

TECHNICAL COMPLIANCE

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	LC	<ul style="list-style-type: none"> <li>Enhanced and reduced measures are not sufficiently based on identified risks</li> </ul>
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> <li>Chinese Taipei does not yet have explicit national level strategies</li> <li>There are some minor gaps in elements of operational level cooperation</li> </ul>
3. Money laundering offence	LC	<ul style="list-style-type: none"> <li>Smuggling of migrants is not a predicate offence to ML</li> <li>The definition of ML in cases of self-laundering is not comprehensive</li> </ul>
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> <li>No express provisions allowing for transactions to be voided or applications to seize to be made <i>ex parte</i>.</li> <li>Proceeds and instruments related to smuggling of migrants is not covered.</li> </ul>
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> <li>There are some minor gaps with the TF offence, it is not evident that self-financing is criminalised although such conduct may be prosecuted under an ancillary offences.</li> <li>Art 2(1)(b) of the TF convention (“any other act to intimidate or pressure a government”) is also not present as all offences are linked to listed terrorist offences.</li> <li>The term “property” is not defined in any laws or regulations although the team accepts that the term is construed widely by the courts.</li> </ul>
6. Targeted financial sanctions related to terrorism & TF	LC	<ul style="list-style-type: none"> <li>The amended CTF Act applies TFS to assets wholly or jointly owned or controlled, directly or indirectly, but not clearly to property derived from such property of designated persons.</li> <li>The freezing obligations do not apply to funds or other assets of persons and entities acting on behalf of or at the direction of designated persons and entities, except when those funds are property or property interests of the designated person or entity</li> <li>Freezing obligation are not clearly enforceable on natural and legal persons who are not also FIs or DNFBPs.</li> <li>No protection for parties implementing TFS obligations in good faith.</li> <li>There are no clear procedures for dealing with false positive designations, other than administrative appeal procedures.</li> <li>It is not clear whether FIs and DNFBPs are required to report attempted transactions that would be prohibited under TFS.</li> </ul>
7. Targeted financial sanctions related to	LC	<ul style="list-style-type: none"> <li>The amended CTF Act does not clearly apply TFS to assets or property derived from property of designated persons or entities.</li> </ul>

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proliferation		<ul style="list-style-type: none"> <li>▪ The freezing obligations do not apply to funds or other assets of persons and entities acting on behalf of or at the direction of designated persons and entities, except when those funds are property or property interests of the designated person or entity</li> <li>▪ Freezing obligation are not clearly enforceable on natural and legal persons who are not also FIs or DNFBPs.</li> <li>▪ No protection for parties implementing TFS obligations in good faith.</li> <li>▪ There are limited procedures for dealing with false positives.</li> <li>▪ It is not clear whether FIs and DNFBPs are required to report attempted transactions that would be prohibited under TFS.</li> <li>▪ No clear provisions allowing interest or other earnings to be added nor any payments due under contracts, so long as the account remains frozen.</li> <li>▪ No legal protections to ensure payments made to a frozen account under contract do not relate to prohibited items or activity.</li> </ul>
8. Non-profit organisations	LC	<ul style="list-style-type: none"> <li>▪ Sanctions available to enforce obligations for transparency and accountability amongst NPOs are not sufficiently effective, proportionate and dissuasive for violations by civil associations or persons acting on behalf of these NPOs</li> </ul>
9. Financial institution secrecy laws	C	<ul style="list-style-type: none"> <li>▪ The recommendation is fully met</li> </ul>
10. Customer due diligence	LC	<ul style="list-style-type: none"> <li>▪ Minor gaps in relation to exemption on identifying and verifying beneficial ownership in relation to certain types of customers.</li> </ul>
11. Record keeping	LC	<ul style="list-style-type: none"> <li>▪ Gaps with foreign exchange counters keeping records of analysis leading to STRs</li> </ul>
12. Politically exposed persons	C	<ul style="list-style-type: none"> <li>▪ The recommendation is fully met</li> </ul>
13. Correspondent banking	C	<ul style="list-style-type: none"> <li>▪ The recommendation is fully met</li> </ul>
14. Money or value transfer services	C	<ul style="list-style-type: none"> <li>▪ The recommendation is fully met</li> </ul>
15. New technologies	C	<ul style="list-style-type: none"> <li>▪ The recommendation is fully met</li> </ul>
16. Wire transfers	C	<ul style="list-style-type: none"> <li>▪ The recommendation is fully met</li> </ul>
17. Reliance on third parties	C	<ul style="list-style-type: none"> <li>▪ The recommendation is fully met</li> </ul>
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> <li>▪ There are minor gaps in relation to internal control obligations for foreign exchange counters.</li> </ul>
19. Higher-risk countries	C	<ul style="list-style-type: none"> <li>▪ The recommendation is fully met</li> </ul>

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20. Reporting of suspicious transaction	LC	<ul style="list-style-type: none"> <li>Weaknesses in the STR obligations on foreign exchange counters</li> <li>STRs don't clearly cover cases of suspicion that funds are the proceeds of a criminal activity, or are related to TF, even if no transaction has occurred.</li> <li>STR obligations do not appear to cover the proceeds of migrant smuggling</li> </ul>
21. Tipping-off and confidentiality	LC	<ul style="list-style-type: none"> <li>No explicit prohibition on tipping off covering foreign exchange counters.</li> <li>No explicit requirement to keep reporting of suspicion of ML to AMLD to be kept confidential. No explicit requirement to include officers and directors and prevent them from disclosing an STR has been sent to AMLD.</li> </ul>
22. DNFBPs: Customer due diligence	PC	<ul style="list-style-type: none"> <li>A number of shortcomings in relation to the scope of CDD and other risk-based preventive measures covering various DNFBPs.</li> </ul>
23. DNFBPs: Other measures	LC	<ul style="list-style-type: none"> <li>There are minor gaps with obligations to file STR related to proceeds of migrant smuggling</li> <li>no explicit provision to support that the protection shall be made available even if the person filing the report did not know precisely what the underlying criminal activity was, and regardless of whether the illegal activity actually occurred</li> </ul>
24. Transparency and beneficial ownership of legal persons	LC	<ul style="list-style-type: none"> <li>Not all ML/TF risks were assessed with respect to all types of legal persons able to be created in Chinese Taipei.</li> <li>Oversight of and enforcement to ensure accuracy of registration filing with MOEA had not commenced at the time of the onsite visit.</li> <li>Controls do not fully mitigate risks posed by bearer shares issued before August 2018</li> <li>There is relatively little professional intermediation in the establishment or continuing operation of legal persons in Chinese Taipei, so relying on CDD information obtained by FIs/DNFBPs may not ensure that information on the beneficial ownership of a company is can be otherwise determined in a timely manner</li> </ul>
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> <li>Trustees of civil trusts are not required to obtain and hold accurate and current details of parties to the trust and any other natural person who may be exercising effective control over the trust</li> <li>Trustees of civil or foreign trusts are not required to declare their status to FIs and DNFBPs when establishing a relationship</li> <li>There are few requirements requiring trustees to hold basic information on regulated agents of and service providers to the trust</li> </ul>
26. Regulation and supervision of	LC	<ul style="list-style-type: none"> <li>The Central Bank and BoT do not sufficiently consider the ML/TF risks when determining frequency and intensity</li> </ul>

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financial institutions		for supervision on foreign exchange counters
27. Powers of supervisors	LC	<ul style="list-style-type: none"> <li>There are shortcomings in the supervisor's ability to sanction foreign exchange counters for AML/CFT failings</li> </ul>
28. Regulation and supervision of DNFBPs	PC	<ul style="list-style-type: none"> <li>Gaps with controls to prevent criminals' associates from being accredited, holding a significant or controlling stake, or a management role in a DNFBP.</li> </ul>
29. Financial intelligence units	LC	<ul style="list-style-type: none"> <li>The AMLD shares information with domestic and foreign counterparts in a secure manner. There is not an express provision allowing for the dissemination of ICTRs and CTRs however such information is included in analysis reports that are disseminated.</li> </ul>
30. Responsibilities of law enforcement and investigative authorities	C	<ul style="list-style-type: none"> <li>The recommendation is fully met</li> </ul>
31. Powers of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> <li>There are restrictions on authorities ability to conduct undercover investigations and to intercept communications in relation to some predicate offences</li> <li>Controlled delivery only applies in relation to drug offences</li> </ul>
32. Cash couriers	LC	<ul style="list-style-type: none"> <li>There is no requirement to retain declarations when there is a suspicion of ML or TF</li> <li>Customs officers have the power to seize items on suspicion, but may only seize "things that may be forfeited" which is undefined (but appear to be construed widely).</li> </ul>
33. Statistics	LC	<ul style="list-style-type: none"> <li>Chinese Taipei does not maintain statistics relating to ML investigations that are opened by LEAs prior to being referred to prosecutors.</li> </ul>
34. Guidance and feedback	C	<ul style="list-style-type: none"> <li>The recommendation is fully met</li> </ul>
35. Sanctions	PC	<ul style="list-style-type: none"> <li>The range of monetary penalties available to regulators and supervisors are not proportionate or dissuasive.</li> <li>It is not clear that sanctions can be applied to directors and senior managers of DNFBPs who are legal persons.</li> </ul>
36. International instruments	LC	<ul style="list-style-type: none"> <li>Chinese Taipei are not a party to the UN Conventions however implement their requirements to a large extent.</li> <li>The smuggling of migrants is not a predicate offence for ML.</li> <li>There are minor gaps in the TF and ML offence.</li> </ul>
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> <li>There are shortfalls in the powers of LEA, dual criminality is required for non-coercive measures</li> </ul>
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> <li>MLA will not be able to apply in relation to the proceeds of the smuggling of migrants.</li> <li>As the provision of MLA is restricted by that which is able to be carried out domestically, the minor gaps in relation</li> </ul>

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		to R.4 apply.
39. Extradition	LC	<ul style="list-style-type: none"> <li>▪ In circumstances where Chinese Taipei does not extradite suspects, there are no obligations to refer them to a domestic court.</li> <li>▪ The scope gap relating to the smuggling of migrants affects Chinese Taipei's ability to provide extradition in a very minor way.</li> </ul>
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> <li>▪ Given Chinese Taipei's heavy reliance on MOUs it should continue to agree MOUs with a wider range of jurisdictions.</li> <li>▪ Some agencies don't have direct information exchange agreements with foreign counterparts, however other domestic agencies may provide that information on their behalf.</li> </ul>

# Angle

## Glossary of Terms

<b>AAC</b>	Agency Against Corruption, MOJ
<b>ABT</b>	The Agricultural Bank of Taiwan
<b>AEA</b>	Administrative Enforcement Agency, MOJ
<b>AMLD</b>	Anti-Money Laundering Division, MJIB (Chinese Taipei's FIU)
<b>AMLO</b>	Anti-Money Laundering Office, EY
<b>BOAF</b>	Bureau of Agricultural Finance, COA
<b>BOT</b>	Bank of Taiwan
<b>CA</b>	Customs Administration, MOF
<b>CCAPO</b>	Cooperative & Civil Association Preparatory Office, MOI
<b>CIB</b>	Criminal Investigation Bureau, NPA, MOI
<b>CPF</b>	combating the financing of proliferation of WMD
<b>DCA</b>	Department of Civil Affairs, MOI
<b>DLA</b>	Department of Land Administration, MOI
<b>DPO</b>	District Prosecutors office
<b>EY</b>	Executive Yuan
<b>ERA</b>	Enterprise risk assessment
<b>FISC</b>	Financial Information Service Co
<b>FSC</b>	Financial Supervisory Commission
<b>HPO</b>	High Prosecutors Office
<b>JCIC</b>	Joint Credit Information Centre
<b>JY</b>	Judicial Yuan
<b>MAC</b>	Mainland Affairs Council
<b>MJIB</b>	Investigation Bureau, MOJ
<b>MLCA</b>	Money Laundering Control Act
<b>MOE</b>	Ministry of Education
<b>MOEA</b>	Ministry of Economic Affairs
<b>MOF</b>	Ministry of Finance
<b>MOFA</b>	Ministry of Foreign Affairs
<b>MOHW</b>	Ministry of Health and Welfare
<b>MOI</b>	Ministry of the Interior
<b>MOJ</b>	Ministry of Justice
<b>MOTC</b>	Ministry of Transportation and Communications
<b>MPB</b>	Maritime Port Bureau
<b>NIA</b>	National immigration Agency, MOI
<b>NPA</b>	National Police Agency, MOI
<b>NRA</b>	National Risks Assessment
<b>NSB</b>	National Security Bureau
<b>NSC</b>	National Security Council
<b>OBU</b>	Offshore Banking Unit
<b>OHS</b>	Office of Homeland Security
<b>OIU</b>	Offshore Insurance Unit
<b>OSU</b>	Offshore Securities Unit
<b>SFAA</b>	Social and Family Affairs Administration, MOHW
<b>SPO</b>	Supreme Prosecutors Office
<b>SRA</b>	Sectoral risk assessment
<b>TA (MOF)</b>	Taxation Administration, Ministry of Finance
<b>TDCC</b>	Depository & Clearing Corporation
<b>TFRC</b>	TF Review Committee