

# Angle

## CHAPTER 1. ML/TF RISKS AND CONTEXT

### 第 1 章 洗錢/資恐風險及概況

#### *ML/TF Risks and Scoping of Higher-Risk Issues*

##### *洗錢/資恐風險及高風險議題之範疇*

10. Chinese Taipei is located in the East China Sea and covers an areas of 36,193 km<sup>2</sup> encompassing the islands of Taiwan, Penghu (the Pescadores), Kinmen, Matsu, and a number of smaller islands. The total population was approximately 23.5 million as of October 2018. Chinese Taipei's GDP was measured at approximately USD 589 billion in 2018, which places it as the 22nd largest economy in the world.

中華臺北位於東海，面積 36,193 平方公里，包括臺灣島、澎湖、金門、馬祖和一些較小的島嶼。截至 2018 年 10 月，總人口約為 2350 萬人。中華臺北 2018 年 GDP 約為 5890 億美元，為世界第 22 大經濟體。

11. Chinese Taipei is a parliamentary democracy with government divided into central, provincial/municipal, and county/city levels. The central government consists of the Office of the President and five branches (called "Yuan"), namely the Executive Yuan (EY), Legislative Yuan, Judicial Yuan, Examination Yuan, and the Control Yuan.

中華臺北是一個議會民主國家，政府分為中央、省/市和縣/市。中央政府由總統府和五個分支單位（稱為“院”）組成，即行政院、立法院、司法院、考試院和監察院。

12. Executive power is exercised by the EY which consists of ministries and ministerial-level organizations. The EY has a president (usually referred to as the premier), a vice president (vice premier), a number of ministers, heads of commissions, and ministers without portfolio. The Legislative Yuan is constituted by popularly elected representatives who serve for four years and are eligible for re-election.

行政院是國家最高行政機關，由各部和部級機關組成。院內有一位首長（稱為院長）、一位副首長（副院長）、部長、委員會委員長和政務委員。立法院是國家最高立法機關，由民選代表組成，任期四年，並得連任。

13. Chinese Taipei has a civil law legal system. The emphasis of the legal system is placed on statutes rather than case law. When trying to make a decision, the Courts look to what the Constitution states first and then to codes, statutes, and ordinances.

中華臺北為大陸法系之法律系統。法律制度的重點放在法規而不是判例法上。在試圖做出決定時，法院會先查看憲法說明的內容，然後查看法律、法規和條例。

14. The chief powers of the Judicial Yuan (the judiciary) are to interpret the Constitution, to unify the interpretation of laws and orders, and to adjudicate civil, criminal and administrative matters. The judiciary has three levels: district courts and their branches that hear civil and criminal cases in the first instance; high courts and their branches at the intermediate level that hear appeals against judgments of district courts or their branches; and the Supreme Court at the highest appellate level, which reviews judgments by lower courts. Issues of fact are decided in the first and second levels, while only issues of law are considered by the Supreme Court. However, there are exceptions to this system. Criminal cases relating to rebellion, treason, and offenses against friendly relations with foreign states are handled by high courts, as the court of first instance; and appeals may be filed with the Supreme Court. Judges

## CHAPTER 1. ML/TF RISKS AND CONTEXT

1

decide all cases; there is no provision for jury trials. There is a separate two-tiered administrative court for appeals of administrative rulings.

司法院（司法機關）是最高司法機關，其主要權力是解釋憲法，統一法律和命令的解釋，裁定民事、刑事、行政案件。中華臺北的司法制度分為三級：地方法院及其分院負責民事和刑事案件之第一審判決；高等法院及其分院，審理針對地方法院或其分院判決的上訴；以及最高上訴級別的最高法院，審查下級法院的審判是否遵循法令規定。事實審判在第一和第二審決定，而最高法院只審理法律爭議。但是，該制度也有例外，於內亂、外患及妨害國交之刑事案件以高等法院為一審；並可向最高法院提出上訴。法官裁決所有案件；沒有陪審團審判的規定。有一個單獨的、雙層級的行政法院負責審理行政裁決訴訟。

### Overview of ML/TF Risks

#### 洗錢/資恐風險概況

15. Chinese Taipei is subject to an array of predicate offences which generate significant proceeds. These offences to a large degree stem from organised crime, including drug trafficking, fraud and smuggling. Other predicate offences of note include corruption and bribery, and specific types of fraud including tax and securities-related crimes.

中華臺北受到一系列前置犯罪的影響，這些犯罪會帶來巨額收益。這些罪行在很大程度上源自於組織犯罪，包括販毒、詐欺和走私。其他前置犯罪包括貪污賄賂，以及特定類型的詐欺，包括稅務和證券相關的犯罪。

16. Fraud is estimated by the authorities to generate the most significant amounts of criminal proceeds. Fraud networks operate domestically and transnationally, and significant numbers of Chinese Taipei fraud offenders have been arrested in many countries. Chinese Taipei authorities estimate USD 1.14 billion in proceeds of fraud is channelled annually to China; Hong Kong, China; Macao, China; Indonesia; and Malaysia alone. Conversely, Chinese Taipei's strengths as a well-developed jurisdiction—including a well-established and open financial system, strong rule of law, stable economy, the persistence of cash transactions particularly in private consumption and a sizeable underground remittance sector—make it attractive for sophisticated criminal actors seeking to benefit from illicit proceeds. In 2018, authorities estimated around 30% of ML activities in Chinese Taipei involved cross-border transactions. While the assessment team was unable to verify this independently, it is likely that this trend will grow as Chinese Taipei's economic linkages across the straits and throughout the Asia-Pacific continue to develop.

當局估計詐欺行為產生的犯罪所得最大。詐欺網絡在國內和跨國運作，許多中華臺北詐欺罪犯已在許多國家被捕。中華臺北當局估計每年約有 11.4 億美元的詐欺所得流向中國大陸、香港、澳門、印尼和馬來西亞。相反地，中華臺北作為一個發達的司法管轄區的優勢 - 包括完善和開放的金融體系、強健的法治、穩定的經濟、現金交易的持續存在，特別是私人消費和龐大的地下通匯部門 - 對於複雜並尋求自非法所得受益的犯罪者具有吸引力。2018 年，當局估計中華臺北約有 30% 的洗錢活動涉及跨境交易。雖然評鑑團無法獨立證實這一情況，但隨著中華臺北跨越海峽兩岸和整個亞太地區的經濟聯繫持續發展，這一趨勢可能會增加。

17. Corruption and bribery is a feature of the Chinese Taipei criminal environment. The 2018 NRA identified bribery amongst the eight very high-risk crimes affecting Chinese Taipei. The NRA, case studies and media reporting highlight risks of bribery and corruption amongst various levels of government. During the Panama Papers scandal that emerged in April 2016, of the 11 million documents released, over 16,000 had a connection to Chinese Taipei clients.

貪污賄賂是中華臺北犯罪環境的一個特點。2018 年 NRA 辨識出貪污賄賂為中華臺北的八項非常高風險犯罪之一。NRA、案例研究和媒體報導均強調各級政府的賄賂和貪污風險。2016 年 4 月出現的巴拿馬文件醜聞事件，在發布的 1,100 萬份文件中，超過 16,000 份與中華臺北客戶有關。

18. Risks from other predicate offences and related ML techniques are set out at the section on risk scoping below.

其他前置犯罪和相關洗錢手法的風險將於下文關於風險範疇之章節敘述。

19. Chinese Taipei's risk of TF is relatively low. The 2018 NRA noted no acts of terrorism or TF threats to Chinese Taipei have been identified by so far. There are no public indications of terrorist actors active in Chinese Taipei, nor its misuse as a source for funds, recruits or materials to supply terrorist organisations in other jurisdictions. Nevertheless, there have been substantial efforts focussed on the prevention of terrorist actors and their associates' entry into Chinese Taipei and their repatriation upon positive identification, and developing capability to identify and respond to potential instances of terrorism or TF.

中華臺北的 TF 風險相對較低。2018 年 NRA 指出，到目前為止，中華臺北沒有發現任何恐怖主義行為或資恐威脅。沒有任何公開來源指出恐怖分子在中華臺北活動，也沒有受到濫用並向其他司法管轄區內的恐怖組織供應資金、人員或物資。儘管如此，仍有大量工作重點放在防止恐怖主義行為者和其同夥進入中華臺北，在積極查明身分後將其遣返，並發展辨識和因應潛在恐怖主義或資恐事件的能力。

20. Chinese Taipei authorities have highlighted and taken action against a number of demonstrable PF risks facing Chinese Taipei related to the DPRK.

中華臺北當局強調並採取行動，以反制其所面臨之許多可證明與北韓相關的武擴風險。

### *Chinese Taipei's risk assessment*

#### *中華臺北風險評估*

21. Chinese Taipei undertook an NRA in 2017-18 with the participation of a wide range of representatives from government agencies and ministries and the private sectors. Chinese Taipei developed their own methodology, with input from external experts. The process identified and assessed ML/TF threats, vulnerabilities and risk mitigation controls. Predicate offenses were included in the NRA to represent threats. Vulnerabilities considered FIs, DNFBPs, legal persons, trusts, and non-profit organisations (NPO). Qualitative and quantitative data and information were used to reach conclusions on the gravity of the risks identified. Though the NRA undertook a reasonable process, assessors have identified some scope gaps with respect to the risk assessment of cross-border movement of cash and stored value cards.

中華臺北在 2017 - 18 年度進行國家風險評估(NRA)，來自政府機關、部會和私部門的眾多代表參加了會議。中華臺北在外部專家的參與下發展了自己的方法論。該過程確定並評估洗錢 / 資恐威脅、弱點和風險抵減控制。NRA 中包含前置犯罪以代表威脅，弱點則考慮金融機構、DNFBP、法人、信託和非營利組織。使用質性和量化資料及資訊來對所辨識風險的嚴重性取得結論。儘管 NRA 採用了合理的流程，但評鑑員發現部分範疇上的落差，包括跨境現金移動及儲值卡。

22. The NRA identified Chinese Taipei is severely affected by eight very high-risk ML threats including drugs, fraud, organised crime, corruption, smuggling, securities crimes, third-party ML and taxation crimes. High-risk threats included intellectual property right crimes. The NRA highlighted domestic and transnational ML techniques through formal and informal sectors, including trade based ML (TBML), informal remittance, cash smuggling, use of front companies and other means.

## CHAPTER 1. ML/TF RISKS AND CONTEXT

1

NRA 發現，中華臺北受到 8 種非常高風險的 ML 威脅的嚴重影響，包括毒品、詐欺、組織犯罪、貪污、走私、證券犯罪、第三方洗錢和稅務犯罪等。高風險威脅包括智慧財產權犯罪。NRA 強調一系列透過正式和非正式部門的國內與跨國洗錢手法，包括貿易洗錢、地下通匯、現金走私、使用前台公司和其他方式。

23. Based on the authorities' detailed counter terrorism (CT) work, the NRA assessed that Chinese Taipei has a low level of TF risk (domestic and transnational). Factors of political stability and social harmony, coupled with terrorism prevention and detailed investigation contribute to the NRA's findings that the risk of home-grown terrorism is low. No domestic incidents have been found to be associated with terrorism. The NRA identified NPO sectors that may have some vulnerability to misuse for TF (civil associations, religious foundations and charity foundations) in order to support a risk-based approach to NPO sector regulation. Outside of the NRA authorities had assessed risks of Chinese Taipei being used as a transit economy for TF.

基於當局深入的反恐工作，NRA 評估中華臺北的 TF 風險(國內和跨國)較低。政治穩定和社會和諧，加上預防恐怖主義和詳細調查等因素，得出 NRA 的結論即本土恐怖主義的風險為低。沒有發現任何國內事件與恐怖主義有關。NRA 辨識出部分非營利組織部門（人民團體、宗教財團法人和慈善財團法人）可能存在一些弱點而受資恐濫用，並用以支持以風險為基礎的非營利組織部門之規範。NRA 之外，當局則已評估中華臺北經濟體被利用為資恐過境的風險。

24. An earlier ML/TF sectoral risk assessment (SRA) was undertaken by the FSC in 2015. It focussed on information obtained from the FIU, FSC's own supervision and open sources. FSC has begun to take supervisory actions based on its findings.

金管會在 2015 年進行了較早的部門洗錢 / 資恐風險評估 (SRA)，重點放在由金融情報中心、金管會本身的監理和公開途徑所取得的資訊。金管會已開始根據其評估結果採取監理行動。

25. Following on from publication of the NRA, authorities undertook a more in-depth assessment of risk of legal persons in Chinese Taipei and of the risk of abuse of NPOs for TF.

在 NRA 公佈之後，當局對中華臺北的法人風險以及濫用非營利組織的風險進行了更深入的評估。

26. Authorities noted several occurrences of PF and highlighted contextual issues exposing the economy to a range of vulnerabilities for possible evasion of DPRK-related sanctions. Prioritised implementation of PF-related TFS has taken place in this context.

當局注意到數起武擴活動的發生，並強調由於中華臺北的風險背景因素，使其經濟體系受到一系列與規避北韓制裁有關的弱點影響。當局已優先執行與武擴相關的目標性金融制裁。

### *Scoping of Higher Risk Issues*

#### *高風險議題之範疇*

27. The assessment team identified those areas which required an increased focus through an analysis of information provided by the authorities, including the NRA, and by consulting various open sources.

評鑑團透過分析當局提供的資訊，包括 NRA，並參考各種公開來源，辨識出需要更加集中關注的領域。

28. **Organised Crime – domestic and transnational groups / networks** - The NRA and other sources identify the threat from organised crime as 'very high' and note the involvement of transnational organised crime across most crime types. The NRA does not mention the role of foreign

organised crime groups in offences involving Chinese Taipei (e.g. laundering funds of foreign offences) and connections between domestic and foreign groups. Research indicates the influence of major organised crime groups across various crime categories and controlling a range of legitimate businesses. Major organised crime groups active in Chinese Taipei (e.g. Bamboo Union, 14K, Heavenly Alliance, Four Seas Gang and others) use underground banks, underground casinos and business operations to fund activities. Their laundering includes channels of underground remittance agencies, jewellery store operators, offshore casinos, and wire remittances through shell companies and dummy accounts. The scoping note also highlighted the role of organised crime in third-party ML, drug trafficking, fraud, corruption, illegal fishing, illegal logging, casino junkets, smuggling, kidnap for ransom/racketeering/arms trafficking/remittance, cash smuggling, and enforcing contracts.

組織犯罪 - 國內和跨國集團/網絡 - NRA 和其他來源辨識出組織犯罪的威脅非常高，並注意到跨國組織犯罪涉及大多數犯罪類型。NRA 沒有提到外國有組織犯罪集團在涉及中華臺北的犯罪（例如清洗外國犯罪所得）以及國內和外國集團之間的關係中的作用。研究強調了主要有組織犯罪集團在各種犯罪類別中的影響，並控制了一系列合法企業。在中華臺北活躍的主要組織犯罪集團（例如竹聯幫、14K、天道盟、四海幫和其他）使用地下銀行、地下賭場和商業運作來資助活動。他們洗錢的管道包括地下匯款機構、銀樓業者、境外賭場、及透過空殼公司和人頭帳戶進行匯款。風險範疇還強調了組織犯罪在第三方洗錢、販毒、詐欺、貪污、非法捕魚、非法採伐、賭場中介、走私、綁架贖金/敲詐勒索/武器販運/匯款、現金走私和強制執行合同的角色。

29. **Fraud/cybercrime, transnational and domestic** – The NRA identifies fraud as ‘very high risk’, recognising the role of organised crime in facilitating transnational activity. The NRA highlights (1) general fraud (i.e. business fraud, insurance fraud, general scams), (2) internet and telecommunications fraud; and (3) Ponzi schemes. Generally Ponzi schemes and internet and telecommunications fraud involve organised crime groups. Methods of laundering fraud proceeds include wire transfers with associated layering to disperse risks and money mules who withdraw cash at ATMs across Chinese Taipei. More complex methods include the misuse of underground remittance services, jewellery stores and travel agents. The NRA also identifies the movement of proceeds of fraud through regional jurisdictions including China; Macao, China; Hong Kong, China; Indonesia and Malaysia. Risks from Offshore Banking Units (OBUs) are within scope.

詐欺/網路犯罪 - 跨國和國內 - NRA 辨識出詐欺風險非常高 - 發現組織犯罪在跨國活動方面的角色。NRA 指出詐欺包括(1) 一般詐欺（即商業詐欺、保險詐欺、一般詐騙），(2) 網路和電信詐欺；(3) 龐氏騙局。通常，龐氏騙局以及網路和電信詐欺涉及組織犯罪集團。詐欺所得洗錢的手法包括層層電匯轉帳以分散風險，並由車手在中華臺北的各 ATM 提取現金。更複雜的方法包括濫用地下匯款服務、珠寶店和旅行社。NRA 並辨識詐欺所得流動至鄰近司法管轄區：例如中國大陸、澳門、香港、印尼、馬來西亞。來自 OBU 的風險也在範疇內。

30. **Drug trafficking** – The NRA identifies drug trafficking as ‘very high risk’. The NRA and other sources recognise the role of transnational organised crime in the trafficking and distribution of drugs. Particular threats are from ketamine, amphetamines and their precursor ingredients, and heroin, with smuggling techniques including fishing boats and freight or air shipping containers from China or Southeast Asian countries. The NRA did not sufficiently consider the threats of organised crime seeking to launder the proceeds from foreign drug offences in Chinese Taipei. The scoping note focused on the various channels of laundering drug proceeds through formal and informal channels.

販毒 - NRA 辨識出販毒風險非常高。NRA 和其他來源發現跨國組織犯罪在運送和分散毒品方面的作用。K 他命、安非他命及其前驅成分和海洛因的特殊威脅，包括來自中國大陸或東南亞國家的漁船和貨運或空運集裝箱等走私技術。NRA 沒有充分考慮組織犯罪的威脅，以及試圖在中華臺北清洗外國毒品犯罪所得。風險範疇關注清洗販毒所得的各種正式和非正式管道。

## CHAPTER 1. ML/TF RISKS AND CONTEXT

1

31. **Corruption** - The NRA identifies corruption as 'very high risk'. The NRA and other sources highlight threats from corruption at a range of levels and some cases of high-level corruption that have been successfully detected and prosecuted. The scoping note considered corruption as a proceeds generating offence and as a facilitation activity for ML or avoiding successful prosecution of crime. The NRA did not sufficiently consider risks of foreign bribery by Chinese Taipei firms and individuals, or foreign corruption proceeds being laundered through the Chinese Taipei economy.

貪污 - NRA 辨識出貪污風險非常高。NRA 和其他消息來源強調了貪污的威脅，以及一些已被成功發現和起訴的高層貪污案件。風險範疇指出貪污是一種產生非法收益的犯罪，也是一種促進洗錢活動或避免被成功起訴犯罪的活動。NRA 沒有充分考慮中華臺北企業和個人對外國賄賂的風險，或者透過中華臺北經濟體洗錢的貪污所得。

32. **Tax offences** - The NRA identifies tax offences as 'very high risk'. The NRA and other sources highlight domestic and transnational ML of domestic and foreign tax offences as well as the channels and techniques used to launder funds. The risks from the use of OBUs, foreign companies and trusts, and the use of offshore financial centres are all considered 'very high'. The NRA notes that the investigation of transnational tax offences has revealed accounts being opened in offshore tax havens or funnelled to jurisdictions such as Hong Kong, China.

稅務犯罪 - NRA 辨識出稅務犯罪風險非常高。NRA 和其他資料來源強調國內和國外稅務犯罪的國內和跨境洗錢，以及洗錢的管道和手法。使用包括 OBU、外國公司、信託、境外金融中心的風險均被認為非常高。NRA 並指出，對跨國稅務犯罪的調查顯示，洗錢帳戶是在境外免稅天堂開設，或者被匯送到香港等司法管轄區。

33. **Smuggling** - The NRA and other sources identify very high risks associated with smuggling, including organised crime networks with trans-national capacity. Particular risks are noted from smuggling gold, cigarette, cooking oil, Wildlife trafficking and other commodities. There are significant risks from bulk cash smuggling associated with proceeds of crime and informal remittance.

走私 - NRA 辨識出與走私相關的風險非常高，包括涉及具有跨國能力的組織犯罪網絡。令人注意的特定風險如走私黃金、香煙、食用油、野生動植物和其他物品。另與犯罪所得及非正式匯款有關的大額現金走私則存在重大風險。

34. **Banking sector** - The NRA and other sources highlight various aspects of banking channels in ML schemes across the full range of high risk crime types. ML risks associated with Chinese Taipei's offshore centre (OBUs, foreign branches/subsidiaries) and also the roles of PEPs in the ownership/management of banking groups. The scoping note highlighted ML/TF risks of foreign branches and subsidiaries. Significant holdings in emerging markets and those with very significant ML/TF risks and/or weak AML/CFT controls.

銀行業 - NRA 和其他來源強調各種高風險犯罪類型的洗錢涉及使用各個層面的銀行管道。洗錢風險與中華臺北離岸中心（國際金融業務分行、外國分支機構/子公司）以及重要政治性職務人士(PEP)在銀行集團所有權/管理中的角色等有關。風險範疇強調外國分支機構和子公司的洗錢/資恐風險，以及在新興市場與那些具有非常重大洗錢/資恐風險和/或薄弱的防制洗錢/打擊資恐管控的市場，持有大量持股的風險。

35. **Jewellery/gold dealer sector** - The NRA and other sources note vulnerabilities for ML. Case studies and media coverage highlight illegal/informal remittance through jewellery/gold dealers and cases of connections to gold smuggling.

銀樓業 - NRA 及其他來源注意到此部門的洗錢弱點。案例研究和媒體報導強調透過銀樓業進行非法/非正式匯款，及其與黃金走私有關的案例。

36. **Proceeds of foreign offences coming to (or going through) the Chinese Taipei economy** – The NRA estimates top inbound sources of criminal proceeds include China; Hong Kong, China; Macao, China; Vietnam; Philippines; and Indonesia. Estimated top destination jurisdictions of outbound proceeds are China; Hong Kong, China; Macao, China; Malaysia; the Philippines; Indonesia and Vietnam.

流入（或經過）中華臺北經濟體的外國犯罪所得 - NRA 估計主要的犯罪所得來源包括中國大陸、香港、澳門、越南、菲律賓和印尼。NRA 估計犯罪所得流出最主要的目的地是中國大陸、香港、澳門、馬來西亞、菲律賓、印尼和越南。

37. **Trade Based ML** - Various case studies highlight the abuse of trade finance/trade payment channels for ML. It is noteworthy that trading SMEs are a predominant part of the Chinese Taipei economy.

貿易洗錢 - 各種案例研究強調貿易融資/貿易支付管道有被洗錢所濫用。值得注意的是，中華臺北是一個以中小企業貿易為主的經濟體系。

38. **Casino junkets (for movement of people and funds to /from foreign casinos)** – There is a sizeable sector of people and funds moving to and from foreign casinos via junkets. Studies note the role of organised crime in aspects of certain junket operations.

賭場中介（用於人員和資金往返外國賭場的移動） - 有相當規模的人員和資金透過賭場中介向外國賭場移動。研究指出組織犯罪在某些中介行動方面的角色。

## Materiality

### 重要性

#### Nature of the economy

##### 經濟體質

39. In 2017, Chinese Taipei's nominal GDP was approximately USD 576.22 billion, of which exports accounted for around 55%. It has the third-largest foreign exchange reserves in East Asia—following China and Japan—amounting to USD 460.18 billion at the end of October 2018.<sup>1</sup>

2017 年，中華臺北名目國內生產毛額約為 5762.2 億美元，其中出口占 55% 左右。它擁有東亞第三大外匯準備 - 僅次於中國大陸和日本 - 截至 2018 年 10 月底達到 4601.8 億美元。

40. Chinese Taipei has a strong external financial position built on a robust industrial base and international trade. Its current account surplus was USD 14.04 billion at end of Q3 2018. Foreign exchange capital flows that do not involve NTD transactions have been fully liberalized. SMEs are a significant feature of the economy and employ 80% of the workforce. Top individual export markets comprise of China (including Hong Kong, China), United States of America, Japan and the ASEAN member-countries<sup>2</sup>.

中華臺北在強勁的工業和國際貿易基礎上，擁有強大的對外金融實力。截至 2018 年第三季末，其經常帳戶盈餘為 140.4 億美元。外匯資本流動在不涉及新臺幣的情況下已完全自由化。中小企業是中華臺北經濟的重要特徵，僱用了 80% 的勞動力。最重要的出口市場包括中國大陸(含香港)、美國、日本和東協成員國。

#### Financial sector

<sup>1</sup> <https://www.the Central Bank.gov.tw/ct.asp?xItem=74550&ctNode=448&mp=2>

<sup>2</sup> Chinese Taipei Central Bank 2017 annual report, p15 中央銀行 2017 年年報第 15 頁  
Anti-money laundering and counter-terrorist financing measures in Chinese Taipei @ APG 2019

## CHAPTER 1. ML/TF RISKS AND CONTEXT

## 金融部門

1

41. Chinese Taipei also features a well-developed financial sector with USD 2.86 trillion in assets in 2017 (equivalent to 495% of GDP that year) with 66.91% of these assets attributable to the banking sector.<sup>3</sup> As of September 2017, the financial sector was largely comprised of domestic banks (representing 54.4% of the financial sector's total assets), followed by life insurance companies (27.67%) and its postal institution (7.26%). Conversely, foreign bank branches represent only 3.29% of the financial sector's assets. Chinese Taipei's banking and insurance sectors are expanding to neighbouring markets, with significant holdings in China and across Asia.

中華臺北特徵還包括擁有發達的金融部門，2017 年的資產為 2.86 兆美元（相當於當年 GDP 的 495%），銀行業佔其中的 66.91%。截至 2017 年 9 月，金融業主要由國內銀行（佔金融業總資產的 54.4%）組成，其次是人壽保險公司（27.67%）和郵政機構（7.26%）。相反地，外國銀行在臺分行僅佔金融業資產的 3.29%。中華臺北的銀行和保險業正在向鄰近市場擴張，其中包括在中國大陸和亞洲各國的大量持股。

42. Chinese Taipei has an offshore financial sector which provides financial services exclusively to foreigners and foreign-incorporated companies with tax incentives. Participating entities tend to be formed in tax haven jurisdictions. Chinese Taipei authorities assess the majority of the participants in the offshore sector are owned or controlled by Chinese Taipei residents. While the OBU sector has been operating for over 30 years, offshore insurance and securities are relatively new and less developed. OBUs are now subject to the full range of AML/CFT controls, however there were gaps in OBUs applying full AML/CFT controls until late 2017. FSC has initiated a number of enhanced control measures since that time.

中華臺北擁有一個離岸金融部門，專門為外國人及外國公司以稅務誘因提供金融服務。參與實體往往在避稅天堂管轄區內成立。中華臺北當局評估離岸部門的大多數參與者是由中華臺北居民擁有或控制的。雖然國際金融業務分行已經運作超過 30 年，但離岸保險和證券相對較新，因此較不發達。OBU 目前已受全面性防制洗錢/打擊資恐管控，但在 2017 年底以前，OBU 在全面性防制洗錢/打擊資恐管控上存有落差。在此之後，金管會已採取一些加強控制措施。

*Financial inclusion and reliance on cash**普惠金融及現金依賴程度*

43. Chinese Taipei's informal sector remains significant.<sup>4</sup> While the adoption of electronic payment and cards continues to progress, with 91% of adults holding a bank account according to the Global Partnership for Financial Inclusion, authorities have acknowledged cash remains a significant means of settling transactions, particularly for private consumption. Chinese Taipei has a well-established financial infrastructure, where payments of large sums are usually handled by electronic means. Retail payments are supported by a range of payment systems, although this is not as well-developed as other comparable economies in the region. FSC, the Central Bank and other authorities are pursuing a number of strategies to reduce reliance on cash, including increasing the diversity of secure payment systems and promote financial inclusion.

中華臺北的非正式部門仍然很重要。雖然電子支付和票證的使用持續取得進展，且根據全球普惠金融夥伴關係研究，91% 的成年人持有銀行帳戶，但當局承認現金仍然是進行交易的重要方式，特別是用於私人消費。中華臺北擁有完善的金融基礎設施，大筆款項通常通過電子方式處理。零售支付由一系列支付系統支持，儘管這不像其他區域內類似的經濟體那樣發達。金管會、央行和其他當局正在採取一些策略來減少對現金的依賴，包括增加安全支付系統的多樣性並促進普惠金融。

<sup>3</sup> Comprising of domestic and foreign banks, credit cooperatives, a postal institution, bills finance and credit card companies. 包括本國及外國銀行、信用合作社、郵政機構、票券公司及信用卡公司。

<sup>4</sup> Estimated in 2012 to be equivalent to 28.1% of Chinese Taipei's GDP. 2012 年預估相當於中華臺北 GDP 的 28.1%。



*Exposure to trade and finance with the DPRK or Iran*

*與北韓或伊朗之貿易及金融往來*

44. Trade with DPRK and Iran is closely regulated and accounts for a small part of total trade volumes. Trade with the DPRK was approximately USD 12.7 million in 2016, but reduced to zero in 2018. Trade with Iran was approximately USD 1.5 billion in 2018. Authorities have identified sanctions evasion risks from parties associated with DPRK entities trading with Chinese Taipei.

中華臺北與北韓或伊朗的貿易受到嚴密規管，但與北韓和伊朗的貿易僅占貿易總額的一小部分。2016 年與北韓的貿易額約為 1,270 萬美元，但在 2018 年減少到零。2018 年與伊朗的貿易額約為 15 億美元。當局已辨識與北韓有關聯的實體與中華臺北進行貿易規避制裁的風險。

**Table 1.1: Number and Size of FIs and DNFBPs in Chinese Taipei - September 2017**

**表 1.1: 金融機構及指定之非金融事業或人員家數與規模 - 2017 年 9 月**

CHAPTER 1. ML/TF RISKS AND CONTEXT

1

Type of FI 金融機構類型	Entities 家數	Assets (USD millions) 總資產(百萬美元)	fin. sector assets 佔金融部門資產 比例
Domestic banks 本國銀行	38	1,542,070	53.92%
Foreign bank branches in Chinese Taipei 外陸銀在臺分行	29	95,190	3.33%
Postal service institution 郵政機構	1	209,839	7.34%
Credit cooperatives 信用合作社	23	24,024	0.84%
Bills finance companies 票券金融公司	8	3,337	0.12%
Credit card companies 信用卡公司	5	1,236	0.04%
Electronic payment institutions 電子支付機構	5	92	>0.01%
Issuers of electronic stored value cards 電子票證機構	4	468	0.02%
Financial leasing companies 辦理融資性租賃之事業	34	14,375	0.50%
Securities firms 證券商	73	51,095	1.79%
Securities investment trust enterprises 證券投資信託事業	39	1,646	0.06%
Securities finance enterprises 證券金融事業	2	1,252	0.04%
Centralised securities depository enterprises 證券集中保管事業	1	819	0.03%
Futures merchants 期貨商	16	7,170	0.25%
Managed futures enterprises 期貨經理事業	1	10	>0.01%
Reinsurance companies 再保險公司	3	1,300	0.05%
Life insurance companies 壽險公司	28	799,830	27.97%
Non-life insurance companies 產險公司	23	11,579	0.40%
Insurance brokers 保經公司	336	228	>0.01%
Insurance agencies 保代公司	296	330	>0.01%
ABT 全國農業金庫	1	26,520	0.93%
Farmers & fishermen's associations credit departments 農漁會信用部	311	68,240	2.39%
<b>Total Financial institutions 金融機構合計</b>	<b>1,363</b>	<b>USD 2.86 trillion</b>	<b>100%</b>
<b>DNFBPs 指定之非金融事業或人員</b>			
Jewellery businesses 銀樓業	5,243		

Land Administration Agents 地政士	11,108	<b>Total DNFBPs = 56,100</b> 全體指定之非金融事業或人員 = 56,100
Real Estate agencies 不動產經紀業	6,324	
Attorneys 律師	16,866	
Notaries 公證人	224	
Accountants 會計師	7,432 <sup>5</sup>	
Certified public bookkeepers, tax return filing agents 記帳士暨記帳及報稅代理人	8,903	

## Structural Elements

### 結構性因素

45. The main structural elements for an effective AML/CFT system are in place in Chinese Taipei. There is political and institutional stability and accountability, integrity and transparency and an independent and efficient judicial system are all present. High-level political commitment to AML/CFT has been particularly notable following the US regulators' actions in 2017 to fine Mega International Bank for AML/CFT failings, with key government agencies demonstrating an awareness of and dedication to their respective AML/CFT roles. Chinese Taipei has an independent judiciary and well-functioning anti-corruption agencies. Systems are marked by respect for due process and the rule of law.

中華臺北已具備達成有效防制洗錢/打擊資恐制度的主要結構性因素。政治和體制的穩定性和問責制度，誠信和透明度以及獨立有效的司法制度均已建立。在 2017 年美國對兆豐銀行罰款事件之後，防制洗錢/打擊資恐一直具有高度的政治承諾，主要政府機關瞭解並致力於各自的角色。中華臺北有一個獨立的司法機關和一個功能健全反貪腐機關，尊重正當程序和法治為其制度之特徵。

46. Media reporting on financial crime and AML/CFT matters appears to be robust in Chinese Taipei. There is a reasonable degree of in-depth public coverage of financial crime cases, which contributes to financial institutions and other stakeholders having an enhanced understanding of the risks and context of ML/TF.

在中華臺北，媒體有關金融犯罪和防制洗錢/打擊資恐問題的報導似乎很強。對金融犯罪案件以合理程度進行了深入的公開報導，這有助於金融機構和其他相關方能更強化瞭解洗錢 / 資恐的風險和脈絡。

47. In the 2017-18 World Economic Forum Global Competitiveness Report Chinese Taipei's ranking is very high overall (13th out of 140 economies)<sup>6</sup>. The ranking on institutions is somewhat lower (25th/ out of 40), but still relatively strong. The scoring within the pillar of institutions is based on seven governance categories. The Freedom House, Freedom of the World report for 2018 gave Chinese Taipei an index score of 1 out of 7 based on their continuing global assessments of political and civil liberties (N.B. 1 is the freest and 7 the least free)<sup>7</sup>.

在 2017-18 世界經濟論壇的全球競爭力報告中，中華臺北的總體競爭力非常高（140 個經濟體中的第 13 位）。機構排名略低（第 25 位/第 140 位），但仍然相對較強。機構支柱內的得分係基於七

<sup>5</sup> This figure includes 7432 CPA certificate holders; 3,396 registered practitioners; 1,972 registered CPA firms 本數量包括 7,432 名持有 CPA 證照者; 3,396 名註冊執業者; 1,972 家註冊會計師事務所。

<sup>6</sup> <http://reports.weforum.org/global-competitiveness-report-2018/country-economy-profiles/#economy=TWN>

<sup>7</sup> <https://freedomhouse.org/report/freedom-world-2018-table-country-scores>

Anti-money laundering and counter-terrorist financing measures in Chinese Taipei @ APG 2019

## CHAPTER 1. ML/TF RISKS AND CONTEXT

1 項治理類別。根據對全球政治和公民自由的持續評估，自由之家 2018 年世界自由報告給予中華臺北 7 分中的滿分 1 分（註 1 分是最自由的，7 分是最少的自由）

### *Background and other Contextual Factors*

#### *背景及其他概況因素*

48. Chinese Taipei had its last mutual evaluation in 2007. Despite the many recommendations including in the 2007 MER, very few reforms measures were implemented until the start of 2017. This sudden change in policy setting appears to have largely been due to a significant AML/CFT related fine given to one of Chinese Taipei's largest banks, Mega International Bank, in the United States in 2017. Since then, AML/CFT has gained additional traction in Chinese Taipei and garnered increased political commitment to support implementation.

中華臺北在 2007 年進行最近一次的相互評鑑，儘管 2007 年相互評鑑報告中有許多建議，但直到 2017 年初以前很少有實施相關改革。政策方向之所以突然發生變化，很大一部分是由於 2017 年中華臺北最大的銀行之一，兆豐銀行，因為遭受美國在防制洗錢 / 打擊資恐方面的鉅額罰款。此後，中華臺北對防制洗錢 / 打擊資恐的接受程度提高，並獲得更多政治承諾以支持實施防制洗錢 / 打擊資恐。

49. The legal and institutional progress and the amount of implementation that has occurred in the two-year period immediately prior to the mutual evaluation are significant. Many laws have been passed and implemented, the AMLO has been established, and an NRA undertaken amongst many other reforms. It is in this context that many of the effectiveness outcomes have been considered. Whilst the progress in the previous two years has been significant and had great impact, it is in contrast to the ten-year period following the previous MER.

在相互評鑑之前的兩年期間，法律和制度方面的進展以及實施的數量很大。許多法律通過並施行，也成立洗錢防制辦公室，國家風險評估並與許多其他改革一起進行。正是在這種背景下，許多效能的結果已經被考慮。雖然之前兩年的進展非常顯著也影響很大，但與前一輪 MER 之後的十年期間形成鮮明對比。

### *AML/CFT strategy*

#### *防制洗錢/打擊資恐策略*

50. Chinese Taipei does not have an AML/CFT strategy. However, the government has given priority to implementing key reforms, particularly since 2017. The establishment of the AMLO led by a high-level officer of the Executive Yuan in 2017 demonstrated the priority the government has given to AML/CFT. Since then, AMLO has coordinated the preparation for ME and the NRA.

中華臺北沒有整體防制洗錢/打擊資恐策略，但政府優先（特別是自 2017 年起）實施關鍵改革。2017 年在行政院高層成立洗錢防制辦公室(簡稱洗防辦)，展現政府對防制洗錢/打擊資恐的優先順序。從那時起，AMLO 協調準備相互評鑑和國家風險評估的工作。

## Legal & institutional framework

### 法律及組織架構

#### Co-ordinating bodies

##### 協調機關

51. **The AMLO** was established in the Executive Yuan in March 2017 to co-ordinate the NRA, to oversee and prepare for the mutual evaluation and to undertake broader AML/CFT policy reforms. There are a range of other policy and operational coordination bodies as outlined at IO1.

洗防辦於 2017 年 3 月在行政院內成立，旨在協調國家風險評估，監督和準備相互評鑑、並展開更廣泛的防制洗錢與打擊資恐改革。IO1 概述了一系列其他政策和業務協調機關。

#### Legal and law enforcement agencies

##### 法律及執法機關

52. **The Prosecutors office** sits under the MOJ and is responsible for the investigation and prosecution of criminal matters in Chinese Taipei, leading and coordinating the investigation as well as freezing, seizing and confiscating assets. The three-tiered prosecution system includes: (a) Supreme Court prosecutors (SPO); (b) High Court Prosecutors (HPO); (c) District Prosecutors (DPO).

檢察署隸屬於法務部，負責中華臺北刑事案件之調查和起訴，領導和協調調查行動，以及凍結、扣押和沒收資產。三級檢察制度包括 (a) 最高檢察署(SPO); (b) 高等檢察署 (HPO); (c) 地方檢察署 (DPO)。

53. **The Ministry of Justice Investigation Bureau (MJIB)** is a criminal investigation and counter-intelligence agency within the MOJ. The MJIB investigates a wide range of criminal activity, in particular serious and economic crimes including ML.

法務部調查局(MJIB)是法務部內的刑事調查和反情報機關。MJIB 調查中華臺北的各種犯罪活動，特別是對重大和經濟犯罪(包括洗錢)等調查。

54. **The National Police Agency (NPA)** is within the Ministry of the Interior and oversees all police forces. The NPA also investigates high profile and serious crimes and ML related to these cases.

警政署 (NPA) 設在內政部門內，負責監督國家所有警力。NPA 還調查重大和嚴重的犯罪行為，及該等案件有關的洗錢活動。

55. **The Anti-Money Laundering Division of the MJIB (AMLDD)** is Chinese Taipei's FIU responsible to receive STRs, domestic threshold reports (CTR), international threshold reports (ICTR) and to analyse and disseminate financial intelligence to LEAs.

法務部調查局的洗錢防制處 (AMLDD) 是中華臺北的金融情報中心，負責受理可疑交易報告、大額通貨交易申報 (CTR) 及 ICTR，並將這些金融情報分析後分送給執法機關。

56. **Administrative Enforcement Agency (AEA)** is within the MOJ and is responsible for enforcing the execution of monetary payment obligations including taxes, fines and other obligations for payment in public law. It may also accept prosecutors' instructions to track and confiscate assets.

行政執行署(AEA)隸屬於法務部，負責執行金錢給付義務，包括稅務、罰款和其他公法給付義務。它還可以接受檢察官關於追蹤和沒收資產的指令。

## CHAPTER 1. ML/TF RISKS AND CONTEXT

1

57. **The Agency against Corruption (AAC)** prevents and fights corruption by planning and implementing anti-corruption policies, corruption prevention (including administering wealth declarations) and investigations of a limited number of corruption matters and related ML.

廉政署 (AAC) 負責預防和打擊貪污，職責包括規劃和實施反貪污政策，預防貪污 (包括管理財產申報) 和調查一部分貪污犯罪及其洗錢活動。

58. **National Security Bureau (NSB)** is the principal intelligence agency responsible for coordinating intelligence with foreign counterparts, including in PF and TF matters.

國家安全局 (NSB) 是主要的情報機關，負責與外國對應單位協調情報，包括武擴和資恐事務。

59. **Office of Homeland Security (OHS)** is responsible for security strategies, policies & projects.

國土安全辦公室負責國家安全策略、政策和計畫。

60. **National Immigration Agency (NIA)** is responsible for immigration matters.

移民署負責入境事務。

61. **Coast Guard Administration of the Ocean Affairs Council** is an LEA under the Executive Yuan and is responsible for protecting the resources of the territorial waters of Chinese Taipei.

海洋委員會海巡署為行政院下之執法機關，負責保護中華臺北領海的資源。

62. **Customs Administration (CA)** is responsible for border enforcement issues, including revenue collection, pursuit of smuggling and the cross border cash/BNI declaration regime.

關務署 (CA) 負責邊境執法議題，包括課徵關稅、查緝走私和跨境現金/無記名可轉讓金融工具 (BNI) 申報制度。

### Financial and DNFBP sector bodies

#### 金融與指定之非金融事業及人員部門機關

63. **The Financial Supervisory Commission (FSC)** is responsible for the development, supervision, regulation, and examination of financial markets and financial service enterprises (banks, insurance, securities, NBFIs for prudential and AML/CFT as well as accountants and trust enterprises).

金融監督管理委員會 (FSC) 是負責中華臺北金融市場和金融服務企業的發展、監督、管理和檢查的權責機關 (銀行、保險、證券及非銀行金融機構的審慎及防制洗錢/打擊資恐監理，還包括會計師及信託業)。

64. **Bureau of Agricultural Finance** is the regulator of agricultural FIs (FSC is commissioned to conduct AML/CFT examinations).

農業金融局是農業金融機構的管理機關 (金管會受委託辦理防制洗錢/打擊資恐檢查)。

65. **Central Bank** supervises foreign exchange counters for AML/CFT.

中央銀行監理外幣收兌處的防制洗錢/打擊資恐。

66. **Department of Prosecutorial Affairs (MOJ)** supervises lawyers, including for AML/CFT.

法務部檢察司-負責監理律師業，包括防制洗錢/打擊資恐。

67. **Department of Land Administration (MOI)** supervises (together with municipal governments) land administration agents and real estate brokers, including for AML/CFT.

內政部地政司和縣市政府負責監理地政士，並根據“不動產經紀管理條例”監理不動產經紀人，包括防制洗錢/打擊資恐。

68. **Department of Commerce (MoEA)** regulates and supervises jewellery businesses, including for AML/CFT.

經濟部商業司負責銀樓業之管理及監理，包括防制洗錢/打擊資恐。

69. **Civil Division of the Judicial Yuan** supervises notaries, including for AML/CFT.

司法院民事廳負責監理公證人，包括防制洗錢/打擊資恐。

70. **Taxation Administration (MOF)** regulates and supervises bookkeepers and tax filing agents, including for AML/CFT.

財政部賦稅署負責管理及監理記帳士和報稅代理人，包括防制洗錢/打擊資恐。

#### Proliferation financing

##### 資助武擴

71. The NSB integrates and coordinates anti-proliferation projects that serve as a platform for combating proliferation and other import/export violations. Agencies involved in this platform include the HPO, MOJ, Coast Guard, Bureau of Foreign Trade, MJIB, NPA, NIA, Customs, MOF, Ministry of Transportation, Maritime and Port Bureau and the FSC. In specific instances such as the detection of particular activity, the MOJ convenes a TF Review Committee attended by members of seven major ministries and agencies to determine follow-up actions.

國安局整合和協調防制大規模殺傷武器擴散計畫，提供打擊擴散和違反其他進出口規定的平台。參與該平台的機關包括高檢署、法務部、海巡署、國際貿易局、調查局、警政署、移民署、海關、財政部、交通部、港務局以及金管會。在特定情況下，例如特定活動的發現，將由法務部召集一個由七個主要部會首長參加的資恐審議會，以決定後續行動。

#### Financial sector and DNFBPs

##### 金融部門與非金融事業及人員

72. When assessing the effectiveness of preventive measures and AML/CFT supervision, the assessment team gave the highest importance to banks, followed by the postal service institution, securities market intermediaries, agricultural FIs, then life insurance and other FIs. Amongst DNFBPs, real estate intermediaries were given particular importance, as well as lawyers and accountants. Jewellers were highlighted in the NRA, particularly in relation to underground remittance, rather than legitimate jewellers being a location for ML. In comparison to FIs, DNFBPs have significantly more reporting entities—around 56,100—albeit smaller volumes of transactions. Casinos and gambling are illegal in Chinese Taipei under the criminal code.

在評估預防性措施和防制洗錢/打擊資恐監理的效能時，評鑑團給予銀行最高的重要性，其次是郵政機構、證券市場中介機構、農業金融機構，然後是人壽保險和其他金融機構。在DNFBP中，不動產中介機構以及律師和會計師尤為重要。銀樓業在國家風險評估中被強調的，是與地下通匯有關的部分，而不是合法的銀樓業成為洗錢的處所。與金融機構相比，DNFBP儘管交易量較小，但擁有更多的申報實體（約56,100個）。根據刑法，賭場和賭博行為在中華臺北是非法的。

## CHAPTER 1. ML/TF RISKS AND CONTEXT

1

73. Chinese Taipei is an advanced financial centre, with 1,363 FIs encompassing a range of financial services across banking, securities and insurance. Domestic banks generally face higher inherent risks, due to their diverse range of customers, volume and speed of transactions, and as the only reporting entities in Chinese Taipei authorised to remit funds overseas. Domestic banks and foreign bank branches in Chinese Taipei are also the only entities authorised to establish OBUs, which the 2018 NRA identified as highly vulnerable to ML/TF risks. According to the Chinese Taipei NRA, OBUs accounted for 6.88% of the financial sector's assets, and around a third of the 2017 GDP. Offshore units for the securities and insurance industries were introduced only in 2014 and 2015 respectively, and their economic activity was equivalent to almost 1% of the 2017 GDP.

中華臺北是一個先進的金融中心，擁有 1,363 家金融機關，涵蓋銀行、證券和保險等一系列金融服務。本國銀行由於客戶的多樣性，交易量和交易速度，且是中華臺北唯一被核准向海外匯款的申報機構，通常面臨較高的固有風險。中華臺北僅本國銀行和外國銀行在臺分行被核准設立 OBU，因此被 2018 年 NRA 視為洗錢 / 資恐風險的高度弱點。根據中華臺北 NRA，OBU 佔金融業資產的 6.88%，約佔 2017 年 GDP 的三分之一。證券和保險的離岸業務單位分別於 2014 年和 2015 年推出，其經濟活動約當 2017 年國內生產總值的 1%。

74. Foreign exchange counters are excluded from the MLCA, though they are subject to AML/CFT measures under their own set of regulations as well as TFS under the CFT Act.<sup>8</sup> Financial leasing companies were brought under AML/CFT supervision in 2018.

外幣收兌處不包括在洗錢防制法中，但它們根據其自己的一套法規以及資恐防制法下的目標性金融制裁要求，受到防制洗錢 / 打擊資恐的規範。融資性租賃事業於 2018 年起受到防制洗錢 / 打擊資恐監理。

75. All DNFBPs present are covered for AML/CFT. Casinos are illegal, and trust and company service providers do not exist as separate businesses from lawyers or accountants. Chinese Taipei has gone beyond the FATF standards by including bookkeepers and tax return filing agents as DNFBPs.

所有 DNFBP 均包括在防制洗錢 / 打擊資恐體系內。經營賭場為非法活動。信託和公司服務提供者並非單獨存在於律師及會計師以外之業務。中華臺北將記帳士暨記帳及報稅代理人指定為 DNFBP，已超越 FATF 標準。

### *Preventive measures*

#### *預防措施*

76. Chinese Taipei's AML/CFT system has been subject to rapid and significant reforms since 2016. These reforms encompass legislative and regulatory amendments. The centrepiece of the AML/CFT laws, the MLCA, was amended on 28 June 2017 and the CFT Act was further amended in November 2018. A series of regulations and directions pursuant to the MLCA were issued under the MLCA for each individual type of FI and DNFBP. These were further revised in November 2018.

自 2016 年以來，中華臺北的防制洗錢 / 打擊資恐體系一直經歷快速而重大的改革。這些改革包括法律和管理規則的修正。防制洗錢 / 打擊資恐法律體系的核心，洗錢防制法於 2017 年 6 月 28 日進行修訂，資恐防制法則於 2018 年 11 月再度修訂。根據洗錢防制法針對每種類型之 FI 和 DNFBP 發布的一系列授權辦法和要點，均於 2018 年 11 月進一步修訂。

77. Transition from a rules-based to a risk-based approach for AML/CFT supervision is ongoing. Competent authorities have obtained the close cooperation of industry associations to work with supervisors and regulators to prepare guidance and conducting training and awareness raising on risk-based AML/CFT implementation.

<sup>8</sup> The Regulations Governing the Establishment and Administration of Foreign Currency Exchange Counters 外幣收兌處設置及管理辦法



從以規則為基礎過渡到以風險為基礎的防制洗錢/打擊資恐監理方法正在進行。權責機關取得各業公(協)會的密切合作，以便與監管機關合作，為實施以風險為基礎的防制洗錢 / 打擊資恐準備指引，並實施教育訓練以及宣導活動。

### Legal persons and arrangements

#### 法人及法律協議

78. All of the legal persons outlined below must register with the MOEA under the relevant statute. At the end of 2018 there were 764,572 legal persons on the register. During 2018, 42,695 new companies had been added and 31,547 had been dissolved or had their registration revoked.

下面列出的所有法人都必須根據“公司法”或“有限合夥法”等相關法令向經濟部註冊。截至 2018 年底，公司登記處共有 764,572 名法人。2018 年間，共有 42,695 家公司新成立，另有 31,547 家公司解散或撤銷註冊。

**Table: Registered legal persons – 2018**

**表:法人註冊概況 - 2018**

Type 型態	Number 數量 (Nov. 2018)	Basis of incorporation 設立基礎	Basic characteristics & significance 基本特徵與重要性
Limited company (LLC) 有限公司	534,260	Company Act 公司法	One or more shareholders - each liable in an amount limited to their contribution. Permit single shareholder and single director. Both can be non-resident. One can be a legal person 一名或多名股東 - 每一名就其出資額負有限責任。允許單一股東及單一董事。兩者皆可為非居民。其一可為法人。
Company limited by shares – private 股份有限公司 - 非公開	164,700	Company Act 公司法	Shares issued in public, close company, and non-close company 股票公開發行，閉鎖性公司，非閉鎖性公司
Company limited by shares – public 股份有限公司 - 公開	2,169	Company Act 公司法	Public company whose shares are publicly traded. Not privately-held 股票公開交易之公開公司，非私人持有
Foreign companies 外國公司	5,656	Registered under the Company Act 公司法	Branches and representative offices may register. Both require resident directors/managers. Subject to statutory audit. 分支機構或代表辦公室可註冊。兩者皆須有居民擔任董事/經理人。受法規查核之要求。
Unlimited co. 無限公司	11	Company Act 公司法	
Unlimited company with limited liability shareholders 兩合公司	9	Company Act 公司法	Does not issue stock, it is formed both by a limited liability shareholder and a unlimited liability shareholder 無發行股票，由一名有限責任股東和一名無限責任股東成立
Limited partnerships 有限合夥	32	Limited Partnership Act (Art 9) and Regulations 有限合夥法第 9 條及其辦法	One of the partners must be a resident. Not subject to corporate tax, but subject to filing financial statements and personal income tax

CHAPTER 1. ML/TF RISKS AND CONTEXT

1

			合夥人之一必須為居民。毋須繳納營利事業所得稅，但須提交財務報表及繳納個人綜合所得稅
<b>Foreign limited partnerships</b> 外國有限合夥	2	Limited Partnerships Act 有限合夥法	All foreign LPs' branches. 所有外國有限合夥之分支機構
<b>Other corporate body types</b> 其他公司組織型態	Foundations 財團法人 6,054	Foundations Act 財團法人法	For example, government or private donated foundations 例如，政府或私人捐助設立之基金會
	Associations 社團法人 51,679	Civil Code Art 59 - 61 民法第 59 至 61 條	
<b>Register size</b> 註冊數量	<b>764,572</b>		

79. An important contextual factor is that the legal and regulatory framework and market practice sees relatively little professional intermediation in the establishment or continuing operation of legal persons. There are no requirements for company service providers to form or have a continuing role as an office holder or to have a role in filing returns. As such, few FIs/DNFBPs have a continuing relationship providing company services through the life of a company.

一個重要的背景因素是在法律和監管框架以及市場慣例中，法人的成立或繼續運作相對較少使用專業中介機構。沒有規定要求公司服務提供者成立，或持續擔任辦公處所，或在提交資訊方面發揮作用。因此，很少有金融機構/DNFBP 以持續性關係，在公司存續期間提供公司服務。

80. The Company Act underwent significant amendments in August 2018 with additional regulations being issued, a number of which are directly relevant to transparency and reporting measures. These include Article 22-1 which stipulates that board directors, supervisors and managers, as well as shareholders with at least a 10% stake in a company must declare their involvement in the entity and report to the registry any changes in their shareholding within 15 days. Powers and sanctions to enforce compliance with these and other obligations were strengthened. Additional regulations under that article extend to elements of enterprise risk assessments and other AML/CFT measures.

“公司法”於 2018 年進行了重大修訂，2018 年 8 月發布了附加條款，其中一些條款與防制洗錢/打擊資恐相關的透明度和報告措施直接相關。其中包括第 22-1 條規定，董事會成員、監事、經理人以及擁有公司至少 10% 股權的股東必須在 15 天內申報其持股，如持股有變動亦須於 15 天內申報。強制遵守這些法規和其他義務的權力和制裁措施得到加強。該條款授權訂定的其他規定並將規範擴展到企業風險評估和其他防制洗錢/打擊資恐措施。

81. Trusts in Chinese Taipei include civil trusts, business trusts or charitable trusts. Business trusts require the trustee to be a trust enterprise, which are FIs and regulated by the MLCA and the Trust Enterprise Act and supervised by the FSC (considered in R.10 and IO4). Civil trusts (which are express trusts) may be established via legal arrangements between private individuals and are regulated under the Trust Law. Foreign trusts operate in Chinese Taipei. Both civil trusts and foreign trusts are considered at R.25 and IO5. The Trust Law has only limited requirements to support transparency of the beneficial ownership and control of legal arrangements. DNFBPs providing trust services to a foreign or domestic trust are regulated by the MLCA (Art 5) and regulations governing AML/CFT measures of the respective industry of DNFBPs.

中華臺北的信託包括民事信託、營業信託或公益信託。營業信託要求受託人是信託業，即為金融機構並受洗防法和信託業法的規範，並由 FSC 監理（在 R.10 和 IO4 中考慮）。民事信託（明示信託）可以通過私人之間的法律協議建立，並受信託法的管理。外國信託有在中華臺北運作。民事信託和外國信託都在 R.25 和 IO5 中被考慮。對於法律協議的實質受益權和控制權的透明度，“信託法”的要求有限。向外國或國內信託提供信託服務的 DNFBP 受洗錢防制法（第 5 條）和 DNFBP 各業 AML/CFT 管理辦法的規範。

82. Chinese Taipei has a large number of civil trusts. Information provided by the tax authorities indicate that civil trusts have registered assets (real property) valued at 1,948,622 million NTD (approx. USD 62.8 billion) in 2018. The actual number of civil trusts is not known by authorities, as there are no obligations on civil trusts to file with the tax authorities in the absence of income or for trustees to declare their status to FIs or DNFBPs. There are no details available on the numbers of foreign trusts that may operate or hold assets in Chinese Taipei.

中華臺北擁有大量民事信託。稅務機關提供的資訊顯示，民事信託登記資產(不動產)總值新臺幣 1 兆 9,486 億 2 千 2 百萬元(約當 628 億美元)。民事信託的實際數量未知，因為民事信託沒有義務在沒有所得的情況下向稅務機關申報，受託人也沒有向金融機構/DNFBP 揭露的義務。沒有關於可能在中華臺北持有資產的外國信託數量的詳細資訊。

### *Supervisory arrangements*

#### *監理安排*

83. The FSC is the peak regulator for FIs, including for AML/CFT issues. It has four sub-bureaus, being the Banking Bureau (BB), Securities and Futures Bureau (SFB), Insurance Bureau (IB)—which are responsible for supervising banks, securities and insurance firms respectively—and the Financial Examination Bureau (FEB), which conducts offsite and onsite inspections on behalf of the FSC and other supervisory agencies.

金融監督管理委員會 (FSC) 是金融機構的最高監管機關，包括防制洗錢/打擊資恐議題。它有四個分局，分別是銀行局 (BB)、證券期貨局 (SFB)、保險局 (IB) - 分別負責監管銀行、證券和保險公司 - 以及檢查局 (FEB)，代表 FSC 和其他監管機關進行場外和現場檢查。

84. Two other supervisors for FIs are the Central Bank and Bureau of Agricultural Finance (BOAF) of the Council of Agriculture. The Central Bank is the monetary authority of Chinese Taipei, and is also the supervisor for foreign currency exchange counters and regulator for foreign exchange businesses. The BOAF supervises agricultural financial institutions (AFIs), which include the ABT and credit departments of farmers' and fishermen's associations.

其他兩個金融機構的監理機關是中央銀行 (CBC) 和行政院農業委員會農業金融局 (BOAF)。央行是中華臺北的貨幣管理機關，也是外幣收兌處的監理機關和外匯業務的管理機關。農金局監理農業金融機構 (AFI)，包括全國農業金庫和農會及漁會信用部。

85. Each DNFBP sector is regulated and supervised for AML/CFT by a specific competent authority. These include: MOEA for jewellery businesses; MOI for land administration agents and real estate brokers; MOJ for lawyers; Civil Dept. of the Judicial Yuan for notaries; FSC for accountants; and the Tax Administration for bookkeepers and tax return filing agents.

每個 DNFBP 部門都由特定的權責機關管理和監理防制洗錢/打擊資恐事務。包括：經濟部負責銀樓業；內政部負責地政士和不動產經紀人；法務部負責律師業；司法院民事廳負責公證人；金管會負責會計師；財政部賦稅署負責記帳士暨記帳及報稅代理人。

86. Industry associations in Chinese Taipei perform important roles in AML/CFT, but have a very limited role as self-regulatory bodies. The associations play coordinating roles between government and their respective sectors, and have been quite active in the NRA, as well as the preparation and dissemination of guidance subject, to regulatory approval. Industry associations have contributed significant resources to AML/CFT awareness raising, training and coordination activities.

中華臺北各行業的公(協)會在防制洗錢/打擊資恐方面發揮重要作用，但其作為自律機構的作用有限。這些公(協)會在政府和各自的部門之間發揮協調作用，並在 NRA 以及準備和發送相關主題的指引以獲得管理部門的批准，發揮相當積極的作用。各業公(協)會為提高防制洗錢/打擊資恐的認識，培訓和協調活動提供了大量資源。

### *International Cooperation*

## CHAPTER 1. ML/TF RISKS AND CONTEXT

### 國際合作

1

87. Chinese Taipei authorities have placed a strong priority on obtaining and providing international cooperation in AML/CFT matters, in keeping with the risk profile. The NRA identifies a range of geographic risks and jurisdictions that share ML risks for both inbound and outbound criminal proceeds and related vulnerabilities. However, Chinese Taipei faces many challenges with obtaining international cooperation due to longstanding issues. Despite this, authorities have taken steps to overcome obstacles to international cooperation and have established numerous channels and initiatives to seek and to provide international cooperation in line with the risk profile.

中華臺北當局優先重視在防制洗錢/打擊資恐事務上取得並提供國際合作，以與其風險狀況相符。NRA 辨識一系列地理風險和司法管轄區，這些管轄區在犯罪所得流入流出以及相關弱點方面都與中華臺北共有洗錢風險。然而，由於長期以來的問題，中華臺北在獲得國際合作方面面臨許多挑戰。儘管如此，當局已採取措施克服國際合作的障礙，並建立許多管道和方式來尋求和提供國際合作，以符合風險狀況。