.8.3) • There are no appropriate authorities monitoring compliance of NPOs; and supervisors are not able to apply proportionate and dissuasive sanctions. (c.8.4) • Gaps with co-operation, co-ordination and information-sharing among of appropriate authorities hold relevant information on NPOs and support of mechanisms to investigate potential TF cases involving NPOs (c.8.5). • No identified a point of contact or procedures to respond to international requests for information regarding NPOs suspected of TF or other terrorist support (c.8.6).
13. Correspondent banking relationships	C	• All criteria are met
16. Wire transfers	LC	• There is no mechanism in the Directive that enables law enforcement authorities to compel the immediate production of information. (c.16.6). • There is no requirement for FIs not to allow the execution of the wire transfer if it does not comply with the requirements specified in c16.1-16.7 (c.16.8)
18. Internal controls and foreign branches and subsidiaries	LC	• It is not clear whether account or transaction information is included in group-wide information sharing, or information concerning analysis of transactions or unusual activities (c.18.2)
22. DNFBPs customer due diligence	LC	• While CDD obligations are generally comprehensive, there is a minor gap in Cambodia's definition of 'beneficial owner' as it does not cover persons who exercise ultimate effective control over a legal person or arrangement (c.22.1 & c.22.2).
24. Transparency and beneficial ownership of legal persons	PC	• no publically available information on the process for obtaining basic or beneficial ownership of legal persons (c.24.1) • Cambodia has not yet assessed the ML/TF risks associated with all types of legal person created in the country (c.24.2) • Basic information collected by GDT is not publicly available (c.24.3) • Information keeping gaps with partnerships (c.24.4) • It is not clear that all basic information is to be kept up to date and accurate (c.24.5) • Mechanisms to obtain BO information from FI/DNFBP is undermined by deficiencies in BO definition in CDD requirements (c.24.6) • The mechanism to obtain beneficial ownership obtained through CDD conducted by FI/DNFBPs has limitations, as FI/DNFBPs requirements to periodically update CDD may not ensure up to date beneficial ownership information is available to meet the requirements of this criterion. (c.24.7) • It is not explicit that the person authorised by the company is responsible for providing available beneficial ownership information and for giving further assistance to authorities in the absence of a subpoena (24.8) • No explicit prohibition of nominee directors and the controls on nominee shareholders are not yet in force (c.24.12).

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		- some deficiencies remain with proportionate and dissuasive sanctions, as appropriate for any legal or natural person that fails to comply with the requirements of R.24 (c.24.13) - the timeliness of international cooperation related to sharing information on legal persons was not demonstrated (c.24.14)
26. Regulation and supervision of financial institutions	PC	- Gaps remain with the scope of fit and proper requirements for FIs (c.26.3) - Gaps remain with regulation and supervision in line with the core principles; and weaknesses remain with risk-based supervision for FIs that are not prudentially regulated (c.26.4) - Risk-based supervision is not supported and has not yet commenced with FIs beyond commercial banks and microfinance deposit taking institutions (c.26.5) - It is still not clear whether CAFIU itself has obligations to conduct or update its own assessment of the ML/TF risk profile of a financial institution or group periodically or when an event or development occurs. Major events or development that would be considered triggers for the review of an entity's ML/TF risk profile remain unclear (c.26.6)
28. Regulation and supervision of DNFBPs		- Measures to prevent criminals or their associates from holding a significant or controlling interest or management function do not apply board members other than the Chairman or to senior management. How fit and proper persons are assessed is unclear (c.28.1) - Cambodia does not demonstrate that its supervision covers all DNFBP sectors including lawyers, notaries, accountants and DPMS (c.28.3) - The Law on AML/CFT does not define a shareholding threshold (beneficial owners of a significant or controlling interest) for when fit and proper person checks are triggered. For lawyers, it remains unclear how fit and proper tests are administered at market entry or what fit and proper tests accountants are subject to. It is also unclear whether a person who owns a real estate business but is not the licensee is subject to fit and proper checks (c.28.4) - There are no specific policies or procedures on how the intensity and frequency of AML/CFT supervision on DNFBPs is decided on a risk sensitive basis, taking into consideration the characteristics of DNFBPs. Accountants, lawyers, DPMS and notaries have not been subject to any form of supervision. It is not clear how supervisory authorities utilise these materials for supervision. There are no specific requirements on how the ML/TF risk profile of DNFBPs is considered and the degree of discretion allowed under the risk-based approach when assessing the adequacy of the AML/CFT internal controls, policies and procedures of DNFBPs (c.28.5)
35. Sanctions		- Minor gaps in relation to sanctions related to TFS and sanctions for real estate agents that are not also developers (c.35.1). - Limited sanctions applicable to directors and senior managers (c.35.2)
40. Other forms of international co-operation		- Deficiencies with the ability to exchange information spontaneously (c.40.1) - Restriction requiring CAFIU to have a reciprocal arrangement to exchange information with a foreign FIU; No processes for the prioritisation and timely execution of requests were provided for either the GDCE or other competent authorities or how legal requirements to safeguard information are implemented (c.40.2) - Cambodia did not demonstrate measures to provide timely feedback (c.40.4) - Cambodia did not demonstrate how authorities are able to refuse to provide information if the requesting authority cannot protect the information (c.40.7) - No clear legal basis for the GDCE to conduct inquiries on behalf of foreign counterparts and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically (c.40.8) - Supervisors exchange of prudential and AML/CFT information is only clearly supported in the case of banks and it is not clear that MOUs support the exchange of all required AML/CFT information (c.40.14) - it is not clear how Cambodian authorities are able to act on behalf of a foreign counterpart or facilitate enquiries by that foreign counterpart in Cambodia and it is not clear that the MOU includes AML/CFT supervision (c.40.15)

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		Cambodia did not demonstrate how competent authorities apply the principles of R.40 to information exchanges with non-counterparts, or how they make clear the purpose and on whose behalf the request is made (c40.20)