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CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

- 1) Most TC elements are in place, however the updated obligations on DNFBPs only came into force in late 2018, and as such effectiveness is yet to be demonstrated in those sectors.
- 2) The transition from a rules-based to a risk-based approach has been occurring in banking sectors in a preliminary manner since 2013, with more direct support since late 2015. The transition is newer in other sectors. Whilst important progress is being made, further work remains for each FI/DNFBPs' to more fully reflect enterprise risk assessment (ERA) findings in their risk based approach. Understanding of the rules is best amongst banks, generally good amongst other FIs and increasing amongst DNFBPs. FIs other than banks and DNFBPs have much further to go in relation to an understanding of risk.
- 3) Sectoral supervisors and the AMLD have undertaken very significant awareness raising on AML/CFT obligations and ML/TF risks. Guidance has been issued for each respective sector. Most FIs have completed an ERA, as have some DNFBPs. There is a need for more detailed inputs on risk to be made available to each sector to ensure that the ERAs reflect sector and enterprise-specific risks. Risk mitigation measures need to be more substantially based on the risk profile. This is particularly the case with enhanced measures.
- 4) Rules, guidelines, outreach and FSC supervision have greatly assisted FIs and DNFBPs to implement CDD, but challenges remain. In some cases regular CDD routines may rely too heavily on basic documentation. Enhanced CDD does not appear to apply a sufficiently targeted range of controls. Many FIs refuse business when CDD is incomplete, related STR filing is low in specific sectors and balancing potential de-risking by domestic banks needs to be closely managed. In practice, identification of beneficial ownership of domestic customers may be over-reliant on ownership documentation and declarations, despite obligations and guidance to FIs.
- 5) Identification of beneficial ownership of foreign customers is even more challenging from complex structures and foreign trusts. There are also significant risks from informal nominee arrangements to obscure beneficial ownership. Identifying controlling interests for offshore companies is particularly problematic for Chinese Taipei FIs, as for most banks globally. OBU present the greatest challenges in this regard, with significant legacy CDD gaps remaining. The depth and quality of recently updated CDD across the OBU sector is a concern.
- 6) A wide range of FIs/DNFBPs utilise PEP checklists. Most domestic banks and large NFBI establish their own risk management system to identify and monitor the activities of PEP clients. The availability of the TDCC system is a real strength. However, the focus on identification of foreign PEPs does not sufficiently reflect the risk profile. Foreign exchange counters are exempted from PEP obligations.
- 7) Record keeping obligations are well implemented. Controls on correspondent banking appear to be well implemented. Risk assessments of new technologies are well integrated with ERAs and FSC's risk based approach. The recent regulatory sandbox is an important development for assessing product AML/CFT risk and opportunities to balance financial inclusion concerns.

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- 8) FIs' implementation of controls on wire transfers appear to be reasonably well supported.
- 9) Implementation of TFS controls appears to be reasonably well supported. The availability of the TDCC system greatly supports implementation by small and medium FIs/DNFBPs.
- 10) Application of jurisdictional risk is given a great deal of emphasis, with greater focus on jurisdictional-specific risks faced by Chinese Taipei being implemented since the 2018 NRA.
- 11) Overall the quality and quantity of STRs appear to have improved in the last 12 months, reflecting greatly increased outreach, red flags and typologies as well as a focus on monitoring. Even more focus needs to be given to customer profile and additional risk indicators to identify suspicion. DNFBP sectors still appear to be under-reporting.
- 12) Internal controls appear to be well developed. FIs have taken many steps and expended considerable resources to greatly enhance their internal controls in a short period of time. The information sharing gaps have been very recently addressed.

Recommended Actions

- a) Continue outreach, awareness raising and training to priority sectors to reinforce understanding of obligations, risks and the risk-based approach to AML/CFT implementation.
- b) Address TC gaps in relation to TFS and consider extending PEP obligations to foreign exchange counters.
- c) Prioritise deeper implementation of ML risk management, in particular CDD, over higher risk sub-sectors among banks. OBUs and cross border risks present the greatest need in this regard.
- d) Enhance liaison and engagement between supervisors and LEAs and the private sector, including industry associations. In particular, improved and more frequent inputs from LEAs on ML/TF/PF risks posed to FIs and DNFBPs subject to higher threats and vulnerabilities.
- e) Provide further risk-based guidance, taking into consideration Chinese Taipei's FI and DNFBP sectoral vulnerabilities and balancing financial inclusion and de-risking concerns.
- f) Support continuing improvement of CDD and overall consideration of counterparty risks, moving beyond confirmation of customer identity.
- g) Support continuing shifts to proactive STR reporting based on customer profile and evolving risk indicators.

297. The relevant Immediate Outcome considered and assessed in this chapter is I04. The recommendations relevant for the assessment of effectiveness under this section are R9-23.

Immediate Outcome 4 (Preventive Measures)

Understanding of ML/TF risks and AML/CFT obligations

298. Significant progress has been made by financial institutions in the shift to a risk-based approach over two years. While banks have been required to adopt a risk-based approach since 2013, findings from risk assessments and detailed guidance on risk mitigation were not available to FIs until late 2015. More in-depth findings on risk were made available through the 2017/8 NRA process. It is notable that authorities and the private sector have applied very significant resources to fast-track improvements in FIs' understanding of risks and obligations in a very short timeframe.

299. The move to a risk-based approach is even more recent among DNFBPs, but authorities and industry associations have prioritised AML/CFT activities and allocated significant resources to increasing awareness of risks and obligations. Supervisors have extensively communicated with respective DNFBPs on their AML/CFT obligations and risks. Associations have played a key role in coordinating outreach and education, developing guidance and supporting the move to a risk-based approach. Some DNFBPs have only recently been fully included in Chinese Taipei's AML/CFT regime. In particular lawyers, accountants, notaries, land administration agents and real estate brokers were only included since 28 December 2016.

300. Banks, securities, insurance FIs were particularly notable for their developed approach to understanding their ML risks and obligations, although challenges remain with dummy accounts and informal nominees. Those sectors have completed ERAs since 2016, and many reported updating their ERA since the NRA's completion. In contrast, other FIs require further support in this area. Those FI sectors recently brought into the AML/CFT regime are still catching up on education and outreach on their risks and AML/CFT obligations. These include financial leasing companies—which were brought into AML/CFT supervision in 2018—and credit departments of fishermen and farmers' associations as well as Chunghwa Post.

301. Banks identified their high-risk areas to be: cross-border wire transfers (particularly as they are the only RE which can remit funds overseas), deposit accounts and cash transactions, electronic banking, trade finance and correspondent banking. Securities firms have identified non-face-to-face account opening, grouped accounts or multiple accounts traded by a third-party. Life insurers have identified risks from products with high non-forfeiture value or cash value.

302. Some DNFBPs have completed ERAs, and some have also undertaken steps to risk rate their customers and transactions. While the NRA findings of DNFBPs appear reasonable, there were indications of divergent understanding in risk, threats and vulnerabilities. The NRA found accountants, lawyers, real estate brokers and jewellery businesses carry the greatest vulnerabilities. Meetings with supervisors and the sector did not illustrate detailed understanding of dynamics of risk facing each sector. In some cases, for example amongst jewellers, there are mismatches between sectoral understanding of elements of risk (e.g. the sector considers their small scale to reduce their risk as a vector for laundering funds, while the NRA and other assessments identified jewellery businesses as vulnerable to the proceeds of organised crime).

303. There are opportunities for further improvement with assessing and understanding risks. The assessment team had concerns about contrasts in FIs' understanding and assessments of their own risks, when compared with the findings of the NRA and SRA. Banks almost uniformly indicated their most significant threats were posed by fraud and proceeds from domestic offences. This is supported by FSC outreach and supervisory findings. Both contrasted with the 2017/8 NRA's finding that the banking sector is vulnerable to proceeds of a much wider set of crimes, including proceeds from foreign offences. FIs and their supervisors acknowledged understanding of organised crime and other very high level ML threats—as per the NRA—to be areas of improvement. Moreover FIs' assessments and understanding of risks from OBU customers and channels would benefit from a range of enhanced inputs on risk to strengthen risk-based approaches. To address this, the FSC has launched the AML/CFT Strategy Roadmap with comprehensive action plans specifically in response to NRA. With respect to the very high risk areas identified in the NRA, the FSC has been in close collaboration with AMLD, LEAs and relevant stakeholders to move forward with a variety of risk mitigation measures, which is a welcome development.

304. Two particular challenges include risks from corruption and also risks from informal sector (underground banking, cash economy related to ML). When considering corruption risk, FIs (and their supervisors) appear to significantly focus on identification of PEPs (whether domestic or foreign) and adverse media reporting. Banks do not focus on other elements of domestic and foreign corruption risk, including at-risk industries, geographic considerations, electoral funding issues and

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so forth. ML risks particular to banks—including Chinese Taipei’s cash-based economy and cross-straits underground banking—are not well assessed by FIs nor factored into their risk mitigation.

305. Frequent and structured engagement between LEAs (including the FIU) and FIs/DNFBPs has commenced, but more needs to be done to assist FI/DNFBPs to deepen their risk-based approach. FIs participated in the NRA which contributed to a shared understanding and the FSC and LEAs have commenced new Compliance Forum meetings which started immediately prior to the ME onsite and are intended to be a regular occurrence for sharing risk information with FI/DNFBPs. Improved communication with NPA and Customs on the major crime types was identified by the FSC as an area for improvement. There is a need for sustained cooperation between the FIU, LEAs and the financial sector on sharing information on specific threats and vulnerabilities as well as risk trends.

Application of risk mitigating measures

306. FIs have begun to adopt mitigating measures to address many of their risks. Investment in AML/CFT compliance across major FIs, including human capital, enterprise and industry-wide efforts, is notable. Supervisory authorities have taken steps to track indicators of progress with the application of mitigating measures. FSC identified an increase of AML/CFT-related expenditure of more than 300% amongst banks, insurance and securities firms from 2014 to 2018. This equates to very significant increases in dedicated AML/CFT personnel, systems and training.

307. Mitigation measures involve restriction on products commensurate to risk levels, with a particular focus on restricting or declining business when there are doubts on customer identity or authenticity. The assessment team has concerns about these mitigations’ potential for de-risking.

Offshore units

308. Banks, securities and insurance firms are permitted to establish offshore units. Of these, OBUs are the most developed and carry by far the greatest risks. These units were particularly noted by authorities and FIs to have very high inherent risks, due to unverified client identities and unresolved ownership structures, the liquidity of their holdings, and the deployment of their capital offshore. FSC’s most recent supervisory information identified over 70% of BO of OBU customers are from Chinese Taipei. OBU accounts are not allowed to accept foreign-denominated cash payments, which they perceive reduces ML/TF risks. The NRA and SRA identified significant risks in the OBU sector, both from the nature of the sector and its customers and from the wholesale gaps in CDD prior to 2017.

309. From late 2017 the FSC has been pursuing a CDD remediation exercise with the OBUs, which is an important risk control. While this project has made important progress, implementation has further to go to complete the CDD remediation exercise and manage risks in the sector. FSC priority risk mitigation measures are welcome, particularly with the assistance of LEAs, AMLD and relevant stakeholders. Together they have provided Q&As, guidance on tax-related ML risks and TBML risk, focus group discussions with AMLD and tax authorities to enhance the understanding of risk and risk mitigation of OBUs.

Box 5.1: Background on Chinese Taipei’s offshore units (OBU)

OBU were originally established in 1983 under the Offshore Banking Unit Act, partly in order to enhance Chinese Taipei’s attractiveness as a regional financial centre and access to foreign investment, but also due to restrictions on cross-strait investment and direct engagement with Chinese businesses. All OBU customers must be foreign individuals or foreign corporates. Currently more than 70% of OBU customers are subsidiaries of Chinese Taipei businesses. Offshore insurance and securities units (OIU and OSU) are relatively new (established in 2014/15). OBUs, OIUs and OSUs’ account for 7% of the financial sector’s total assets.

310. Banks, securities firms and life insurers have sought to mitigate offshore units' risks since the updated CDD requirements were issued by the FSC. Mandatory CDD remediation, focussed on the verification of customer identities and identifying ultimate beneficial owners and controllers, has been required since 2016. This process was undertaken on a rules basis and did not include updating enterprise risk assessment work, nor any guidance on risk elements. The project has been largely facilitated through customer self-disclosure and document review. Offshore units are notable in that EDD extends to site visits in addition to desk-based work. In the particular case of OBUs, mitigating measures have concluded with account closure, or restriction of new business and transactions until documents for CDD have been provided by clients.

311. For other categories of FIs, risk mitigation implementation includes declining business or restricting higher risk activities for accounts. Other mitigating measures have included increased frequency of periodic reviews based on assessed risk, and closer surveillance for suspicious transactions.

312. Most TC elements are in place for DNFBPs, but comprehensive obligations were very new at the time of the onsite visit. DNFBPs are the early stage of applying AML/CFT measures in keeping with the risks. While Chinese Taipei has recognised risks from the cash economy and requires cash transaction reports for most sectors, these controls were not applied to the real estate sector. This is despite clear identification of clear ML risks associated with cash transactions in the sector. Authorities noted that the basis for real estate being excluded was because the volume of reporting would be excessive. However concerns remain that this was not risk-based.

Application of CDD and record keeping requirements

313. Risk-based CDD has been a requirement since 2013. Record keeping obligations are well understood by FIs and implementation follows the international standards. LEAs and other competent authorities confirmed the availability of records and timeliness of their retrieval.

314. FIs, supervisors, and FIs' associations acknowledged some of the difficulties in performing CDD. There are challenges with resolving ultimate beneficial ownership or control, particularly in cases involving trusts, low-transparency jurisdictions, complex corporate structures and/or nominees in foreign corporate holdings.

315. The timing of CDD undertaken by FIs is, generally, in keeping with the rules. However it does not appear that FIs adjust the timing and intensity of their CDD work to reflect customer risk. CDD is now performed prior to on-boarding and periodically updated, but risk events do not sufficiently determine the timing of updating or ongoing CDD.

316. Based on feedback from supervisors, FIs' associations and FIs interviews, certain banks were able to demonstrate cases of very detailed CDD work, including in relation to relatively layered ownership and control structures. However, this appears to be most thorough in cases of significant credit lines being established and may focus on prudential rather than ML/TF risk. In some cases CDD may rely too heavily on basic documentation and customer identity verification, being overly reliant on checklists of documentation, account opening forms, self-declarations of beneficial ownership (obtaining certificates of good standing or incumbency) and source of funds.

317. The case of CDD remediation undertaken for OBUs, OSUs and OIUs since 2016 illustrates some challenges with the progress towards a risk-based approach to CDD and understanding of connections between CDD and suspicion of ML and possible STR reporting. The authorities required the banking sector to improve its CDD for OBUs through customer identity verification from May 2017, and to complete CDD remediation for all OBU account-holders by 31 December 2017. This

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process led to a significant number of accounts being closed at account-holders' request. According to FSC, banks terminated relationships with 43,124 customers (23% of all OBU customers). Additionally, a third of OBU accounts were still held by banks but in a 'frozen' state due to customers being unwilling to provide sufficient documentation for OBUs to complete the CDD remediation. Very few STRs were reported arising from this work, which does not reflect the NRA findings on the sectoral risks and the OBUs' inability to complete CDD in many cases. The team has concerns regarding the depth and quality of recently updated CDD across the sector. While FSC stated the CDD remediation process was complete, in practice banks' efforts are generally ongoing.

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318. When applying EDD, FIs do not appear to apply a sufficiently targeted range of enhanced measures. Banks appear to be more willing to conduct EDD, particularly when there are cases of complex ownership structures or PEP concerns. In some cases bank staff may visit the premises of OBU account holders to verify the business and beneficial ownership.

319. Identification of beneficial ownership of foreign customers presents particular challenges from weaknesses in assessing customer risk and profile, complex and opaque structures (foreign legal persons and arrangements formed in secrecy jurisdictions). Identifying controlling interests for offshore companies is particularly problematic for OBUs, with very significant legacy CDD gaps remaining.

320. Despite requirements and guidance from the FSC, there are concerns that in practice FIs may relay too much on MOEA documentation for the identification of beneficial ownership of domestic corporate customers. The Company Act amendments in late 2018 may assist with CDD. There are also significant risks from informal nominee arrangements to hide BO. The threshold of 25% of share ownership may be too high in practice, in particular when applying EDD. In many cases banks go beyond the stated thresholds when establishing the ultimate beneficial owners or controllers, particularly for matters involving the management of credit risk, however concerns remain.

321. Guidance from authorities in relation to risk-mitigation considerations when refusing business when CDD is incomplete requires further development to ensure strengthened implementation overall. As mentioned above, the CDD remediation project for OBUs saw tens of thousands of accounts being closed for incomplete CDD, but FIs' consideration of STR filing led to STRs in only very limited circumstances. Banks were not sufficiently well guided to consider ML risk, in particular the types of scenarios that might give rise to suspicion and therefore STR filing.

322. Securities firms have a number of additional risk mitigation measures in place. These include limits to trading amounts opened remotely, grouping accounts with same designated third-parties, IP addresses or contact details, and undertaking EDD when third-party is trading securities. Securities firms have established daily monitoring to identify suspicious activity.

323. DNFBPs have begun risk-based approach to CDD with the fuller requirements only entering into force in late 2018. Record keeping obligations are well understood by DNFBPs and implementation follows the international standards. It is apparent most DNFBPs take steps to identify customers, and take measures to conduct elements of CDD. DNFBPs' CDD work is supported by sectoral guidance, however the CDD rules are new and the move to the risk based-approach for CDD is at a very early stage.

324. The timing of CDD undertaken by DNFBP is not yet clearly established and it is not yet clear that DNFBPs adjust the timing and intensity of their CDD work to reflect customer risk. Based on feedback from DNFBP associations and interviews, certain DNFBPs were able to demonstrate cases of detailed CDD work.

Application of EDD measures

i. PEPs

325. Chinese Taipei authorities and sectoral associations have made high quality commercial databases for PEP screening available to FIs and DNFBPs at subsidised rates. This supports screening for PEPs and sanctions matches. There is a widespread use of commercial databases, supplemented by open source research, to screen for both domestic and foreign PEPs. TDCC's screening system and those of other commercial providers, have been widely taken up amongst FIs and DNFBPs to screen for PEPs, which adds to effectiveness. Guidance provided to FIs and DNFBPs also adds to effectiveness. However, there are limits overall on how well some FIs and many DNFBPs' identify wider family members and associates in their PEP screening.

326. FIs and DNFBPs require greater practical guidance on how PEPs screening should reflect and be moderated according to ML/TF risk. Guidance is available on this subject, but the risk based application of these controls is not yet well implemented. This is particularly the case with exposure to foreign corruption risks and also offshore structures (OBUs), noting the uptake of OBUs by domestic PEPs and their associates. Weaknesses with CDD and beneficial ownership add to the challenges to identify PEPs, including their associates.

327. FIs and regulators acknowledged that there are some challenges for FI and DNFBP with screening for possible Chinese PEPs. Banks, in particular, noted the challenges of identifying such PEPs through most commercial databases and other FIs face similar challenges. Banks were notable in their demonstrated efforts to mitigate cross-straits PEP risk through compilation of their own information holdings on local PEPs, through Chinese-language searches for adverse media reporting and online legal filings, and other initiatives. Further guidance and support is recommended to enhance this important area.

ii. Correspondent banking

328. Controls applied to correspondent banking appear to be relatively well implemented. Banks and supervisory findings did not highlight any major difficulties in implementing correspondent banking requirements under the AML/CFT rules and circulars. Due diligence practices across the FIs, including questionnaires and open source research, escalate as necessary according to jurisdictional risks. However, it is not clear that banks sufficiently consider correspondent banking risk in their ERAs.

iii. New technologies

329. Risk assessments of new technologies are well integrated with ERAs and the FSC is supportive of risk based approaches. The recent establishment of a regulatory sandbox is an important development to support FIs and the FSC develop new technology and manage AML/CFT risk. Authorities continue to place an emphasis on financial inclusion in their consideration of risk based approaches to regulation of new technologies.

iv. Wire transfer rules

330. FIs' implementation of controls on wire transfers appear to be reasonably well supported. Rules are applied without threshold and apply to domestic and cross border wires. This is supported by outreach and guidance and confirmed through supervision.

v. Targeted financial sanctions - TF

331. While there are technical compliance gaps for TFS (see R.6), guidance has been issued to all sectors and a great deal of awareness raising and outreach has been undertaken with FI and DNFBP

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sectors. In addition, as discussed in IO3, this has been a major area for offsite and on-site supervisory focus.

332. Reflecting the outreach and guidance, FIs and DNFBPs appear to implement list-based screening without delay through automated screening software and manual processes. FIs and DNFBPs demonstrated a reasonable approach to receiving sanctions list updates through various channels including website, RSS, social media channels. As mentioned in relation to PEPs, TDCC software is subsidised to help to ensure that a very wide set of FIs and DNFBPs can make use of automated checking software TFS. Implementation of TFS controls appears to be reasonably well supported as outlined in IOs 10 and 11.

333. Routines for verifying positive matches, including escalating matches to the AMLD and continuing a freeze have been demonstrated through the implementation of Rec 7 (see IO 11).

vi. Higher-risk countries identified by the FATF

334. Application of jurisdictional risk is given a great deal of emphasis by FIs and DNFBPs, including a number of CPF and CFT related controls. Consideration of jurisdictional risk has been enhanced and better calibrated to reflect jurisdictional specific risks faced by Chinese Taipei since the 2018 NRA was completed.

Reporting obligations and tipping off

FIs

335. STR reporting obligations have a minor TC gap for predicates, however in practice, FIs appear to be applying the international standards and screening for any STRs, including those related to PF. Most categories of FIs are also required to file CTRs which is an important additional control.

336. Overall the quality and quantity of STRs appear to have improved in the last 12 months, reflecting a number of factors. FI/DNFBPs involvement in the NRA has increased understanding of risk, and sectoral associations have produced much more detailed guidance in cooperation with the AMLD and regulators and these include both objective and subjective criteria for suspicion, which are tailored to particular sectors. FSC's supervision has focused on FIs' compliance with STR reporting obligations. AMLD has increased feedback to FIs reporting STRs to encourage improvements in quality and increases in the numbers of STRs filed. FIs internal controls for identifying possible matters of suspicion are generally operating well. These areas have seen significant improvements over the last 18 months. FSC highlighted findings of additional dedicated AML personnel and upgraded IT systems in many sectors, which has contributed to the volume and quality of STR filing.

337. AMLD confirmed that the quality of STRs has improved greatly within the last year. Since early 2018 AMLD has required STR filings to include more detailed information as part of the STR, including information that may have given rise to suspicion and all related CDD and transactional data associated with the matter. This has helped to improve the basis of AMLD analysis of STRs.

338. There is a mix of reactive and proactive reporting and FIs demonstrated suspicion being identified at various stages of business and arising from various lines of control within FIs. Assessors have some concerns that the final decision to file an STR may be too reliant on negative press reporting about the customer and/or objective criteria included in guidance, rather than concerns arising from the customer's profile and additional risk indicators arising from findings of risk assessments (this is despite clear obligations for the later).

Table 5.1: STRs reported by FIs from 2014 to 2018

Financial Institutions	2014	2015	2016	2017	2018
Domestic banks ¹⁰	6,389	9,139	12,608	19,326	25,552
Foreign bank branches	22	24	31	33	75
Chunghwa Post	355	345	1,010	2,303	4,656
Credit cooperatives	34	43	70	700	1343
Credit card companies	3	5	10	13	30
E-payment service providers	-	-	-	6	24
Electronic stored value card issuers	-	-	1	17	28
Securities firms	6	5	11	115	717
Securities investment trust enterprises	4	2	6	17	73
Securities investment consulting enterprises	-	-	-	-	2
Securities finance enterprises	-	-	2	5	19
Centralised securities depository enterprises	21	20	19	24	23
Futures merchants	-	-	2	9	53
Reinsurance companies	-	-	-	-	-
Life insurance companies	39	59	164	789	1,757
Property insurance companies	2	-	17	10	23
Insurance brokers	-	-	1	-	17
Insurance agents	-	-	-	1	28
Farmers' associations' credit departments	15	14	20	224	1,186
Fishermen's associations' credit departments	-	-	-	10	40
Agricultural Bank	-	-	-	3	31
Bills finance companies	-	-	-	-	8
Foreign Exchange Counters					82
Yearly total	6,890	9,656	13,972	23,605	35,767
Total STRs reported by FIs since 2014	89,890				

339. The use of red flags and typologies are a strength for monitoring, but even more focus needs to be given to customer profile and additional risk indicators to identify instances of suspicion, in particular during ongoing CDD.

340. Foreign exchange counters have only just commenced STR reporting. While the risks of the sector are assessed as relatively low, there is a concern that more needs to be done to support the implementation of internal controls and monitoring to identify and file STRs.

341. Concerns remain with some elements of risk-based monitoring for possible STRs given the mismatch in threat assessment between NRA and FI ERAs. Assessors interviews with FIs and supervisors indicate that a significant number of STRs filed appear to be reactive or defensive, as opposed to proactive (e.g. from CDD or customer monitoring). A related example is the CDD remediation exercise with OBUs and relatively few STRs, despite tens of thousands of accounts for which CDD could not be completed. FSC reported that OBUs filed 367 STRs in 2016, 656 in 2017 and 276 in 2018 (from January to March), which shows an increasing trend, albeit from a very low base. Concerns remain about the relatively small number of STRs filed from higher risk sectors and this is not commensurate with the overall risks.

342. FIs generally appear to understand and apply measures to avoid tipping off. Consistent guidelines and training have been provided to inculcate the maintenance of confidentiality of STR and related information. According to regulators, FIs compartmentalise STRs and have been responsive to

¹⁰ OBU STR filing is included within these figures
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recommendations restricting access to a need-to-know basis. Tipping off by FI personnel has not been detected by LEA or supervisory authorities.

DNFBPs

343. Given the newness of the full coverage of DNFBP sectors in AML/CFT controls, the focus for the first year has been supervisory outreach and education and preliminary steps towards supervision. The second year since coverage has seen further supervision and steps towards enforcing the new obligations.

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Table 5.2: STRs reported by DNFBPs since 2017 (year MLCA coverage commenced)

DNFBP	2017	2018
Accountants	29	62
Land administration agents	11	12
Notaries	6	15
Lawyers	0	2
Bookkeepers / Bookkeeping and Tax Return Filing Agents	0	3
Jewellery Businesses	0	2
Real Estate Agents	0	3
Company Service Providers	0	3
Yearly Totals	46	102
Total STRs reported by DNFBPs since 2017	148	

344. Regulators and associations have disseminated prescriptive red flags to guide STR filing. These have included subjective and objective factors tailored to each sector and have contributed directly to a greater number of STRs being filed with increasing quality in many cases. However case studies tend to be due to suspicion based on customer profile and circumstances beyond typologies.

345. Apart from accountants (who have long been supervised by FSC and more closely involved in outreach at an earlier stage), STR filing is not yet commensurate with risks in most DNFBP sectors. Notably, there have been only four STRs filed by jewellery businesses or lawyers in 2018. Only 23 STRs were filed by land administration agents over the course of 2017-18. In response to the low numbers, the objective and subjective criteria for filing have been further tailored to each sector and to reflect NRA findings and feedback from AMLD.

346. There have been no cases identified of tipping off by DNFBPs. Guidelines require staff to maintain confidentiality. Uneven degrees of sophistication around how reporting is conducted. Bookkeepers and tax return filing agents will report STRs “by post” to maintain confidentiality. Consistent statements that internal controls and training pursuant to regulations prevent leaks.

Internal controls and legal/regulatory requirements impending implementation

347. Internal controls appear to be well-developed among FIs. Considerable resources have been allocated to internal controls since 2016 and almost all sectors have greatly increased their compliance departments and routines. This has extended to employee screening, AML/CFT policies and procedures, monitoring and systems, staff training, audit, etc. In addition, FIs are required to ensure their AML/CFT compliance officer make decisions independently to file STRs. There are, however, concerns that internal controls to ensure that compliance staff independently make decisions within banks to file STRs is undermined in practice. In some instances this may not be done independently by compliance staff, but is dependent on Bank President or other managers’ say-so. Internal controls amongst DNFBPs have been support by outreach, guidance and offsite supervision.

348. Group-wide compliance is improving, albeit from a low base. Supervision and outreach by FSC has given some focus to group-wide controls, which has supported implementation on that basis. Information sharing gaps have been addressed only very recently.

349. Sectoral associations have given some support to DNFBPs to assist them to develop internal controls and routines to support identifying and reporting STRs. This has been reinforced in outreach sessions by AMLD.

Overall conclusions on Immediate Outcome 4

350. TC elements for preventive measures are mostly comprehensive. The transition from a rules-based to a risk-based approach has been occurring in banking sectors since 2013 but is newer in other sectors. Detailed obligations for DNFBP are new and implementation has only recently commenced. FI/DNFBP Sectoral supervisors have undertaken very significant amounts of awareness raising on AML/CFT obligations and ML/TF risks. Guidance has been issued for each respective sector.

351. **Chinese Taipei has a moderate level of effectiveness on Immediate Outcome 4.**