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CHAPTER 1. ML/TF RISKS AND CONTEXT

ML/TF Risks and Scoping of Higher-Risk Issues

10. Chinese Taipei is located in the East China Sea and covers an area of 36,193 km² 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.

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.

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.

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.

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

Overview of ML/TF Risks

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.

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.

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.

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

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.

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

Chinese Taipei's risk assessment

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.

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.

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.

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1 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.

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.

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.

Scoping of Higher Risk Issues

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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Materiality

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Nature of the economy

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 2018.¹

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-countries².

Financial sector

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.³ 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.

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.

Financial inclusion and reliance on cash

43. Chinese Taipei's informal sector remains significant.⁴ 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.

Exposure to trade and finance with the DPRK or Iran

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

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

² Chinese Taipei Central Bank 2017 annual report, p15

³ Comprising of domestic and foreign banks, credit cooperatives, a postal institution, bills finance and credit card companies.

⁴ Estimated in 2012 to be equivalent to 28.1% of Chinese Taipei's GDP.

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.

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

Type of FI	Entities	Assets (USD millions)	fin. sector assets
Domestic banks	38	1,542,070	53.92%
Foreign bank branches in Chinese Taipei	29	95,190	3.33%
Postal service institution	1	209,839	7.34%
Credit cooperatives	23	24,024	0.84%
Bills finance companies	8	3,337	0.12%
Credit card companies	5	1,236	0.04%
Electronic payment institutions	5	92	>0.01%
Issuers of electronic stored value cards	4	468	0.02%
Financial leasing companies	34	14,375	0.50%
Securities firms	73	51,095	1.79%
Securities investment trust enterprises	39	1,646	0.06%
Securities finance enterprises	2	1,252	0.04%
Centralised securities depository enterprises	1	819	0.03%
Futures merchants	16	7,170	0.25%
Managed futures enterprises	1	10	>0.01%
Reinsurance companies	3	1,300	0.05%
Life insurance companies	28	799,830	27.97%
Non-life insurance companies	23	11,579	0.40%
Insurance brokers	336	228	>0.01%
Insurance agencies	296	330	>0.01%
ABT	1	26,520	0.93%
Farmers & fishermen's associations credit departments	311	68,240	2.39%
Total Financial institutions	1,363	USD 2.86 trillion	100%
DNFBPs			
Jewellery businesses	5,243		
Land Administration Agents	11,108		
Real Estate agencies	6,324		
Attorneys	16,866		
Notaries	224		

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Accountants	7,432 ⁵	Total DNFBPs = 56,100
Certified public bookkeepers, tax return filing agents	8,903	

Structural Elements

46. 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.

47. 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.

48. In the 2017-18 World Economic Forum Global Competitiveness Report Chinese Taipei's ranking is very high overall (13th out of 140 economies)⁶. 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)⁷.

Background and other Contextual Factors

49. 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.

50. 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.

AML/CFT strategy

51. 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.

⁵ This figure includes 7432 CPA certificate holders; 3,396 registered practitioners; 1,972 registered CPA firms

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

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

Legal & institutional framework

Co-ordinating bodies

52. **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.

Legal and law enforcement agencies

53. **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).

54. **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.

55. **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.

56. **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.

57. **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.

58. **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.

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

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

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

62. **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.

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

Financial and DNFBP sector bodies

64. **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).

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

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66. **Central Bank** supervises foreign exchange counters for AML/CFT.
67. **Department of Prosecutorial Affairs (MOJ)** supervises lawyers, including for AML/CFT.
68. **Department of Land Administration (MOI)** supervises (together with municipal governments) land administration agents and real estate brokers, including for AML/CFT.
69. **Department of Commerce (MoEA)** regulates and supervises jewellery businesses, including for AML/CFT.
70. **Civil Division of the Judicial Yuan** supervises notaries, including for AML/CFT.
71. **Taxation Administration (MOF)** regulates and supervises bookkeepers and tax filing agents, including for AML/CFT.

Proliferation financing

72. 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.

Financial sector and DNFBPs

73. 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.

74. 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.

75. 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.⁸ Financial leasing companies were brought under AML/CFT supervision in 2018.

76. 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.

⁸ The Regulations Governing the Establishment and Administration of Foreign Currency Exchange Counters

Preventive measures

77. 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.

78. 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.

Legal persons and arrangements

79. 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.

Table: Registered legal persons - 2018

Type	Number (Nov. 2018)	Basis of incorporation	Basic characteristics & significance
Limited company (LLC)	534,260	Company Act	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
Company limited by shares - private	164,700	Company Act	Shares issued in public, close company, and non-close company
Company limited by shares - public	2,169	Company Act	Public company whose shares are publicly traded. Not privately-held
Foreign companies	5,656	Registered under the Company Act	Branches and representative offices may register. Both require resident directors/managers. Subject to statutory audit.
Unlimited co.	11	Company Act	
Unlimited company with limited liability shareholders	9	Company Act	Does not issue stock, it is formed both by a limited liability shareholder and a unlimited liability shareholder
Limited partnerships	32	Limited Partnership Act (Art 9) and Regulations	One of the partners must be a resident. Not subject to corporate tax, but subject to filing financial statements and personal income tax
Foreign limited partnerships	2	Limited Partnership Act	All foreign LPs' branches.
Other corporate body types	Foundations 6,054	Foundations Act	For example, government or private donated foundations
	Associations 51,679	Civil Code Art 59 - 61	
Register size	764,572		

80. 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

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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.

81. 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.

82. 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.

83. 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.

Supervisory arrangements

84. 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.

85. 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.

86. 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.

87. 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.

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International Cooperation

88. 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.