



Understanding the “Big 6” FATF Recommendations - Part 2

CFATF RESEARCH DESK
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What are the “Big 6” FATF Recommendations?

- Recommendations 3, 5, 6, 10, 11 and 20 are viewed as vital building blocks for a functional AML/CFT regime, regardless of a jurisdiction’s risk and context.
- Recommendation 10 focuses on customer due-diligence (CDD), Recommendation 11 on record keeping measures, while Recommendation 20 relates to reporting of suspicious transactions.
- If a country is rated Non-compliant or Partially Compliant (NC/PC) on three (3) or more of these big six, then a country may be referred to the pool of countries subject to the International Co-operation Review Group process, with the potential for active monitoring if they meet the prioritisation criteria.¹

¹ A country may be subject to review by ICRG for example if it is above a 5 billion USD threshold for M3 (Money supply).



Legal Basis of Requirements on Financial Institutions and DNFBPs

- For financial institutions and designated non-financial businesses and professions, all the principal obligations for Recommendations 10, 11 and 20 must be set out in **law**.²
- Law refers to any legislation issued or approved through a Parliamentary process or other equivalent means provided for under the country's constitutional framework.³
 - It imposes mandatory requirements with sanctions for non-compliance.
 - The sanctions for non-compliance should be effective, proportionate, and dissuasive.
 - Law encompasses judicial decisions that impose relevant requirements, and which are binding and authoritative in all parts of a country.

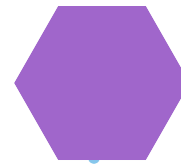
²Please see section "Legal Basis of Requirements on Financial Institutions, DNFBPs and VASPs" in FATF (2013-2021), Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems, updated October 2021, FATF, Paris, France, p.116.

³Ibid



Legal Basis of Requirements on Financial Institutions and DNFBPs

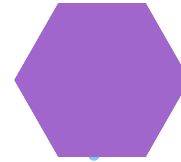
⁴Please see section "Legal Basis of Requirements on Financial Institutions, DNFBPs and VASPs" in FATF (2013-2021), Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems, updated October 2021, FATF, Paris, France, p.116.



- All other requirements for these Recommendations can be set out in either ***law*** or ***enforceable means***.
- “Enforceable means” refers to regulations, guidelines, instructions or other documents or mechanisms that set out enforceable AML/CFT requirements in mandatory language:⁴
 - Measures that use the word “shall” or “must”, this should be considered mandatory.
 - “Should” can be mandatory if both the regulator and the regulated institutions show that the actions are required and are being implemented.
- Use of weaker language than that referred above means that the requirement is not mandatory.
- Non-compliance with obligations set out in enforceable means should be subject to sanctions. These should be effective, proportionate and dissuasive.



Recommendation 10 - Customer Due Diligence (CDD)



- The principle that financial institutions conduct CDD should be set out in law, though specific requirements may be set out in enforceable means.
- R. 10 prohibits financial institutions from keeping anonymous accounts or accounts in obviously fictitious names.
- The requirements established the following:
 1. When CDD is required.
 2. What CDD measures are required for customers.
 3. Specific CDD measures required for legal persons and legal arrangements.
 4. CDD for Beneficiaries of Life Insurance Policies.
 5. Timing of verification of the identity of the customer and beneficial owner.
 6. Application of CDD measures for existing customers.
 7. Application of the Risk-Based Approach.
 8. Failure to satisfactorily complete CDD by an FI.
 9. CDD and tipping-off.



Recommendation 11 - Record-keeping

- The principle that financial institutions should maintain records on transactions and information obtained through CDD measures should be set out in *law*.
- Requirements for R. 11:
- All necessary domestic and international records on transactions, must be maintained by financial institutions for at least five (5) years.
 - FIs must be able to comply swiftly with CDD and transaction information requests from domestic competent authorities with appropriate authority.
 - Records must be sufficient to permit reconstruction of individual transactions to provide evidence for prosecution of criminal activity, as necessary.



Recommendation 11 - Record-keeping

- Financial institutions should be required to keep the following for at least five (5) years after the termination of the business relationship or after the date of the occasional transaction:
 - All records obtained through CDD measures.
 - Account files and business correspondence.
 - Results of any analysis undertaken.



Recommendation 20 - Reporting of Suspicious Transactions

- The requirement that financial institutions should report suspicious transactions should be set out in *law*.
- A financial institution should be required to promptly report to the Financial Intelligence Unit (FIU) when it suspects or has reasonable grounds to suspect that:
 - Funds are the proceeds of a criminal activity.
 - Criminal activity refers to all criminal acts that would constitute a predicate offence for money laundering or, at a minimum, to those offences that would constitute a predicate offence, as required by Recommendation 3.
- Funds are related to terrorist financing (TF).
 - TF refers to the financing of terrorist acts and also terrorist organisations or individual terrorists, even in the absence of a link to a specific terrorist act or acts.



CFATF Countries 4th Round Ratings for Recs. 10, 11 and 20

**MER – Mutual
Evaluation Report**

**FUR – Follow Up
Report**

C – Compliant

**LC – Largely
Compliant**

**PC – Partially
Compliant**

NC – Non-Compliant

Country	Type of Report	Date	R.10	R.11	R.20
Antigua & Barbuda	FUR	Nov/21	LC	LC	C
Aruba	MER	Jul/22	LC	C	C
Bahamas, The	FUR	Dec/22	C	LC	C
Barbados	FUR	Feb/21	LC	C	C
Bermuda	MER	Jan/20	C	C	C
Cayman Islands	FUR	Nov/21	LC	C	C
Grenada	MER	Jul/22	LC	PC	C
Haiti	MER	Jul/19	PC	PC	PC
Jamaica	FUR	Dec/22	LC	LC	C
Saint Kitts and Nevis	MER	Feb/22	PC	LC	C
Saint Lucia	MER	Jan/21	PC	LC	PC
Suriname	MER	Jan/23	PC	LC	LC
Trinidad and Tobago	FUR	Jun/19	C	C	C
Turks & Caicos	FUR	Dec/22	C	C	C
Venezuela	MER	Mar/23	PC	LC	PC

Ten out of the 15 assessed countries were rated C/LC with R. 10; 13 were rated C/LC with R.11 and 12 were rated C/LC with R. 20.



Thank you!



Phone Number
1868-623-9667



Email Address
cfatf@cfatf.org



Website
www.cfatf-gafic.org