

Angle

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

- 1) Chinese Taipei has a generally robust system of AML/CFT supervision in the financial sectors. The risk-based approach for AML/CFT supervision is still new in some sectors. FSC implementation of risk based supervision commenced in late 2015 however risk inputs were lacking at the initial stages.
- 2) DNFBP supervision has only recently commenced. The EY has allocated additional resources to DNFBP regulators, which has enabled them to greatly enhance outreach and take a number of steps towards risk-based supervision, including preliminary onsite examinations. There may be a need to enhance the powers of DNFBP sectoral supervisors.
- 3) FSC has taken various steps to maintain and further develop its understanding of ML/TF risks including an understanding of relative risks between different sectors and of individual institutions. FSC has risk information from FIs and sectoral assessments, however all supervisors need greater inputs from the FIU and LEAs to better support risk-based supervision and fit and proper controls. BOAF requires more information on risk to support risk-based supervision.
- 4) Licensing and related fit and proper requirements are applied to all FIs. FSC has controls in place to prevent criminals from entering the market by owning or controlling FIs. There are gaps in the scope of obligations (associates of criminals) and implementation needs to be deepened taking into account risks (including foreign currency exchange counters & agricultural FIs).
- 5) Limited market entry and fit and proper controls are in place across DNFBP sectors. Gaps include the scope and implementation of measures related to criminal and their associates.
- 6) The frequency, scope and intensity of offsite and onsite supervision is increasingly based on identified risks. Additional FSC supervisory resources need to be applied to higher risk scenarios.
- 7) The quality of FSC's offsite and onsite supervision appears to be relatively high. FSC supervisors have good AML/CFT skills and experienced staff. While the bulk of AML/CFT supervision has been done in combination with prudential supervision, increasingly stand-alone full scope AML/CFT supervision and thematic supervision is being conducted by FSC.
- 8) The fines imposed on banks, securities, and insurance for AML/CFT breaches are relatively low and may not be wholly proportionate. Going beyond fines, the overall effects of remedial measures, enforcement actions and reputation damage appear to positively influence compliance.
- 9) Authorities have undertaken a very large number of programs to promote a clear understanding of ML/TF risks and AML/CFT obligations in the recent years. This has included close cooperation between supervisors, sectoral associations, the FIU and LEAs.

Recommended Actions

- a) Supervisors (especially for DNFBPs) should ensure they have the full set of supervisory powers,

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increase capacity (particularly the number of specialist AML/CFT supervisory staff), supervisory tools (manuals, etc.) and training for risk-based supervision. Relevant threat analysis from LEAs or the FIU should be provided to FI and DNFBP supervisors to benefit risk-based supervision. The FSC and LEAs should implement further measures to support information exchange on risk.

- b) Expand the obligations on market entry fit and proper and further implement the obligations. This should include enhanced information sharing between agencies, including international cooperation between supervisors.
- c) Continue to expand the use of stand-alone full scope AML/CFT supervision and the conduct of thematic onsite supervision to target persisting or emerging risk areas (e.g. trade finance areas).
- d) Strengthen remedial actions and sanctions regimes and increase the application of dissuasive and proportionate sanctions to ensure a risk-based compliance culture.
- e) Support the coordination and sharing of knowledge and information between FI and DNFBP supervisors.
- f) Further support continuing international cooperation with foreign supervisors on a risk sensitive basis (see IO2).

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Immediate Outcome 3 (Supervision)

Licensing, registration & controls preventing criminals and associates from entering the market

Banks, securities and insurance

352. Licensing controls are generally robust in the financial sector. FSC has control measures in place to prevent criminals from owning or controlling FIs or holding a management function in financial holding companies, banks, insurers, securities firms, and other FSC-regulated FIs. Major shareholders and responsible persons for FIs are subject to fit and proper test. However, there are challenges in FSC obtaining sufficient information from LEAs and intelligence agencies (domestic and foreign) on possible associations with criminals in order to support a deeper approach to reviews.

353. Requirements are in place on the person or concerned party (including a third party acting on behalf of the same person or same concerned party in trust, by mandate or other legal arrangements) who intends to singly, jointly or collectively hold more than a certain threshold of outstanding voting shares (i.e. 10%, 25% and 50%) of a bank and insurance company. In such a case FSC's prior approval is required. For securities, firms must file a report with the FSC when there is a change in the total number of shares owned by those officers and shareholders who hold more than 10% of outstanding shares. In practice, FSC periodically reviews the list of shareholders to verify whether holding structures have reached reporting thresholds. However, more needs to be done to ensure that fit and proper checks are undertaken on the natural persons who ultimately own or control the FI regardless of the percentage of holding.

354. During establishment or any change of responsible persons in companies (including prospective directors, supervisors and general managers) and banks (directors, supervisors, general managers, and *de facto* responsible persons), the FSC implements prior approval reviews. These reviews comprise of both positive (i.e. competency and capacity) and negative tests (i.e. no disqualification criteria, such as implication or conviction for criminal activity).

355. FSC implements on-going review of any changes in shareholders list and responsible persons to ensure fit and proper major shareholders including beneficial owners and responsible persons of FI under FSC regulations.

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356. From 2013 to 2017, the FSC handled 29 cases involving disqualification of 49 FIs' responsible persons or major shareholders (refer to Table below). The FSC has imposed sanctions thereon, including dismissals and suspension from duties.

Table 6.1: Sanctions against office holders or major shareholders of FIs

Type	Number of cases/persons					
	2014	2015	2016	2017	2018	Total
Financial holding company	1/1	0	0	4/4	0	5/5
Domestic banks	0	1/1	2/6	0	2/7	3/7
Credit cooperatives	0	1/1	0	2/3	0	3/4
Credit card companies	1/3	0	0	0	0	1/3
Electronic stored value card issuers	0	1/1	0	0	0	1/1
Securities firms	0	0	0	1/1	4/4	1/1
Securities investment trust enterprises	1/1	0	0	0	0	4/8
Securities investment consulting enterprises	1/1	0	1/2	2/2	0	4/5
Life insurance companies	¼	0	1/1	0	2/5	5/12
Non-life insurance companies	0	0	0	0	0	1/1
Insurance broker companies	0	0	0	1/1	0	1/1
Grand total	5/10	3/3	4/9	10/11	8/16	30/49

Case Example 6.1: FSC rejection of application for establishment in the securities sector

The applicant filed to establish a securities investment consulting corporation with the FSC on August 5, 2014. The FSC checked the Judicial Yuan's court decision database and further information and found that the promoters had once illegally operated a securities investment consulting business. In accordance with Article 68 of the Securities Investment Trust and Consulting Act, a person under the above circumstances shall not serve as a promoter.

Table 6.2: No. of approvals/rejections for the establishment of FIs (head offices) (source: FSC)

Type	2014			2015			2016			2017			2018			Total		
	Application	Approval	Rejection	Application	Approval	Rejection	Application	Approval	Rejection	Application	Approval	Rejection	Application	Approval	Rejection	Application	Approval	Rejection
Foreign bank branches	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	1	1	0
Credit card co.	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
E-payment	0	0	0	5	3	0	0	2	0	1	0	0	1	1	0	7	6	0
Electronic stored value card issuers	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
Securities firms	0	0	0	3	3	0	0	0	0	0	0	0	0	0	0	3	3	0
Securities investment trusts co	0	0	0	2	1	0	0	1	0	0	0	0	0	0	0	2	2	0
Securities investment consulting	3	2	1	4	1	1	6	5	2	2	2	1	6	5	1	21	15	5
Non-life insurance	0	0	0	1	0	0	1	1	0	0	1	0	0	0	0	2	2	0
Insurance brokers	4	2	0	4	4	0	1	3	0	4	2	0	6	4	0	19	15	0
Insurance agents	1	3	0	0	0	0	2	1	0	4	4	0	3	3	0	10	11	0
Grand total	8	9	1	19	12	1	11	14	2	10	9	0	16	13	1	65	57	5

Agricultural FIs

357. Agricultural FIs include ABT, credit departments of farmers' and fishermen's associations. The responsible persons of ABT (including directors, supervisors, and managerial officers) must meet the eligibility requirements of the person in charge of the bank and provide information to the supervisors for review and approval.

358. COA has a review mechanism for the appropriateness of the persons in charge of ABT. COA undertakes daily supervision, which includes checks to determine whether the responsible persons in charge have violated relevant eligibility requirements. COA appoints and/or recommends the ABT's 15-person board of directors, of whom four are government representatives and five are independent directors. The remaining six directorships have been assumed by the secretaries-general of the farmers' or fishermen's associations after the competent authority's verification of their qualifications for appointment. Its chairman of the board is elected by the directors and further approved by EY. Besides, the selection of the general manager must also be reported to EY for approval.

359. Farmers' and fishermen's associations' local contexts are considered by regulators when identifying and managing fit-and-proper risks. COA and local authorities take steps to review whether applicants have committed a specific crime, have been convicted or have been proved to engage in or be involved in other dishonest or improper activities at the time a farmers' association or fishermen's association applies for their establishment or there is a change of the credit department director. In practice, they are discharged if any violations are found. COA also has a power to reject any applications to establish a credit department due to improper management.

360. In practice, COA conducts ongoing checks to verify the competency and capacity of farmer or fishermen's associations' secretary-generals or candidates aspiring to such a post. For example, a secretary-general of a fishermen's association was convicted by a criminal court in 2015, which prompted COA to order this association to dismiss him. Additionally COA may suspend directors, supervisors, and secretaries-general of the farmers' or fishermen's associations (including their credit departments), if they are proven to violate the law and articles of incorporation, or otherwise subject farmers' and fishermen's associations to harm. Despite controls in place to prevent criminals from holding or controlling agricultural FIs, improvements are needed in the area of fit and proper checks to ensure criminal's associates are unable to enter the market.

Foreign Currency Exchange Counters

361. Regulations came into force in August 2018 that require a police criminal record certificate with no conviction record in Chinese Taipei whenever a foreign exchange counter is established or changes its person-in-charge. Existing foreign currency exchange counters are exempt from re-registering. However, the obligations over changes to persons-in-charge will apply to any changes to current license holders. The Central Bank appointed BoT to undertake documentary review of application of establishment of foreign currency exchange counters.

Table 6.3 Applications to establish foreign currency counters

Year	Applications	Approvals	Rejection
2013	34	34	0
2014	30	30	0
2015	45	45	0
2016	21	21	0
2017	37	34	3

362. The Central Bank's revision of related regulations is welcomed as an improvement to help ensure that criminals and their associates are prevented from entering the market. There are gaps with in-depth review of owners including the beneficial owner of foreign exchange counters and its person-in-charge. The Central Bank and BoT should not only review certificate submitted by applicants but should also consider information from relevant authorities e.g. FIU and LEAs.

DNFBPs

363. Jewellers are the only business without a licensing system. However, they are subject to the general negative qualifications under the Company Act. All other DNFBPs are subject to licensing, registration and other controls to prevent criminals being professionally accredited. However, the controls over DNFBPs regarding fit and proper are still limited and are not implemented on a risk-sensitive basis. Regulators do not pursue ongoing fit-and-proper review to ensure criminals and their associates are prevented from entering the market.

Supervisors' understanding and identification of ML/TF risks

364. FSC undertook its first sectoral risk assessment in 2015 to establish a baseline understanding of elements of ML risk. Supervisors demonstrate increased understanding of ML/TF risks since their participation in 2017/18 NRA. The NRA goes some way to identifying the sectoral vulnerabilities based on inherent factors; business characteristics, nature of products and services, nature of business relationship, geographical reach, and nature of delivery channels.

365. While FSC, as long-standing FIs supervisors, has the most robust mechanism to understand the risk of their supervised sectors as a whole as well as an understanding of relative risks between different sectors of individual institutions, other supervisors still have further steps to take to deepen their understanding of ML/TF risks of their supervised sectors.

Banks, securities and insurance

366. FSC takes various steps to maintain its understanding of ML/TF risks in support of their supervision. Before development of NRA in 2017-2018, the first financial Sector Risk Assessment (SRA) was conducted by FSC in 2015, with inputs from the private sector and AMLD. FSC categorizes the ML/TF risk of each sector, looking at the threat of ML/TF to each sector before coming up with a scoring (low/medium/high) for inherent risk, based on a number of factors such as size, volume, cash intensity, frequency of international transactions, of non-resident customers, of higher risk customers and the number of STRs reported. An assessment of a set of control factors (such as market entry, AML/CFT regulations, guidelines and enforcement mechanism in place) then results in a further rating, which is combined to produce an overall risk score for the sub-sector. SRA covered all of FSC-regulated FIs at that time (Chunghwa Post was included amongst domestic banks in the SRA).

367. FSC participated in 2018 NRA process and most NRA findings are in line with 2015 SRA, i.e. domestic banks and OBUs are rated higher risk sectors. FSC plans to update the SRA to take into account the findings of 2018 NRA.

368. FSC has a reasonable understanding of the nature of products, customers, delivery channels and geographical spread of their supervised sectors. Though there was some effort by FSC to address higher risks area, for example, requiring OBUs to re-do CDD of their customers, further works are needed especially threats analysis conducted together with FIU and LEAs to increase understanding of how each FI was used for ML or TF. There is a need for continuing work to consider FIs' risk exposure across the full range of priority threats identified in the NRA, for example a more detailed understanding to risks of proceeds from domestic and foreign corruption risks. There are also concerns that the dynamics of risk faced by the OBU sector is not sufficiently

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well assessed in either the SRA or the NRA and could usefully be a focus of further updating risk assessments.

Agricultural FIs

369. Apart from participating in the NRA, BOAF has yet to complete risk assessments of individual credit departments of the farmers' and fishermen's associations. BOAF has taken steps to increase its understanding of controls in the sector through an offsite questionnaire surveying 311 credit departments. BOAF has instructed all credit departments to complete an ERA and the BOAF plans to conduct a comprehensive risk assessment on all agricultural FIs once the ERAs are complete.

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370. BOAF should continue to enhance its understanding of ML/TF risks and work closely with FSC, FIU and LEAs to improve inputs, with the objective of conducting deeper analyses of ML/TF risks. Additionally, FSC should consider sharing knowledge and expertise on supervision, reviews, and ERAs.

Foreign exchange counters

371. The Central Bank assesses institutional level risk based on identified characteristics of each counter. These include higher volume of transactions, a counter's physical location, and the nature of the business which a counter is attached to (including high-value goods such as jewellery). The Central Bank has used this to identify higher risk counters as a focus of supervision.

372. The Central Bank takes relatively limited steps to obtain additional risk information to allow it to maintain an up to date understanding of risk and periodically review risk assessments. Risk information from the FIU, LEAs other supervisors of primary businesses, especially jewellers, is needed to maintain a more comprehensive view of ML/TF risk that each counter may pose.

DNFBPs

373. In addition to the NRA's results, some regulators have used questionnaires to cover sectors to further develop the regulator's understanding of the sectors they supervise. However, developing in-depth analysis of sectoral risk remains a work in progress.

Risk-based supervision of compliance with AML/CFT requirements

374. FSC has moved to a risk-based approach to supervision, with some initial steps since late 2015. Its internalisation of risk-based approaches has improved. The measures used by the FSC to understand and assess ML/TF risks of respective sectors and entities reflects a reasonable understanding of some of the threats and vulnerabilities. However there is a need for deeper consideration of a range of key threats and vulnerabilities. While the FSC supervisor has developed risk analysis tools to assess inherent risks of each sector (NRA and SRA findings and consideration of ERA), however the FSC has not sufficiently drawn on LEA and FIU information. The team welcomes the cooperation between FSC and AMLD but highlights a need for more structured regular interaction between FSC and AMLD to jointly consider AML/CFT supervisory choices (e.g. emerging risk areas, thematic supervision to enhance quality of STR filing, etc.). Overall ML/TF risk increasingly serves as a key input in determining the focus and intensity of supervision, although this is taking time to mature.

Banks, securities and insurance

375. FSC has covered AML/CFT examination by conducting full-scope (prudential with element of AML/CFT) supervision, AML/CFT targeted examination (all AML/CFT measures), and thematic AML/CFT examination.

376. FEB is only bureau responsible for on-site examination of all FSC-regulated FIs. As of November 2018, there were 217 onsite examiners, with 45 AML/CFT specialists. FEB use a supervision manual to conduct AML/CFT targeted (thematic) or full scope on-site examination which covered every aspect of AML/CFT requirements. Time spent onsite, number of staff in the team, scope and sample size are based on individual FI's residual risk.

377. FSC has used findings of the SRA to determine priority and frequency of onsite examination plans for FIs under FSC's supervision. The SRA also contributed to determining the number of AML/CFT targeted examinations. From 2015 to Q3 2018, the banks are subject to FSC examination on AML/CFT at 69%, while ratio for securities and insurance sectors are lower, 22% and 9% respectively. The SRA itself did not provide detailed risk information about threats, but focused on a sub-set of vulnerabilities, so a number of the determinations may be lacking.

378. FSC takes a structured approach to identify ML/TF risks in individual institutions which comprise of 4 levels—very high, high, medium and low. These levels are based on FI's inherent risk level and level of satisfactory of control measures. The frequency of re-assessment is based on the individual FI's residual risk rating. FSC's approach is to use individual FI's residual risk is used to determining the frequency and sample size needed for each institute's on-site examination. The approach is used for every FSC-regulated sector.

Table 6.4: Risk-based AML/CFT Examination in depth and frequency (FSC)

Individual FI's residual risk	Reviewed Samples Needed	Frequency of Targeted Exam
High	+30% of benchmark	At least Biennially
Medium	Benchmark (e.g. new opening accounts needed to be reviewed)	At least Triennial (priority for FI with inferior compliance rating)
Low	-10% of benchmark	N/A

379. While in practice FSC did not strictly follow the timing set out in the banking sector risk matrix conducted in 2017, there are reasonable measures in place to target examinations. FSC examined all four banks rated with a 'high' level of risks in 2018. Four other banks rated with 'medium' risks, including those identified as having inferior internal controls relative to their peers, were selected for inspection in 2018. FSC indicated that all four banks that were determined to have 'high' level of risks have been examined in 2018.

380. Concerns remain that the pre-set samples size and frequency of bank supervision may not wholly reflect a risk-based approach. FSC has taken some steps to adjust the frequency and intensity of supervision based on both sectoral and institutional level of ML/TF risks. There is a remaining need for sectors such as domestic bank and OBUs which pose higher risk, to be subjected to more frequent and intense off-site/on-site visit tailored to the risks. Also, with more input regarding threats analysis FSC may focus more on area of products, services, locations, type of customers that pose higher risk. This may be included in thematic examinations underpinned by more detailed AMLD and LEA data.

381. FSC pursues a reasonable number of AML/CFT onsite examinations, with a balance between prudential plus AML/CFT and AML/CFT only assessments. The tables below illustrate that since 2015, on average 23% of all such supervision is AML/CFT-only (full scope or thematic). It is notable that higher proportions of full-scope AML/CFT visits are focused on higher risk areas (esp. OBUs).

382. The quality of FSC's supervision appears to be relatively high and the agency demonstrates that it has staff who are skilled and experienced in AML/CFT supervision. As of November 2018,

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10.4% of FSC's manpower (91 people) was mainly focusing on AML/CFT. FSC may need to apply additional resources, mainly to higher risk scenarios.

383. Onsite supervision by FSC adopts well considered methodologies supported by comprehensive manuals. FSC examiners evaluate the adequacy and effectiveness of AML/CFT/CFP controls based on the bank's own business characteristics and its risk profile. Examiners consider documentation, interviews, sample testing, etc.

Table 6.5: FSC's onsite examinations- All types

(Including prudential examinations with AML/CFT elements and full scope AML/CFT examinations)

AML/CFT onsite examinations by the FSC	2014	2015	2016	2017	2018	Totals
On-site examinations on banking, securities and insurance sectors (prudential incl. AML)						
Banking sectors						
Domestic banks (including OBUs) (37 FIs)	56	53	58	71	75	313
OBUs	33	29	42	50	28	182
Foreign bank branches in Chinese Taipei (29 FIs)	15	10	12	14	18	69
Postal Office(1 FI)	1	10	1	6	7	25
Credit cooperative associations (23 FIs)	13	16	30	20	19	98
Bills finance companies (8 FIs)	7	4	4	6	5	26
Credit card companies (5 FIs)	3	1	2	2	3	11
Electronic payment institutions (5 FIs)	0	0	0	2	1	3
Electronic stored value card issuers (4 FIs)	1	0	1	2	2	6
subtotal	129	123	150	173	158	733
Securities sectors						
Securities firms (including OSUs)	11	30	13	23	17	109
Securities investment trust enterprises (39 FIs)	16	24	17	26	19	116
Securities finance (2 FIs)	2	0	2	1	1	6
Centralized securities depository (1 FI)	0	0	0	0	1	1
subtotal	29	54	32	50	38	232
Insurance sectors						
Life insurance (including OIUs, 23 FIs)	17	12	13	15	17	88
Non-life insurance (incl. reinsurance-22 FIs)	7	10	10	11	7	58
Insurance brokers (approx. 470 FIs)	0	1	0	2	4	7
Insurance agents (approx. 305 FIs)	0	0	0	0	2	2
Subtotal	24	23	23	28	30	155
Annual total	182	200	205	251	226	1,064
Commissioned examinations performed by the FSC						
Credit departments of farmers' associations (288 FIs)	100	93	91	116	81	481
Credit departments of fishermen's associations (28 FIs)	10	13	14	12	12	61
ABT (1 institution)	1	0	1	0	2	4
Total examinations	111	106	106	128	95	546

Table 6.6: FSC's onsite examinations- AML/CFT only (including thematic)

AML/CFT onsite examinations by the FSC	2015	2016	2017	2018	Total
Domestic banks (38)	8	17	30	27	82
OBUs (61units)	8	24	26	8	66
Foreign bank branches in Chinese Taipei (29 institutions)	-	3	-	7	10
Postal saving and remittance service provider (1 institution)	10	-	6	6	22
Credit cooperative associations (23 institutions)	6	18	7	8	39

AML/CFT onsite examinations by the FSC	2015	2016	2017	2018	Total
Bills finance companies (8 institutions)	-	-	2	2	4
Electronic payment institutions (5)	-	-	2	-	2
Electronic stored value card issuers (4)	-	-	2	-	2
Securities firms (including OSUs)	18	-	10	7	35
Securities investment trust enterprises (39)	-	-	5	6	11
Securities finance (2 institutions)	-	-	1	-	1
Securities investment consulting enterprise	-	-	4	2	6
Future commission merchants	-	-	-	3	3
Life insurance (including OIUs, 28 institutions)	1	-	5	5	11
Non-life insurance (incl. reinsurance-22)	1	-	2	-	3
Insurance brokers (331 institutions)	1	-	2	4	7
Insurance agents (294institutions)	-	-	-	2	2
Annual totals	53	62	104	87	306

384. Full scope supervision considers elements of assessing risks and related responses; CDD and EDD routines; ongoing monitoring and STR filing; TFS implementation (TF/PF); policies and procedures; and organisation and personnel. Focus areas include correspondent banking controls (policies/procedure and their implementation, 3rd party payments, foreign branches and subsidiaries, etc.).

385. FSC has begun to conduct thematic targeted supervision of banks, with some undertaken in response to trigger events, and some arising from findings of risk assessments. In 2015 FSC conducted targeted thematic examination of 8 domestic banks on their deposit account opening and related AML measures in response to FSC/FIU consideration of risks from the proceeds of telecom frauds. In 2016 and 2017 FSC conducted a number of rounds of targeted thematic supervision of OBUs implementation of CDD on beneficial ownership and control of customers. In the same years FSC did thematic targeted supervision on AML controls of foreign branches of domestic banks. In 2018 FSC conducted thematic supervision of TFS implementation on 15 domestic banks.

386. Off-site monitoring is conducted by each of the FSC bureaus and is well implemented. Offsite reviews consider whether policies, procedures and action plans of risk management formulated by FIs are reasonably commensurate with the outcomes of their enterprise-wide risk assessments. In addition, the FSC also evaluates if FIs have appropriate personnel and budgets to implement relevant controls, including their audit. In respect of reviewing methods, the FSC mainly requires FIs to submit relevant reports and conducts individual interviews of each entity in order to understand the FIs' AML/CFT mechanisms in place and the implementation thereof.

387. FSC has requirements for external auditing by an independent third party. In 2016, the FSC identified 12 banks of high risks, based on the size of total assets and OBU assets as well as onsite examination findings, and required them to have external auditing on the effectiveness of their enterprise-wide AML/CFT risk assessments and AML/CFT programs. For securities firms, in 2017 the FSC required an independent third party to examine the effectiveness of their enterprise-wide AML/CFT risk assessments and AML/CFT programs.

388. In 2018, the FSC required third parties to examine securities firms and increase the scope and intensity of external audit on banking sector and insurance sector. This included requiring all domestic banks, credit cooperatives, bill finance companies, life insurance companies and 2 non-life insurance companies to commission public certified accountants to conduct an examination on AML/CFT with assurance.

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389. For insurance companies, the FSC selected 11 life insurance companies based on the same mechanisms outlined above and subjected them to examination similar to the examination of banks and securities firms (i.e. AML/CFT elements undertaken as part of onsite prudential supervision).

390. Moreover, although banking sector is under supervision of FSC, the Central Bank also conducts examination on wire transfer transactions which decision made on volume of transactions and is wholly rules based. Thus, in this area, the supervision reflects a mix of a risk-sensitive and some rules-based measures.

Agricultural FIs

391. BOAF, has appointed the FSC FEB to conduct onsite examinations of agricultural FIs for both prudential and AML/CFT controls. FEB (FSC) conduct on-site AML/CFT supervision by following BOAF's risk analysis, rather than FSC's own risk assessment. Following FEB on-site examinations, the BOAF or local competent authorities are responsible for taking follow-up actions and help agricultural FIs to improve their AML/CFT compliance.

Foreign currency exchange counters

392. The Central Bank identifies ML/TF risks of individual foreign currency exchange counters through the institutional risk assessments to guide its risk based supervision. It also considers findings from earlier supervision as well as the risk factors (geographical region, industry, exchange volume and deficiencies identified in previous inspections) in determining the frequency and scope of inspections for AML/CFT. Exchange volumes and previous inspection findings are given the greatest weight. Applying this methodology, the Central Bank identified 10% (45) of all the counters as high risk, with 35% (152) as medium risk.

393. The Central Bank completed operational inspections of each of the 45 high-risk counters between September 2016 and August 2018. In addition, the Central Bank also has an immediate check-up mechanism whereby operational inspection will immediately follow any filing of an STR by a the foreign currency exchange counter.

394. On-site inspection of foreign exchange counters focuses on adherence with the Foreign Currency Exchange Counter Regulations, which includes the covered requirements of AML/CFT. The Central Bank has taken follow-up actions including official request to improvements or written counselling and follow-up on deficiencies by BoT.

DNFBPs

395. MLCA amendments in 2016-2017 clarified AML/CFT supervisory powers for DNFBPs regulators. Since that time, DNFBP supervisors have taken some steps to monitor AML/CFT compliance within their supervised sectors.

396. In mid-2017, the jewellery retailer supervisor has distributed questionnaires in advocacy activities to learn if the daily businesses and transactions in jewellery business complied with the laws, and to further identify and analyse customer types as well as the existence of large-amount currency transactions and cash payments. The on-site inspections on large-scale jewellers also conducted in 2017. It was found that 3 of them failed to report currency transactions above NT\$500,000 to the MJIB and failed to comply with the regulations regarding CTR and 4 of them have yet to receive trainings in AML and CFT. However, supervisor decided not to punish those who failed to comply with AML/CFT obligations but provided assistances punishments as the one-year assistance period had not expired at the time of the inspections.

397. Inspections of CPAs in the 12 months since coming under the AML/CFT regime, have focussed on AML internal control systems. FSC has adopted some risk-based inspection method, targeting the inspections on firms with higher risks according to factors like the scale of the firm, number of attestation cases, and types of clients as well as considering the deficiencies found in routine supervision. FSC also signed a collaborative inspection agreement with the Public Company Accounting Oversight Board (PCAOB) of the U.S. and has conducted numerous joint inspections. In 2018, 24 CPA firms were subject to off-site inspection include the 'big four' firms and 14 medium firms which were of higher inherent risks to be included in the inspections; 6 small firms were also included in combining higher inherent risks and noncompliance risks and considering related supervision information. The off-site inspection focus on understanding business and AML/CFT implementation. FSC plans to perform on-site inspections on 8 firms (from large to small firms) from July to December of 2018.

398. Lawyers, unlike other DNFBPs, are subject to long-established self-regulation. MOJ plans to conduct a form of on-site supervision with 20 selected law firms beginning in July 2018. This will be done in conjunction with the Bar Association. MOJ is working through a number of logistical issues with the sector, given sensitivities with the new obligations. The standard for selection of firms for on-site supervision are (1) off-site supervision results, those which are thought to have information disparity, or which have higher non-compliance risk index; (2) law firms with special business form (i.e., non-partnership alliance of independent lawyers); (3) random samples.

399. According to the 2018 NRA's sectoral vulnerability analysis, real estate brokerages have high levels of vulnerabilities while land administration agents have medium levels of vulnerabilities. DLA considered the availability of existing resources and selected the real estate brokerage sector with higher risks as the target for "offsite supervision" in this round and issued official letters to 40 real estate brokerages (those with the most branches) on April 10, 2018 to request them to fill out offsite supervision questionnaires, which were divided into "ML/TF risks" and "non-compliance risks". DLA conducted on-site inspections in August and September 2018 on 17 real estate brokerages following further review of the returned offsite questionnaires. In October 2018 DLA delivered on-site inspection results and recommended action reports to local governments, associations of land administration agents, real estate agents, and the inspected businesses. These reports urged the businesses to make improvement and strengthen awareness to avoid repeating the same mistakes.

400. Overall, the AML/CFT supervision on DNFBP sector is ongoing as they recently include in the regime. There are improvements needed especially on maintain an understanding of ML/TF risks within the sector and individual level and more detailed off-site and on-site examination in keeping with risk profile. Previously, AMLO assigned some resources to promote DNFBP's supervision. Therefore, DNFBP supervisors need more resources to strengthen their works on AML/CFT supervision.

Remedial actions and effective, proportionate, and dissuasive sanctions

401. FSC has a gradated range of remedial measures that it can impose on financial institutions. A variety of sanction measures in place, such as official requests for improvement, correction orders, reprimands, warning letters, restrictions of businesses, dismissals of directors or managers, among other means to adequately address the AML/CFT deficiencies found in FIs.

402. Amendment to the MLCA in 2016, increased fines available for failure to comply with AML/CFT obligations to a range of NT\$500,000 - \$10 million (previously, fines had ranged from NT\$200,000 to NT\$1 million). Insurance Act amended increased the upper limit of fines to NT\$12 million (from NT\$6 million) for deficiencies involving internal controls. Similar amendments are also planned for the Banking Act and the Securities and Exchange Act with planned increases of

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from NT\$10 million to NT\$50 million, and from NT\$2.4 million to NT\$4.8 million for banks and securities firms, respectively.

403. Overall, the financial sanctions imposed on banks, securities and insurance are not proportionate to gaps identified, in particular with rules-based obligations. In some cases, the low quantum of fines available was a problem (for example the Mega International Bank case).

404. The fines imposed increased significantly from 2016 to 2017 due to the recent global supervisory focus. It is apparent that sanctions imposed mainly relate to deficiencies or breaches of CTR, CDD (including ongoing monitoring), STR and internal control requirements. Since 2017, FSC has identified more breaches with ongoing monitoring and STR mechanisms.

405. One of the most severe punishments imposed by supervisory authorities in the last three years includes the incident in which Mega International Bank was fined by the US DFS in 2016. The FSC imposed a range of sanctions as set out in the case study below.

Case Example 6.2: Fines imposed on Mega International Bank's New York branch

Onsite examinations by the New York State Department of Financial Services (DFS) in 2015 found that the New York branch had engaged in suspicious transactions with its Panama Branch, and failed to provide an adequate explanation. In 2016 Mega International Bank was fined USD 180 million by the DFS over its New York branch's inferior internal controls and failure to carry out exhaustive CDD, while the head office had failed to provide adequate oversight. This was the highest fine to have ever been imposed on the overseas location of a domestic financial institution.

FSC established an inter-agency taskforce, and found Mega Bank had exhibited multiple deficiencies with compliance, internal audits, independence and expertise of compliance officers, internal report procedures, and communication with competent authorities. The FSC imposed a maximum fine of NTD 10 million (approx. USD330,000), along with a correction order. It suspended the bank's application for the establishment of additional overseas branches until the deficiencies were completed rectified, and removed a director who was a representative of a legal person (a financial holding company). The FSC also ordered the bank to dismiss senior executives including its general manager, manager of the New York Branch, vice president, chief auditor, and chief compliance officer.

Table 6.7: Sanctions levied by the FSC for AML/CFT failings

Year		Fines	Measures other than correction orders	Correction orders	Official letter requesting improvement	Total
2014	Banking	1	0	0	96	97
	Securities	0	0	0	29	29
	Insurance	0	0	0	24	24
	Subtotal	1	0	0	149	150
2015	Banking	0	0	0	95	95
	Securities	0	1	3	56	60
	Insurance	1 (USD 80k)	0	0	24	25
	Subtotal	1	0	3	175	180
2016	Banking	17 (USD 1.63m)	10	10	131	168
	Securities	0	0	3	53	56
	Insurance	3	0	7	23	33
	Subtotal	20	10	20	207	257
2017	Banking	16 (USD 1.05m)	1	28	124	169
	Securities	1 (USD 20k)	3	14	59	77

	Insurance	0	0	2	29	31
	Subtotal	17	4	44	212	277
2018 (Jan/Sep)	Banking	8 (USD 90k)	0	18	99	125
	Securities	0	0	30	37	67
	Insurance	7 (USD 106,667)	2	30	23	62
	Subtotal	15	2	78	159	254
Totals		54 (approx. USD 3 million)	16	145	902	1117

406. For Agricultural FIs, prior to the implementation of the amended MLCA, violations were mostly punished by official letter requesting improvement, corrections, or other administrative penalties. Despite the implementation of amended MLCA and regulations commencing in June 2017, the BOAF focuses on providing guidance and assistance to increase the awareness and operations of agricultural FIs toward AML/CFT, rather than supervision. In case of breaches involving AML/CFT obligations, BOAF has mostly issued official letters to the local competent authorities to request more supervision for improvements and instruct the ABT to strengthen guidance and assistance. More needs to be done by supervisors to impose effective remedial actions or sanctions.

407. For foreign currency exchange counters, sanctions for AML/CFT are only available in the *Foreign Currency Exchange Counters Regulations*. These sanctions include official letter from BoT for remedial action or cancelling the approval for serious violations of regulations. No fines are available to enforce compliance. From 2014 to June 2018, the Central Bank inspected 465 foreign exchange counters and issued 398 official letters for AML/CFT violations and issued 439 letters requiring remedial actions. Only in one case were breaches serious enough to cancel the approval to operate.

Table 6.8: Sanctions imposed for AML/CFT violations by foreign currency counters

Year	Counters inspected	Issue official letter	Cancel approval
2014	64	49	-
2015	61	37	-
2016	80	69	-
2017	147	136	1
2018 (Q1 to Q2)	113	107	-
Totals	465	398	1

DNFBPs

408. DNFBPs were brought into the MLCA framework in June 2017. As such, fines had not yet been imposed, but some remedial actions had been taken, following an initial round of off-site and limited on-site inspections of some sectors. The efforts put in place by relevant authorities with each DNFBP sector is an important foundation for future supervision and promotion of risk-based AML/CFT implementation amongst the DNFBPs.

Impact of supervisory actions on compliance

409. The fines imposed on banks, securities, and insurance for AML/CFT breaches are relatively low and may not be wholly proportionate. However, it should be noted that fines and the publication of the fines and the negative findings, are contributing to significant changes in the culture and conduct of compliance in Chinese Taipei. The overall effects of remedial measures, enforcement actions and reputation damage appear to positively influence compliance.

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Supervisory actions are, overall, having a very significant impact on compliance and a move towards a risk-based approach across the financial sector and, more recently, with DNFBNs. According to off-site and on-site examination results in recent years, FSC stated that FIs have enhanced their understanding of the AML/CFT obligations, devoted significant amount of resources, and established systems and procedures to improve examination deficiencies. However, CDD measures (including the identification of beneficial owners and PEPs), ongoing CDD, and transaction monitoring are still challenging for FIs. The authorities, including AMLO and supervisors and SRBs stressed that their efforts have helped DNFBNs to improve their awareness of ML/TF risks and obligations in each sector.

410. Given that the stakes of AML/CFT breaches are getting higher especially the cases of fines imposed by US authority, the industry-wide awareness of AML/CFT compliance in the financial sector is increasing and more resources have been dedicated by FI/DNFBNs. For example, dedicated AML/CFT officers of domestic banks have increased to 1,079 at end-March 2018 from 171 at the end of 2014. The growth rate is over 500%.

Promoting a clear understanding of AML/CFT obligations and ML/TF risks

411. FSC's efforts promote a clear understanding among FIs of their AML/CFT obligations and ML/TF risks by establishing long-term partnerships and engaging in ongoing communications with sectors through their associations, holding meetings, coordinating the financial industry to hold training courses and advocacy sessions, and setting up dedicated AML/CFT webpages. FSC also advises on sectoral guidance issued by associations. FSC has an established long-term partnership and ongoing communication with the financial sector especially through the establishment of task-force and one-on-one communication to maintain understanding of AML/CFT obligations and discussion on emerging ML/TF risks.

412. In addition to the formation of AML task force in May of 2017 to plan for the amendments of regulations and enforcement of guidance and assistance, there are several follow-up actions on inspected agricultural FIs to ensure they have sound understanding of AML/CFT obligations. Competent authorities continue to hold educational trainings each year and since 2016, the AML/CFT subjects were incorporated into relevant courses. AML/CFT guidelines for agricultural FIs were issued and BOAF has established an AML/CFT Section on its website to provide the latest relevant regulations of AML/CFT and Q&A for reference.

413. The Central Bank conducted public engagements in 2017 and 2018 to explain the rationale for amendments made to relevant Regulations. The Central Bank has hosted seminars and training. In addition, BoT issued SOPs, Q&A and other guidelines for foreign currency exchange counters to understand their AML/CFT obligations. These are also available on website for the counters to review and download.

DNFBPs

414. Most DNFBNs were involved in the drafting and provided their feedback on new obligations regarding AML/CFT. Many meetings between authorities, SRBs and senior officials were held prior to this round mutual evaluation. The competent authorities have consulted opinions from the associations on training, and composition of guidance, as well as on the amendments of related regulations.

415. Best practice Guidance Notes on Implementing Anti-Money Laundering and Countering the Financing of Terrorism for DNFBNs" was developed by AMLO and supervisors. It has recently been implemented by all DNFBNs to ensure they adopt consistent methods of AML and CFT, as well as ensure the supervisory authorities adopt consistent interpretations of the MLCA and the CTF Act.

416. However, in the near future, relevant authorities should consider developing the detailed guidelines for specific DNFBP sector to response to threats and risks regarding specific activity.

Overall conclusions on Immediate Outcome 3

417. Fit and proper checks by supervisors are generally sound, though there is a need to enhance controls against criminal associates, and implementation for select FI/DNFBP. A risk-based supervisory regime is in place for FIs and DNFBPs, though the latter have only been recently included and more needs to be done to improve both monitoring capabilities and regulatory transparency with respect to clearly-defined statutory powers. FSC's frequency scope and intensity of offsite and onsite supervision is increasingly based on the identified risks. Chinese Taipei's supervisory regime is holistic, encompassing close cooperation through private-public associations, through to gradated remedial measures towards ensuring AML/CFT compliance. However, there are opportunities for improvement including regular risk inputs from the FIU and LEAs. Fines imposed on FIs for serious AML/CFT breaches are relatively low and may not be wholly proportionate. Going beyond fines, the overall effects of remedial measures, enforcement actions and reputation damage appear to positively influence compliance.

418. **Chinese Taipei has a moderate level for effectiveness for Immediate Outcome 3.**