

Summary of Technical Compliance – Key Deficiencies

技術遵循摘要—重要缺失

Compliance with FATF Recommendations		
Recommendation 建議	Rating 評等	Factor(s) underlying the rating 評等因素
1. Assessing risks & applying a risk-based approach 風險評估及風險基礎方法之應用	LC	<ul style="list-style-type: none"> Enhanced and reduced measures are not sufficiently based on identified risks 強化和簡化措施未充分依據辨識之風險
2. National cooperation and coordination 全國性合作及協調機制	LC	<ul style="list-style-type: none"> Chinese Taipei does not yet have explicit national level strategies 中華臺北還沒有明確的國家層級策略 There are some minor gaps in elements of operational level cooperation 在業務合作層面存有一些輕微的落差
3. Money laundering offence 洗錢犯罪	LC	<ul style="list-style-type: none"> Smuggling of migrants is not a predicate offence to ML 偷渡不是洗錢的前置犯罪 The definition of ML in cases of self-laundering is not comprehensive 為自己洗錢案件的洗錢定義不夠全面
4. Confiscation and provisional measures 沒收及暫時性措施	LC	<ul style="list-style-type: none"> No express provisions allowing for transactions to be voided or applications to seize to be made ex parte. 沒有明確規定允許交易無效或者單方面申請扣押 Proceeds and instruments related to smuggling of migrants is not covered. 未涵蓋與偷渡有關的犯罪所得和工具
5. Terrorist financing offence 資恐犯罪	LC	<ul style="list-style-type: none"> There are some minor gaps with the TF offence, it is not evident that self-financing is criminalised although such conduct may be prosecuted under an ancillary offences. 資恐罪刑化仍有輕微落差，恐怖份子自行籌資的處罰規定並不清楚，即便其可能以從犯方式處罰。 Art 2(1)(b) of the TF convention (“any other act to intimidate or pressure a government”) is also not present as all offences are linked to listed terrorist offences. 未處罰反資恐公約第 2 條第 1 項 b 款規定「任何其他脅迫或威脅政府的活動」，因為所有的處罰都是與列舉的恐怖活動有關。 The term “property” is not defined in any laws or regulations although the team accepts that the term is construed widely by the courts. 財物一詞沒有規定在任何法規當中，雖然評鑑團接受法院會採取廣泛的適用範圍。
6. Targeted financial sanctions related	LC	<ul style="list-style-type: none"> The amended CTF Act applies TFS to assets wholly or jointly owned or controlled, directly or indirectly, but

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to terrorism & TF 資助恐怖分子及恐 怖主義之目標性金 融制裁		<p>not clearly to property derived from such property of designated persons.</p> <p>修正後的資恐防制法凍結義務擴及被指名之人或團體直接或間接、全部或共同擁有或控制之資金或其他資產，但是否涵蓋從上述財產衍生的財產並不清楚。</p> <ul style="list-style-type: none"> The freezing obligations do not apply to funds or other assets of persons and entities acting on behalf of or at the direction of designated persons and entities, except when those funds are property or property interests of the designated person or entity <p>凍結義務並不包括代表被指定之人或團體執行或受其指示資金或其他資產，除了當資金是被指定之人或團體之財物或財產上利益。</p> <ul style="list-style-type: none"> Freezing obligation are not clearly enforceable on natural and legal persons who are not also FIs or DNFBPs. <p>凍結義務是否擴及金融機構或 DNFBPs 以外之自然人或法人不明確。</p> <ul style="list-style-type: none"> No protection for parties implementing TFS obligations in good faith. <p>執行目標性金融制裁義務之人無阻卻違法規定。</p> <ul style="list-style-type: none"> There are no clear procedures for dealing with false positive designations, other than administrative appeal procedures. <p>除了行政訴訟法以外沒有明確的程序處理偽陽性情況。</p> <ul style="list-style-type: none"> It is not clear whether FIs and DNFBPs are required to report attempted transactions that would be prohibited under TFS. <p>金融機構及 DNFBPs 是否需要報告受目標性金融制裁規範禁止的未完成交易並不明確。</p>
7. Targeted financial sanctions related to Proliferation 武器擴散之目標性金融制裁	LC	<ul style="list-style-type: none"> The amended CTF Act does not clearly apply TFS to assets or property derived from property of designated persons or entities. <p>修正後的資恐防制法沒有明確將目標性金融制裁適用到從指定之人或實體之財產所衍生之資產或財產。</p> <ul style="list-style-type: none"> The freezing obligations do not apply to funds or other assets of persons and entities acting on behalf of or at the direction of designated persons and entities, except when those funds are property or property interests of the designated person or entity <p>凍結義務沒有適用到代表被指定之人或實體之資金或其他資產，除了當資金是被指定之人或實體之財物或財產上利益。</p> <ul style="list-style-type: none"> Freezing obligation are not clearly enforceable on natural and legal persons who are not also FIs or DNFBPs.

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		<p>凍結義務是否擴及金融機構或 DNFBPs 以外之自然人或法人不明確。</p> <ul style="list-style-type: none"> No protection for parties implementing TFS obligations in good faith. 針對善意第三人執行目標性金融制裁義務沒有保護。 There are limited procedures for dealing with false positives. 針對偽陽性情況的處理程序有限。 It is not clear whether FIs and DNFBPs are required to report attempted transactions that would be prohibited under TFS. 目前尚不清楚金融機構和 DNFBP 是否需要報告受目標性金融制裁規範禁止的未完成交易。 No clear provisions allowing interest or other earnings to be added nor any payments due under contracts, so long as the account remains frozen. 一旦帳戶被凍結，沒有明確的條款允許增加的利息或其他收入也被列入凍結，此外，也不允許根據契約支付任何應付款項。 No legal protections to ensure payments made to a frozen account under contract do not relate to prohibited items or activity. 沒有法律保護第三人，來確保根據契約向凍結帳戶付款，且該筆款項與禁止的項目或活動無關的情形。
8. Non-profit organisations 非營利組織	LC	<ul style="list-style-type: none"> Sanctions available to enforce obligations for transparency and accountability amongst NPOs are not sufficiently effective, proportionate and dissuasive for violations by civil associations or persons acting on behalf of these NPOs 對人民團體及其代表人違反規定的處罰並不充分有效、合乎比例且具勸阻性，以強制非營利組織遵守透明度和組織誠信之義務。
9. Financial institution secrecy laws 金融機構保密法律	C	<ul style="list-style-type: none"> The recommendation is fully met 建議完全符合
10. Customer due diligence 客戶審查	LC	<ul style="list-style-type: none"> Minor gaps in relation to exemption on identifying and verifying beneficial ownership in relation to certain types of customers. 對某些類型客戶豁免辨識和驗證實質受益權之規定存在輕微落差。
11. Record keeping 紀錄保存	LC	<ul style="list-style-type: none"> Gaps with foreign exchange counters keeping records of analysis leading to STRs 外幣收兌處未能保存可疑交易報告之分析紀錄存在缺失
12. Politically exposed persons	C	<ul style="list-style-type: none"> The recommendation is fully met 建議完全符合

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重要政治性職務人士		
13. Correspondent banking 通匯銀行業務	C	<ul style="list-style-type: none"> The recommendation is fully met 建議完全符合
14. Money or value transfer services 金錢或價值移轉服務	C	<ul style="list-style-type: none"> The recommendation is fully met 建議完全符合
15. New technologies 新科技運用	C	<ul style="list-style-type: none"> The recommendation is fully met 建議完全符合
16. Wire transfers 電匯	C	<ul style="list-style-type: none"> The recommendation is fully met 建議完全符合
17. Reliance on third parties 依賴第三方	C	<ul style="list-style-type: none"> The recommendation is fully met 建議完全符合
18. Internal controls and foreign branches and subsidiaries 內控及國外分支機構和子公司	LC	<ul style="list-style-type: none"> There are minor gaps in relation to internal control obligations for foreign exchange counters. 與外幣收兌處有關的內部控制義務方面有輕微落差。
19. Higher-risk countries 高風險國家	C	<ul style="list-style-type: none"> The recommendation is fully met 建議完全符合
20. Reporting of suspicious transaction 申報疑似洗錢或資恐交易	LC	<ul style="list-style-type: none"> Weaknesses in the STR obligations on foreign exchange counters 外幣收兌處有可疑交易申報義務的弱點 STRs don't clearly cover cases of suspicion that funds are the proceeds of a criminal activity, or are related to TF, even if no transaction has occurred. 可疑交易報告未清楚包括懷疑資金是犯罪活動產生之所得，或與資恐相關之案件，即使在未有交易發生的情況下。 STR obligations do not appear to cover the proceeds of migrant smuggling 可疑交易申報義務未包括偷渡的不法所得
21. Tipping-off and confidentiality 揭露與保密	LC	<ul style="list-style-type: none"> No explicit prohibition on tipping off covering foreign exchange counters. 外幣收兌處未有明文禁止洩密之規定 No explicit requirement to keep reporting of suspicion of ML to AMLD to be kept confidential. No explicit requirement to include officers and directors and prevent them from disclosing an STR has been sent to AMLD.

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		向調查局洗錢防制處申報疑似洗錢之案件，未明文規定應予保密。未明文納入經理人和董事並避免其揭露向洗錢防制處申報 STR 之資訊。
22. DNFBPs: Customer due diligence DNFBP: 客戶審查	PC	<ul style="list-style-type: none"> A number of shortcomings in relation to the scope of CDD and other risk-based preventive measures covering various DNFBPs. 各 DNFBP 有 CDD 範圍和其他風險為本的預防措施的缺失
23. DNFBPs: Other measures DNFBP: 其他措施	LC	<ul style="list-style-type: none"> There are minor gaps with obligations to file STR related to proceeds of migrant smuggling 申報與偷渡犯罪所得有關 STR 的義務有輕微落差 no explicit provision to support that the protection shall be made available even if the person filing the report did not know precisely what the underlying criminal activity was, and regardless of whether the illegal activity actually occurred 對於申報可疑交易報告之人，即使其不明確知道潛在之犯罪活動為何，以及是否確實發生非法活動，對於該等人員沒有明確提供保障之規定
24. Transparency and beneficial ownership of legal persons 法人之透明性和實質受益權	LC	<ul style="list-style-type: none"> Not all ML/TF risks were assessed with respect to all types of legal persons able to be created in Chinese Taipei. 未針對所有在中華臺北設立的各類型法人進行所有的洗錢/資恐風險評估。 Oversight of and enforcement to ensure accuracy of registration filing with MOEA had not commenced at the time of the onsite visit. 現地評鑑時尚未開始監督和執行以確保提交經濟部登記資訊的正確性。 Controls do not fully mitigate risks posed by bearer shares issued before August 2018 控制措施不能完全抵減 2018 年 8 月之前發行無記名股票帶來的風險 There is relatively little professional intermediation in the establishment or continuing operation of legal persons in Chinese Taipei, so relying on CDD information obtained by FIs/DNFBPs may not ensure that information on the beneficial ownership of a company is can be otherwise determined in a timely manner 在中華臺北設立或繼續經營的法人中，相對較少使用專業中介，因此依賴金融機構/DNFBP 取得的 CDD 資訊，可能無法確保及時確定有關公司實質受益權的資訊。
25. Transparency and beneficial ownership of legal	PC	<ul style="list-style-type: none"> Trustees of civil trusts are not required to obtain and hold accurate and current details of parties to the

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arrangements 法人協議透明度及 實質受益權		<p>trust and any other natural person who may be exercising effective control over the trust</p> <p>民事信託受託人無需取得並持有信託當事人和可能對信託行使有效控制權的任何其他自然人的正確和最新詳細資訊</p> <ul style="list-style-type: none"> Trustees of civil or foreign trusts are not required to declare their status to FIs and DNFBPs when establishing a relationship <p>當建立關係時，民事信託或外國信託的受託人無須向金融機構和 DNFBP 揭露其受託人身份</p> <ul style="list-style-type: none"> There are few requirements requiring trustees to hold basic information on regulated agents of and service providers to the trust <p>針對信託受規範的代理人及服務提供者業者，受託人被要求持有的資本資訊很少。</p>
26. Regulation and supervision of financial institutions 金融機構之規範與 監理	LC	<ul style="list-style-type: none"> The Central Bank and BoT do not sufficiently consider the ML/TF risks when determining frequency and intensity for supervision on foreign exchange counters <p>在決定監理外幣收兌處的頻率和強度時，央行和臺灣銀行沒有充分考慮中華臺北的洗錢 / 資恐風險。</p>
27. Powers of supervisors 監理機關之權力	LC	<ul style="list-style-type: none"> There are shortcomings in the supervisor's ability to sanction foreign exchange counters for AML/CFT failings <p>主管機關對外幣收兌處違反 AML/CFT 規定的裁罰能力有缺失</p>
28. Regulation and supervision of DNFBPs DNFBP之規範與 監理	PC	<ul style="list-style-type: none"> Gaps with controls to prevent criminals' associates from being accredited, holding a significant or controlling stake, or a management role in a DNFBP. <p>防止犯罪者的關係人取得專業委任、持有重要或控制權益，或在 DNFBP 中擔任管理職務的控制措施有落差。</p>
29. Financial intelligence units 金融情報中心	LC	<ul style="list-style-type: none"> The AMLD shares information with domestic and foreign counterparts in a secure manner. There is not an express provision allowing for the dissemination of ICTRs and CTRs however such information is included in analysis reports that are disseminated. <p>洗錢防制處以安全方式與國內外對等機關分享資訊，但沒有明確的規定允許 ICTRs 和 CTRs 的分送，但這些資訊卻包含在分送的分析報告當中</p>
30. Responsibilities of law enforcement and investigative authorities 執法和調查機關之 責任	C	<ul style="list-style-type: none"> The recommendation is fully met <p>建議完全符合</p>

TECHNICAL COMPLIANCE

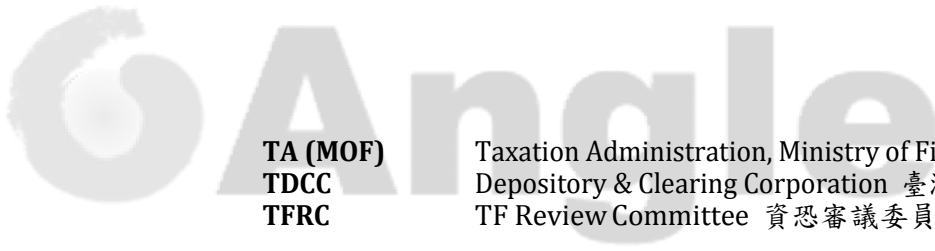
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31. Powers of law enforcement and investigative authorities 執法和調查機關之權力	LC	<ul style="list-style-type: none"> There are restrictions on authorities ability to conduct undercover investigations and to intercept communications in relation to some predicate offences 權責機關在執行臥底偵查及對某些前置犯罪的通訊監察有限制。 Controlled delivery only applies in relation to drug offences 控制下交付只能適用在毒品犯罪。
32. Cash couriers 現金攜帶	LC	<ul style="list-style-type: none"> There is no requirement to retain declarations when there is a suspicion of ML or TF 當懷疑 ML 或 TF 時，沒有保留申報資料的要求。 Customs officers have the power to seize items on suspicion, but may only seize “things that may be forfeited” which is undefined (but appear to be construed widely). 海關有權扣押有嫌疑物品，但可能只能扣押“可得沒入之物”。未定義“可得沒入之物”，但似乎被廣泛地解釋。
33. Statistics 統計數據	LC	<ul style="list-style-type: none"> Chinese Taipei does not maintain statistics relating to ML investigations that are opened by LEAs prior to being referred to prosecutors. 中華臺北沒有保留有關在移交給檢察官前，由執法機關啟動洗錢調查的統計數據。
34. Guidance and feedback 指引與回饋	C	<ul style="list-style-type: none"> The recommendation is fully met 建議完全符合
35. Sanctions 處罰	PC	<ul style="list-style-type: none"> The range of monetary penalties available to regulators and supervisors are not proportionate or dissuasive. 主管機關和監理機關可處罰緩之範圍不合乎比例原則或具勸阻性。 It is not clear that sanctions can be applied to directors and senior managers of DNFBPs who are legal persons. 尚不清楚處罰是否適用於具法人格 DNFBP 的董事和高階管理人員。
36. International instruments 國際相關公約與規範	LC	<ul style="list-style-type: none"> Chinese Taipei are not a party to the UN Conventions however implement their requirements to a large extent. 中華臺北雖然不是聯合國公約的簽署國，但在很大程度上執行公約的要求。 The smuggling of migrants is not a predicate offence for ML. 偷渡不是洗錢的前置犯罪。 There are minor gaps in the TF and ML offence.

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		資恐及洗錢犯罪有輕微缺失。
37. Mutual legal assistance 司法互助	LC	<ul style="list-style-type: none"> There are shortfalls in the powers of LEA, dual criminality is required for non-coercive measures 執法機關的權力存在缺失，非強制性措施需具備雙重可罰性。
38. Mutual legal assistance: freezing and confiscation 司法互助:凍結和沒收	LC	<ul style="list-style-type: none"> MLA will not be able to apply in relation to the proceeds of the smuggling of migrants 司法互助無法適用有關偷渡的非法所得。 As the provision of MLA is restricted by that which is able to be carried out domestically, the minor gaps in relation to R.4 apply. 由於司法互助的提供受到能夠在國內進行的限制，因與 R.4 相關的輕微落差在此適用。
39. Extradition 引渡	LC	<ul style="list-style-type: none"> In circumstances where Chinese Taipei does not extradite suspects, there are no obligations to refer them to a domestic court. 在中華臺北不引渡嫌犯的情況下，沒有義務將受請求引渡之人移送到國內法院審判。 The scope gap relating to the smuggling of migrants affects Chinese Taipei's ability to provide extradition in a very minor way. 有關偷渡的範疇落差以非常輕微的方式影響中華臺北提供引渡的能力。
40. Other forms of international cooperation 其他形式之國際合作	LC	<ul style="list-style-type: none"> Given Chinese Taipei's heavy reliance on MOUs it should continue to agree MOUs with a wider range of jurisdictions. 鑑於中華臺北非常依賴備忘錄，應繼續與更廣泛的司法管轄區簽署備忘錄。 Some agencies don't have direct information exchange agreements with foreign counterparts, however other domestic agencies may provide that information on their behalf. 有些機關沒有與外國對等機關簽訂直接交換資訊的協議，但其他國內機關可能代表他們提供這些資訊。

Glossary of Terms

縮寫表

AAC	Agency Against Corruption, MOJ 法務部廉政署
ABT	The Agricultural Bank of Taiwan 全國農業金庫
AEA	Administrative Enforcement Agency, MOJ 法務部行政執行署
AML	Anti-Money Laundering Division, MJIB (Chinese Taipei's FIU)
AMLD	法務部調查局洗錢防制處 (中華臺北FIU)
AMLO	Anti-Money Laundering Office, EY 行政院洗錢防制辦公室
BOAF	Bureau of Agricultural Finance, COA 行政院農委會農業金融局
BOT	Bank of Taiwan 臺灣銀行
CA	Customs Administration, MOF 財政部關務署
CCAPO	Cooperative & Civil Association Preparatory Office, MOI 內政部合作及人民團體司籌備處
CIB	Criminal Investigation Bureau, NPA, MOI 內政部警政署刑事警察局
CPF	combating the financing of proliferation of WMD 打擊資助大規模毀滅性武器擴散
DCA	Department of Civil Affairs, MOI 內政部民政司
DLA	Department of Land Administration, MOI 內政部地政司
DPO	District Prosecutors office 地方檢察署
EY	Executive Yuan 行政院
ERA	Enterprise risk assessment 企業風險評估
FISC	Financial Information Service Co 財金資訊股份有限公司
FSC	Financial Supervisory Commission 金融監督管理委員會
HPO	High Prosecutors Office 高等檢察署
JCIC	Joint Credit Information Centre 財團法人金融聯合徵信中心
JY	Judicial Yuan 司法院
MAC	Mainland Affairs Council 大陸委員會
MJIB	Investigation Bureau, MOJ 法務部調查局
MLCA	Money Laundering Control Act 洗錢防制法
MOE	Ministry of Education 教育部
MOEA	Ministry of Economic Affairs 經濟部
MOF	Ministry of Finance 財政部
MOFA	Ministry of Foreign Affairs 外交部
MOHW	Ministry of Health and Welfare 衛生福利部
MOI	Ministry of the Interior 內政部
MOJ	Ministry of Justice 法務部
MOTC	Ministry of Transportation and Communications 交通部
MPB	Maritime Port Bureau 交通部港務局
NIA	National immigration Agency, MOI 內政部移民署
NPA	National Police Agency, MOI 內政部警政署
NRA	National Risks Assessment 國家風險評估
NSB	National Security Bureau 國家安全局
NSC	National Security Council 國家安全會議
OBU	Offshore Banking Unit 國際金融業務分行
OHS	Office of Homeland Security 行政院國土安全辦公室
OIU	Offshore Insurance Unit 國際保險業務分公司
OSU	Offshore Securities Unit 國際證券業務分公司
SFAA	Social and Family Affairs Administration, MOHW 衛生福利部社會及家庭署
SPO	Supreme Prosecutors Office 最高檢察署
SRA	Sectoral risk assessment 產業風險評估



TA (MOF)
TDCC
TFRC

Taxation Administration, Ministry of Finance 財政部賦稅署
Depository & Clearing Corporation 臺灣集中保管結算所股份有限公司
TF Review Committee 資恐審議委員會