Anti-money laundering and counter-terrorist financing measures

Indonesia

Mutual Evaluation Report

September 2018

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APG members and observers are committed to the effective implementation and enforcement of internationally accepted standards against money laundering and the financing of terrorism, in particular the Forty Recommendations of the Financial Action Task Force on Money Laundering (FATF).

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EXECUTIVE SUMMARY

1. This report provides a summary of the anti-money laundering and counter financing of terrorism (AML/CFT) measures in place in Indonesia as at the date of the onsite visit from 6 to 17 November 2017. It analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Indonesia's AML/CFT system and provides recommendations on how the system could be strengthened.

A. Key findings

- Indonesia has a high risk of terrorist financing (TF), which was assessed in the 2015 national risk assessment (NRA) of TF and updated in 2017. Money laundering (ML) risk was assessed in the 2015 ML NRA, supplemented by 10 sectoral/strategic risk assessments and a 2017 update, which reasonably identifies corruption, narcotics and taxation as the three main proceeds/ML-generating predicate offences. The competent authorities that met during the onsite visit demonstrated a sound understanding of Indonesia's TF risk. The level of understanding of the ML risk is sound in key law enforcement agencies (LEAs) designated to conduct ML investigations. National coordination and cooperation is very strong with national priorities outlined in the 2017–2019 National Strategy on the Prevention and Eradication of Money Laundering and Terrorist Financing (STRANAS). Proliferation financing (PF) coordination is recent.
- LEAs use operational and strategic analyses disseminated by Indonesia's financial intelligence unit (FIU), *Pusat Pelaporan dan Analisis Transaksi Keuangan* (PPATK), in ML/TF and predicate crime investigations. PPATK uses suspicious transaction reports (STRs) in combination with other reports and sources of relevant information, including from LEAs, to develop its financial intelligence products, which are of high-quality. Indonesian LEAs are also developing their own financial intelligence, which is used to investigate ML/TF and predicate offences and to trace property for seizure and confiscation.
- Since 2013, most of the 324 individuals convicted of ML in Indonesia are for self-laundering with few complex cases, although 43% of convictions relate to corruption, which is consistent with Indonesia's risk profile. However, the number of ML cases for other higher-risk predicate crimes is not consistent with Indonesia's ML risk.
- Indonesia has a national policy objective for confiscation in higher-risk ML cases, but not explicitly for TF or other predicate crimes. STRANAS does, however, include a strategy specifically focused on the prevention and eradication of TF (Strategy 3), which includes objectives to optimise the handling of all criminal actions, covering confiscations related to TF. Indonesia is confiscating property in predicate crime cases related to corruption, including the confiscation of property of corresponding value and, to a lesser extent,

narcotics. There have been more limited confiscations in ML and other predicate crime cases. Overall, the value realised by the State is not fully commensurate with Indonesia's ML risk. Indonesia has terrorism and TF confiscations.

- Since 2013, Indonesia has obtained TF convictions in 55 cases including for collection, movement, and use of funds with proportionate and dissuasive sanctions applied. Indonesia is largely successful in identifying TF activity associated with a terrorist attack, as well as TF where there is no link to a terrorist attack. TF convictions are generally consistent with Indonesia's TF risks—e.g. convictions obtained for cases involving funding of foreign terrorist fighters (FTFs). Indonesia is integrating TF into its broader national approach to counterterrorism.
- Indonesia is not implementing targeted financial sanctions (TFS) for terrorism/TF without delay, the legal framework does not broadly provide for a prohibition on provision of funds, and Indonesia's use of listings under United Nations Security Council Resolution (UNSCR) 1267 is not consistent with identified TF risks. Notwithstanding the above, Indonesia has frozen funds, real property, and one life insurance policy in relation to UNSCR 1267. For UNSCR 1373, Indonesia listed five individuals and one entity in June 2017; no funds have been frozen; and Indonesia is not utilising its UNSCR 1373 TFS framework to combat its TF risks.
- Indonesia's legal framework for TFS related to the proliferation of weapons of mass destruction (WMB) has major shortcomings. In addition, Indonesia has not designated any of the Iranian individuals/entities on the UNSCR 2231 List to their domestic list (WMD List)—most UN-listed individuals/entities from the Democratic People's Republic of Korea (DPRK) have been listed. No funds or other assets have been identified or frozen, but banks displayed a sound understanding of TFS obligations related to DPRK and are conducting automated screening.
- Major financial institutions (FIs) demonstrated a sound understanding of ML/TF risks and AML/CFT obligations, with banks having relatively more sophisticated implementation of preventive measures. Non-bank money value transfer services and money changers have a reasonable understanding of ML/TF risks and AML/CFT obligations. Other FIs have not yet implemented a risk-based approach (RBA) and are either in the early stages of implementing AML/CFT requirements or have relatively rudimentary implementation. There is some understanding of ML/TF risks and AML/CFT obligations among larger designated non-financial businesses and professions (DNFBPs) and those supervised by PPATK. However, overall, DNFBPs have not yet implemented AML/CFT measures effectively.
- Supervisors are in various stages of implementing risk-based supervision. *Otoritas Jasa Keuangan* (OJK) and Bank Indonesia (BI), the major financial supervisors, have a sound understanding of ML/TF risks in their supervised sectors with both undertaking effective regulation and risk-based supervision of the most materially relevant and higher-risk sectors. PPATK is focusing its supervisory attention on higher-risk sectors, but there have not been onsite inspections of all these sectors. The other four supervisors are still in the process of implementing comprehensive risk-based supervision for other FIs and DNFBPs.
- Indonesia has assessed ML/TF risks of legal persons, but competent authorities have a mixed understanding of these risks. All Indonesian legal persons must be established by notaries with limited liability companies (LLCs) required to register and maintain basic information, including on share ownership, with the company registrar (Ministry of Law and Human Rights or MLHR) for incorporation—this information must also be maintained by the company. There are similar registration requirements for other legal persons. As bearer

shares and nominee share-ownership arrangements are prohibited, legal ownership and business-owner (BO) information of LLCs (to the extent held) can be ascertained through the information held by the MLHR and the company. However, MLHR information may not be accurate or current. Notaries as gatekeepers are not implementing customer due diligence (CDD) obligations and no AML/CFT supervision has been conducted. Competent authorities have access to CDD including BO information with major FIs taking reasonable measures to identify and verify legal persons, and major banks taking reasonable measures to identify and verify foreign trusts or trustees (express trusts cannot be formed under Indonesian law).

- Since 2013, ~58% of Indonesia's incoming mutual legal assistance (MLA) requests have been completed. While the MLHR, as the central authority, is undertaking activities to facilitate the MLA process, Indonesia is not consistently providing constructive and timely MLA. Since 2013, Indonesia has made a total of 92 outgoing MLA requests including for terrorism, ML, and corruption. Overall, Indonesia is not extending its ML and predicate crime investigations outside Indonesia in terms fully commensurate with Indonesia's ML risks. Indonesia is effectively using other forms of cooperation to combat its TF risks.

B. Risks and general situation

2. Indonesia is a middle-income unitary sovereign state located in Southeast Asia. It is the fourth most populous jurisdiction in the world with approximately 261 million people living across 1,000 islands. The most populous island is Java, where the capital city of Jakarta is located. In 2017, Indonesia's GDP was 1,010.9 billion USD with real GDP growth of 5.2% and GDP per capita of 3,859 USD. Indonesia has a well-diversified financial sector, with the banking sector accounting for ~78% of total financial sector assets of ~ 648.5 billion USD.

3. There have been numerous terrorist attacks in the period under review including attacks as recently as May 2017. Indonesia's terrorism threats are designated domestic terrorist groups, such as Jemaah Islamiyah, and a loose network of spin-off groups (some with links to the Islamic State of Iraq and the Levant (ISIL) and al-Qaida), that use financial support obtained domestically and from abroad, including direct support and donations, terrorist group membership fees, abuse of non-profit organisations (NPOs) and social media, and legitimate and criminal activities, to carry out attacks. Furthermore, Indonesia has the highest official count of foreign terrorist fighters (FTFs) in Southeast Asia with above 500 Indonesians currently engaged in the Syria–Iraq conflict. These FTFs are funded domestically and from abroad and have also encouraged and directed attack planning by associates in Indonesia. Recently, Indonesia has also become a transit point for funds, weapons, and fighters moving from other conflict zones (e.g. Syria) to Southeast Asia.

4. Indonesia's ML risk primarily stems from domestic proceeds with higher risks being associated with predicate offences of narcotics (including connections with organised crime), corruption and taxation, and to a lesser extent forestry/environmental crime and fraud. Proceeds from these predicate crimes are primarily laundered through the banking, capital markets, real estate and motor vehicles sectors. Proceeds are also laundered off-shore in regional jurisdictions and then repatriated to Indonesia as needed. Indonesia is not a destination jurisdiction for illicit proceeds.

5. Regarding proliferation financing (PF), Indonesia has some exposure to DPRK financial activity as DPRK nationals and diplomats work in Jakarta and have accounts at Indonesian financial institutions (FIs). Indonesia also has some commercial and financial links with Iran.

C. Overall level of effectiveness and technical compliance

6. Following the last APG mutual evaluation in 2008, Indonesia's AML/CFT regime has undergone significant reform across all areas of the FATF standards. Key reforms include: (i) enacting new ML and TF offences and changes to the designation of LEAs to investigate ML; (ii) introducing targeted financial sanctions (TFS) for terrorism and proliferation financing (although major/fundamental improvements are needed); and (iii) introducing comprehensive preventive-measure obligations for FIs and DNFBPs and changes to supervisory arrangements.

C.1. Assessment of risks, coordination and policy setting (Chapter 2 – IO.1; R.1, R.2, R.33)

7. Indonesia has a high level of technical compliance with the relevant recommendations and only moderate improvements are needed in ML/TF risk understanding and coordinated actions to combat ML, TF, and PF.

8. Indonesian authorities have conducted a range of assessments to identify, assess, and understand Indonesia's ML/TF risks. This includes separate ML and TF risk NRAs in 2015 and 10 sectoral or strategic ML risk assessments covering key higher-risk sectors. These assessments identify corruption, narcotics and taxation as the three main proceeds/ML generating predicate offences, and NPOs/foundations as the major TF risk. Overall, the assessment team considers the conclusions of these assessments to be reasonable.

9. Regarding understanding of ML/TF risks—on TF, competent authorities, including those designated to investigate and supervise NPOs, demonstrated a sound understanding of Indonesia's TF vulnerabilities and risks. On ML, the level of understanding is sound among key LEAs designated to conduct ML investigations.

10. Indonesia's AML/CFT coordination and cooperation, through the AML/CFT National Coordination Committee (NCC), is very strong, and is supporting the implementation of Indonesia's National Strategy 2017–2019 for AML/CFT (STRANAS). Overall, there is sound operational coordination among AML/CFT competent authorities.

11. Indonesia has undertaken a comprehensive programme to inform reporting entities of the findings of its risk assessments. Overall, reporting entities demonstrated a sound awareness and adequate understanding of the key findings contained in NRAs and relevant sectoral or strategic risk assessments.

12. PF coordination is recent with the establishment in October 2017 of the Task Force in Prevention and Eradication of Proliferation of Weapons of Mass Destruction (WMD Task Force).

C.2. Financial intelligence, money laundering and confiscation (Chapter 3 – IOs 6–8; R.3, R.4, R.29–32)

13. Overall, Indonesia has a high level of technical compliance with the relevant recommendations and only moderate improvements are needed in the use of financial intelligence and confiscation of proceeds and instrumentalities of crime. Major improvements are, however, needed in the prosecution of ML.

14. Indonesia's FIU, PPATK, is an independent government institution, with well-established internal policies and procedures, and is accountable directly to the President of Indonesia. Indonesia is actively using financial intelligence and other information to combat ML, TF and predicate crimes. LEAs are making good use of financial intelligence from PPATK and developing

their own intelligence to investigate ML/TF and predicate offences and trace property for seizure and confiscation—other competent authorities are also using PPATK financial intelligence.

15. PPATK uses STRs and information available to it from a wide range of other sources to support the operational needs of LEAs through proactive disseminations, reactive disseminations, including by operational task forces, and the provision of expert advice on the use of its financial intelligence products in ML/TF and predicate crime investigations and prosecutions. Based on discussions with LEAs, review of example disseminations and a demonstration of PPATK's analysis systems, the assessment team concludes that PPATK's disseminations are of high quality, which is also reflected in their use. PPATK is also supporting the strategic needs of competent authorities, primarily via products developed by the Directorate of Examination, Research and Development.

16. Since 2012, ML investigations have mostly related to corruption, narcotics and fraud, and the 324 individuals convicted of ML are mostly for self-laundering with few complex cases or cases involving international elements. Consistent with Indonesia's risk profile and STRANAS 2017–2019, ~43% of convictions relate to corruption. The number of convictions for other higher-risk predicate crimes is not consistent with risks identified in the 2015 ML NRA. Sanctions imposed for ML convictions of natural persons are proportionate and dissuasive, but the sanction imposed in Indonesia's single conviction of a legal person for ML is not proportionate or dissuasive.

17. Overall, LEAs designated to investigate ML—namely, Indonesia National Police (INP), Corruption Eradication Commission (KPK), National Narcotics Board (BNN), Attorney General's Office (AGO), Directorate General of Customs and Excise (DG Customs) and Directorate General of Taxation (DG Tax)—are either lacking in resources or skills, prioritising their other functions, focusing on predicates and confiscations, or engaging in revenue collection.

18. Indonesia's 2017–2019 STRANAS includes a national policy objective to pursue asset recovery in ML cases related to higher-risk predicate offences of corruption, narcotics and taxation, but not explicitly for TF or predicate crimes. Notwithstanding this, Indonesia has terrorism and TF confiscations. While consistent and comprehensive data and statistics were not provided in all circumstances, LEAs seize instrumentalities of crime, property laundered and proceeds during their investigations. Indonesia is confiscating property in predicate crime convictions related to corruption, including confiscation of property of corresponding value and, to a lesser extent, narcotics, which is in line with ML risks to some extent. There has been more limited confiscation of property in ML cases and other predicate crimes. Overall, the value realised by the State in confiscations is not fully commensurate with Indonesia's ML risk including funds moved overseas.

19. Indonesia has applied limited administrative fines (required to be paid on the spot with cash being carried) for falsely or undeclared currency and/or BNI (bearer negotiable instruments), which is not consistent with Indonesia's cross-border risk.

C.3. Terrorist financing and financing proliferation (Chapter 4 – IOs 9–11; R.5–8)

20. Indonesia's TF offence has minor technical shortcomings with only moderate improvements needed in TF prosecutions. There are moderate technical shortcomings in Indonesia's TFS regime for terrorism and TF, and major improvements are needed in its effective use. For PF, Indonesia's legal framework has major shortcomings and fundamental improvements are needed for its effective use. There are minor shortcomings in R.8.

21. TF is identified, both domestically and from international cooperation, via several mechanisms and then investigated by Special Detachment 88/Anti-Terror, a specialist counter-terror unit of the INP and Indonesia's competent authority for the investigation of terrorism and TF. Prosecutions are conducted by the Task Force on Terrorism and Transnational Crime, a specialised

unit of the AGO. Indonesia is largely successful in identifying TF activity associated with a terrorist attack, as well as TF where there is no link to a terrorist attack; however, consistent with Indonesia's TF risk profile, this happens much less frequently.

22. Since 2013, Indonesia has prosecuted 55 TF cases and obtained convictions in all 55 cases with convictions for terrorist financier, collecting funds, movement of funds, and use of funds. These TF prosecutions and convictions are generally consistent with Indonesia's TF risks, and sanctions are effective, proportionate and dissuasive for natural persons. Indonesia has not prosecuted or convicted a legal person for TF.

23. Indonesia generally appears to have integrated countering TF into its broader national approach to counter-terrorism, and has a number of task forces, which function appropriately to combat Indonesia's TF risk.

24. Regarding TFS for terrorism and TF, the legal framework does not broadly provide for a prohibition on provision of funds, and Indonesia is not implementing TFS pursuant to UNSCR 1267 without delay as the framework allows three days for listing to the domestic list (*Daftar Terduga Teroris dan Organisasi Teroris* or DTTOT List) and administrative issues may have delayed some listings further. Furthermore, Indonesia's use of listings under UNSCR 1267 is not consistent with identified TF risks as the 21 Indonesian individuals and five entities listed under UNSCR 1267 were proposed by other countries. Major FIs are conducting automated screening against the DTTOT List, relevant UN Sanctions Lists—screening outside of banking, securities and other major FIs is mixed. Pursuant to UNSCR 1267, Indonesia has frozen ~ 150,000 USD in 26 bank accounts, seven properties, and one life insurance policy in the amount of ~ 3,700 USD.

25. For UNSCR 1373, in June 2017 Indonesia listed its first five individuals and one entity on the DTTOT List. No funds have been frozen pursuant to UNSCR 1373 listings, and Indonesia is not utilising its UNSCR 1373 TFS framework to combat its, or the region's, TF risks.

26. Indonesia displayed a generally sound understanding of the TF risk for its NPO sector and has, to some extent, implemented measures to address the identified risks including through the recent Presidential Regulation on NPO in 2017. While these measures may increase transparency for NPO financial activity, they are not targeted at those NPOs at higher risk of TF abuse, such as pesantrens (religious boarding schools). And, while competent authorities are monitoring for terrorist abuse of NPOs based on risk, competent authorities have only taken limited action against the NPOs identified by Indonesia as having links to terrorist groups, such as the UN-listed Hillal Amar Society Indonesia.

27. Indonesia recently implemented a TFS regime for PF, but fundamental improvements are needed to the legal framework. Indonesia has not designated any of the Iranian individuals/entities on the UNSCR 2231 List to the domestic list (WMD List). Regarding DPRK individuals/entities listed on the UNSCR 1718, Indonesia has designated almost all, but other than the listings included in UNSCR 2375, designations to the WMD List were not done without delay. Banks displayed a sound understanding of their TFS obligations related to DPRK, the non-banking sector displayed a mixed understanding and implementation, and DNFBPs displayed limited understanding and implementation of their TFS obligations. No funds or other assets of designated persons/entities have been identified or frozen.

28. PPATK, OJK, and BI have undertaken some outreach to the private sector, mainly to banks; however, due to the recent enactment of the PF Joint Regulations in 2017, supervisory actions specifically examining compliance with freezing obligations have not been undertaken.

C.4. Preventive Measures (Chapter 5 – IO4; R.9–23)

29. Indonesia has a high level of technical compliance with recommendations for preventive measures, but major improvements are needed for the effective implementation of preventive measures by FIs and DNFBPs commensurate with their risks.

30. Major FIs supervised by OJK demonstrate a sound understanding of ML/TF risks and AML/CFT obligations. Banks in particular exhibited relatively more sophisticated implementation of RBA (risk-based approach), CDD (customer due diligence), EDD (enhanced due diligence), STR (suspicious transaction reports), TFS (targeted financial sanctions), recordkeeping and other AML/CFT requirements. Non-bank MVTS (money or value transfer service) and money changers supervised by BI have a reasonable understanding of ML/TF risks, AML/CFT obligations and have implemented AML/CFT requirements to some extent, though not as well as major FIs. Other FIs, for example, futures traders, savings, and cooperatives have not yet implemented an RBA, and are either in the early stages of implementing AML/CFT requirements or have relatively rudimentary implementation.

31. There is some understanding of ML/TF risks and AML/CFT obligations among larger DNFBPs—for example, internationally affiliated accountancy firms and those supervised by PPATK. However, overall, DNFBPs have not yet implemented AML/CFT measures effectively.

32. Regarding TFS, larger Indonesian banks have indicated that even though there is no legal prohibition on the provision of funds, they would not provide financial services to a DTTOT-listed entity/individual. However, other Indonesian FIs and DNFBPs were less clear about their obligations to provide funds or other financial services to designated individuals or entities.

33. Regarding EDD, for beneficial-ownership measures, banks pay special attention to higher-risk customers and are undertaking reasonable measures to identify the BO. Except for DNFBPs, most FIs and non-bank FIs have a sound understanding of politically exposed persons (PEPs) and NPOs identified as high risk in Indonesia's NRA and have mechanisms to mitigate the risk.

C.5. Supervision (Chapter 6 – IO3; R.26–28, R. 34–35)

34. Overall, Indonesia has a high level of technical compliance with the recommendations on regulation and supervision of FIs and DNFBPs, and supervisors have the power to impose sanctions. Nevertheless, major improvements are needed in effective AML/CFT supervision of FIs, and DNFBPs commensurate with their risks.

35. Supervisors are in various stages of implementing risk-based supervision. OJK and BI, the two major financial supervisors, are capable and well-resourced supervisors. They have a sound understanding of ML/TF risks in their supervised sectors and entities. Both OJK and BI are undertaking effective regulation and risk-based supervision of the most materially relevant and higher-risk sectors, with a risk-sensitive approach for other FIs. PPATK, as the main current DNFBP supervisor, is undertaking a risk-based approach. The other four supervisors are still in the process of implementing comprehensive risk-based supervision for other FIs and DNFBPs. There has been no AML/CFT onsite supervision of notaries by the MLHR.

36. Supervisors have not applied dissuasive monetary sanctions, but other measures have improved compliance. The most significant sanctions applied have been by BI against unlicensed non-bank money changers and MVTS providers. OJK has been systematic in its application of sanctions across all its covered FIs. PPATK has issued very few sanctions to the higher-risk real estate and motor vehicle sectors. OJK, BI and PPATK provided evidence of some improvements in compliant behaviour, but acknowledge significant improvements are still needed.

37. All supervisors have undertaken outreach to inform reporting entities of NRA and sectoral risk assessment findings. All reporting entities met during the onsite visit demonstrated a clear awareness of these results, with banks demonstrating a more sophisticated and nuanced understanding. Smaller FIs and DNFBPs require more supervisory guidance on the implementation of the risk-based approach.

C.6. Transparency of legal persons and arrangements (Chapter 7 – IO5; R. 24–25)

38. Indonesia's legal framework on transparency of legal persons and arrangements has moderate shortcomings, and major improvements are needed to Indonesia's ability to prevent the misuse of legal persons and arrangements for ML and TF.

39. Indonesia recently identified and assessed its ML/TF risks and vulnerabilities of legal persons created in Indonesia. While the conclusions of the risk assessment appear reasonable, overall, competent authorities have a mixed understanding of identified ML/TF risks.

40. Indonesia permits the registration and formation of a number of types of legal persons including limited liability companies (LLCs) with information on the creation and operation of all legal persons publicly available from the relevant competent authority. All Indonesian legal persons are required to be established by notaries and register with the relevant competent authority. LLCs must register basic information, including on share ownership, with the company registrar, namely MLHR for incorporation. This information must be updated and also maintained by the company. As bearer shares and nominee shareholders are prohibited (although Indonesia provided no evidence of actions taken to enforce the prohibition on nominee shareholders), to the extent that they are held, legal ownership and BO information of LLCs can be ascertained through the information held by the MLHR and the company. MLHR information is available to competent authorities and is generally timely, but the information might not be accurate or current

41. Notaries are gatekeepers in the creation and management of LLCs and other legal persons and are legally subject to AML/CFT preventive measures. However, notaries are not implementing CDD obligations and no AML/CFT supervision has been conducted. Notary supervisors did not demonstrate that their limited supervision activities, mainly triggered by public complaints, are effective in ensuring compliance with requirements related to IO.5. Because of this, notary information may not be accurate, particularly customer verification information, where it is available.

42. Competent authorities have access to CDD and BO information on legal persons from FIs with major banks, securities and insurance taking reasonable measures to identify and verify the identity of BOs. Therefore, this BO information is generally accurate and current.

43. Express trusts cannot be formed under Indonesian law; however, there is nothing preventing a trust, or a trustee created under the law of another country, from operating in Indonesia. Indonesia has no direct mitigating measures covering foreign trusts or trustees, but major banks are taking reasonable measures to collect BO information on foreign trusts as part of CDD requirements. Therefore, this BO information is generally accurate and current.

C.7. International cooperation (Chapter 8 – IO2; R. 36–40)

44. Indonesia has a high level of technical compliance with recommendations on international cooperation and moderate improvements are needed in their effective use.

45. Between 2013 and 2017 Indonesia received 59 incoming MLA requests with ~58% completed including two completed requests related to ML and two completed requests related to

terrorism. MLHR, as the central authority for MLA, is undertaking activities to facilitate and expedite the MLA process and MLHR has limited control of pending cases where additional information has been requested from the requesting jurisdiction, but the percentage of pending cases suggests Indonesia is not consistently providing constructive and timely MLA.

46. Since 2013, Indonesia has made a total of 92 outgoing MLA requests including 20 requests related to ML. Outgoing MLA requests primarily relate to corruption and ML. MLA cases mostly relate to narcotics, which is generally in line with Indonesia's ML risks. MLHR is undertaking activities to support timely and constructive MLA, and Indonesia has some outgoing extradition requests. Overall, Indonesia is not extending its ML and predicate crime investigations outside of Indonesia in terms fully commensurate with Indonesia's ML risks.

47. Indonesia has been substantially more effective in its use of other forms of cooperation for TF which is in line with its TF risk profile. Special Detachment 88/Anti-Terror uses the INP liaison network, which includes liaison officers in strategic TF jurisdictions, and counterpart-to-counterpart mechanisms to combat terrorism/TF. Furthermore, PPATK is actively cooperating on TF including responding to and making terrorism or TF-related requests and making proactive disseminations.

48. For ML and other predicate crimes, competent authorities, with the exception of PPATK and KPK, are not pursuing other forms of cooperation. As above, the scope of ML and predicate crime investigations/prosecutions and asset confiscations tends to be restricted to Indonesia.

49. Overall, supervisors' (primarily OJK's) use of other forms of cooperation is consistent with Indonesia's ML/TF risks and context.

50. Since 2014 PPATK has responded to 39 requests related to BO information and made two proactive disseminations. OJK and BI have exchanged basic and BO information in relation to fit and proper tests.

D. Priority actions

51. The prioritised recommended actions for Indonesia, based on the findings in this report, are:

I. Continue to improve implementation of TFS related to terrorism and TF by adding new UNSCR 1267 listings to the DTTOT List without delay; enhance the use of the UNSCR 1373 framework to combat Indonesia's and regional TF risks; and continue to improve implementation of TFS obligations, particularly in higher-risk FIs and DNFBPs.

II. Continue to refine competent authorities' understanding of the sub-set of at-risk NPOs in formal and informal NPO sectors, and, through the Integrated Team, improve supervision and monitoring of at-risk NPOs; where violations are identified, impose proportionate and dissuasive sanctions or take other action.

III. Address deficiencies in Indonesia's legal framework for TFS related to PF. And, upon the designation of all the Iranian individuals/entities pursuant to UNSCR 2231, continue to expand the work of the WMD Task Force including: (i) outreach and guidance to the private sector, and (ii) interagency coordination on preventing WMD PF, including on sanctions evasion activity.

IV. Continue to enhance the use of the ML offence commensurate with Indonesia's ML risks. This should include increasing ML investigation agencies' capabilities and capacity to investigate more complex ML cases.

V. Continue to improve asset recovery commensurate with Indonesia's ML/TF risks. This should include development of a national policy and objectives to pursue confiscation in all predicate crime cases, and enhancement of the capability and capacity of the Asset Recovery Centre to execute its mandate, including supporting more effective LEAs, prosecutors and judiciary confiscation activities related to ML and all higher-risk predicate crimes, confiscations of corresponding value, and property moved overseas.

VI. Continue to improve Indonesia's ability to consistently provide and seek timely MLA. This should include improved policy and procedures within MLHR and increased capacity to undertake its MLA activities throughout Indonesia and support LEAs.

VII. Supervisors should issue revised AML/CFT regulations to rectify remaining technical deficiencies and provide further guidance to reporting entities on the relatively newer requirements promulgated in 2017, e.g. a risk-based approach. OJK should continue to strengthen its AML/CFT supervision of conglomerates, and other supervisors, including all DNFBP supervisors, should implement the risk-based approach for all reporting entities under their jurisdiction. All supervisors should apply more dissuasive sanctions where other measures have not improved compliance on a timely basis.

E. Effectiveness and technical compliance ratings

Effectiveness Ratings

IO.1 - Risk, policy and coordination	**IO.2** - International cooperation	**IO.3** – Supervision	**IO.4** - Preventive measures	**IO.5** - Legal persons and arrangements	**IO.6** - Financial intelligence
Substantial	**Substantial**	**Moderate**	**Moderate**	**Moderate**	**Substantial**
IO.7 - ML investigation & prosecution	**IO.8** - Confiscation	**IO.9** - TF investigation & prosecution	**IO.10** - TF preventive measures & financial sanctions	**IO.11** - PF financial sanctions	
Moderate	**Substantial**	**Substantial**	**Moderate**	**Low**	

Technical compliance ratings (C – compliant, LC – largely compliant, PC – partially compliant, NC – non-compliant)

R.1 - Assessing risk & applying a risk-based approach	**R.2** - National cooperation and coordination	**R.3** - Money laundering offence	**R.4** - Confiscation & provisional measures	**R.5** - Terrorist financing offence	**R.6** - Targeted financial sanctions – terrorism & terrorist financing
LC	**LC**	**LC**	**LC**	**LC**	**PC**
R.7 - Targeted financial sanctions – proliferation	**R.8** - Non-profit organisations	**R.9** - Financial institution secrecy laws	**R.10** - Customer due diligence	**R.11** - Record keeping	**R.12** - Politically exposed persons
NC	**LC**	**C**	**LC**	**LC**	**LC**
R.13 - Correspondent banking	**R.14** - Money or value transfer services	**R.15** - New technologies	**R.16** - Wire transfers	**R.17** - Reliance on third parties	**R.18** - Internal controls and foreign branches and subsidiaries
C	**C**	**LC**	**LC**	**LC**	**C**
R.19 - Higher-risk countries	**R.20** - Reporting of suspicious transactions	**R.21** - Tipping-off and confidentiality	**R.22** - DNFBPs: Customer due diligence	**R.23** - DNFBPs: Other measures	**R.24** - Transparency & BO of legal persons
LC	**C**	**LC**	**LC**	**LC**	**PC**
R.25 - Transparency & BO of legal arrangements	**R.26** - Regulation and supervision of financial institutions	**R.27** - Powers of supervision	**R.28** - Regulation and supervision of DNFBPs	**R.29** - Financial intelligence units	**R.30** - Responsibilities of law enforcement and investigative authorities
PC	**LC**	**LC**	**PC**	**C**	**LC**
R.31 - Powers of law enforcement and investigative authorities	**R.32** - Cash couriers	**R.33** – Statistics	**R.34** - Guidance and feedback	**R.35** – Sanctions	**R.36** - International instruments
LC	**LC**	**LC**	**LC**	**LC**	**LC**
R.37 - Mutual legal assistance	**R.38** - Mutual legal assistance: freezing and confiscation	**R.39** – Extradition	**R.40** - Other forms of international cooperation		
LC	**LC**	**LC**	**LC**		

MUTUAL EVALUATION REPORT OF INDONESIA

Preface

This report summarises the AML/CFT measures in place in Indonesia as at the date of the onsite visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Indonesia's AML/CFT system and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 methodology. The evaluation was based on information provided by Indonesia, and information obtained by the evaluation team during its onsite visit to Indonesia from 6 to 17 November 2017.

The evaluation was conducted by an assessment team consisting of:

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The assessment process was supported by Mr Lindsay Chan and Mr Shannon Rutherford of the APG secretariat.

The report was reviewed by the FATF secretariat, IMF staff, and Ms Erin Lubowicz, Ministry of Justice, New Zealand.

Indonesia previously underwent an APG Mutual Evaluation in 2008, conducted according to the 2004 FATF Methodology. Follow-up reports have been published and are available at www.apgml.org.

Indonesia's 2008 Mutual Evaluation concluded that the country was compliant with four recommendations, largely compliant with eight, partially compliant with 22, and non-compliant with 14 (one recommendation was rated non-applicable). Indonesia was rated partially compliant or non-compliant with all of the 12 Core and Key Recommendations.

CHAPTER 1. ML/TF RISKS AND CONTEXT

1. The Republic of Indonesia (Indonesia) is a unitary sovereign state located in Southeast Asia between the Indian and Pacific Oceans and bordering East Timor, Malaysia and Papua New Guinea. Indonesia is made up of over 17,000 islands with an approximate area of 1.9 million square kilometres. Indonesia is the fourth most populous jurisdiction in the world with approximately 261 million people living across 1,000 islands. The most populous island is Java, where the capital city of Jakarta is located.

2. Indonesia declared its independence on 17 August 1945 with the *Undang-Undang Dasar 1945* (Constitution of Indonesia) enacted on 18 August 1945 (the Constitution of Indonesia has been amended four times, in 1999, 2000, 2001 and 2002). The Constitution of Indonesia is the supreme law of Indonesia, and it sets out Indonesia's political system including the powers of the executive, legislative and judicial branches. The President is directly elected, and both the Head of State and Head of Government exercise executive power with the Vice President and the Cabinet of Indonesia. Indonesia's bicameral legislative branch is the *Majelis Permusyawaratan Rakyat* (People's Consultative Assembly, abbreviated MPR) consisting of the *Dewan Perwakilan Rakyat* (People's Representative Council, abbreviated DPR) and *Dewan Perwakilan Daerah* (Regional Representative Council, abbreviated DPD). The DPR with legislative, budgeting and oversight functions consists of 560 members elected for a five-year term through proportional representation based on general elections. The DPD with functions limited to regional government and the proposal of bills to the DPR consists of four members from each of Indonesia's 34 provinces. The Judiciary of Indonesia comprises the Supreme Court of Indonesia, Constitutional Court of Indonesia and public courts (district courts at the first level and provincial high courts at the appellate level), religious courts, administrative courts (see below for further details).

3. Indonesia's 34 provinces are the highest tier of local government (*Daerah Tingkat I*), headed by a Governor, and are subdivided into regencies and cities (*Daerah Tingkat II*), headed by a regent or mayor, respectively. Indonesia has five provinces with special status including Aceh, Special Capital City of Region of Jakarta, Special Region of Yogyakarta, Papua and West Papua (see below for further details).

4. Indonesia's GDP in 2017 was 1,010.9 billion USD with real GDP growth of 5.2%. GDP per capita was USD 3,859 while gross domestic product per purchasing price parity (GDP per PPP) was 12,378. Inflation was 4% and unemployment 5.4%. Indonesia's principal export destinations are: China 11.6%, United States 11.2% and Japan 11.1%. Indonesia's principal import sources are: China 22.7%, Singapore 10.7% and Japan 9.6%.

ML/TF risks and scoping of higher-risk issues

(a) Overview of ML/TF risks

5. Indonesia has a high TF risk. There have been numerous terrorist attacks, primarily carried out in Indonesia's nine higher-risk provinces such as Jakarta, in the period under review including attacks as recently as May 2017. Indonesia's terrorism threats are domestic organisations with links to al-Qaida and/or the Taliban such as *Darul Islam* (DI) and *Jemaah Islamiyah* (JI). JI was designated under UNSCR 1267 in 2001) and has continued to transform into the loose network of spin-off or small groups present in Indonesia today. TF threats associated with these groups are from a range of domestic and foreign sources including direct support and donations, terrorist group membership fees, abuse of NPOs, and legitimate and criminal activities. Non-material support is primarily in the form of cash and moved by physical transportation (including cross-border), but funds are also

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moved via the banking system including online banking, mobile payments and formal and informal money value transfer systems. More recently, a number of terrorist groups have become affiliated with ISIL, and the use of social media to call for and facilitate donations has increased. In the team's view, the fund-transfer methods used by these groups have remained similar, but the use of internet and mobile transfers/payments is increasing.

6. Indonesia has an established history of foreign terrorist fighters (FTFs) with Indonesians traveling to Afghanistan and Pakistan between 1985 and 1997 and to the Philippines to train and fight with Abu Sayyaf. At the same time, citizens from these jurisdictions and Malaysia participated in terrorism activities in Indonesia. More recently, foreign citizens have travelled to Indonesia and joined *Mujahidin Indonesia Timur* (MIT), and over 500 Indonesians have been engaged in the Syria–Iraq conflict—Indonesia has the highest official count of FTFs in Southeast Asia. Currently, up to 50 FTFs have returned to Indonesia. These Indonesian FTFs are funded domestically and from abroad and have also encouraged and directed attack planning in Indonesia. Furthermore, Indonesia is becoming a transit point for funds, weapons, and fighters moving from other conflict zones (e.g. Syria) to Southeast Asia.

7. Indonesia's ML risk primarily stems from domestic proceeds, with higher risks being associated with predicate offences of narcotics (including connections with organised crime), corruption and taxation, and to a lesser extent forestry/environmental crime and fraud. Proceeds from these predicate crimes are primarily laundered through the banking, capital markets and real estate sectors. Proceeds are also laundered off-shore in regional jurisdictions and then repatriated to Indonesia as needed. Notwithstanding the above, Indonesia is not a destination jurisdiction for illicit proceeds.

8. Regarding PF, Indonesia has some exposure to DPRK financial activity (and possible sanctions evasion) as DPRK nationals and diplomats work in Jakarta and have accounts at Indonesian FIs. Indonesian FIs have filed 27 STRs related to financial activity involving DPRK nationals. Indonesia also has some commercial and financial links with Iran.

(b) Country's risk assessment and scoping of higher/lower risk issues

9. Indonesian authorities have drawn upon a range of assessments to identify, assess and understand Indonesia's ML/TF risks. Indonesia has used the World Bank methodology and the FATF Guidance on Assessing the Risk of ML and TF as the basis for its assessments. The methodology used is sound and consistent with the FATF Guidance, with all assessments examining inherent risks, mitigating measures and residual risks, and containing recommendations for further mitigation measures. Indonesia completed separate national risk assessments (NRAs) of money laundering (ML) and terrorism financing (TF) in 2015. In addition, Indonesia has undertaken 10 separate and more comprehensive sectoral or strategic risk assessments (SRAs) on NPOs, banking sector, securities sector, non-bank financial institutions, non-bank money changers and MVTS, futures traders, goods and services providers, accountants, the election fund, and customs and excise. Indonesia updated its NRA with white papers on ML and TF and completed assessments on cross-border ML threats and on legal persons. The TF assessment focused on domestic terrorist networks affiliated with ISIS, and the ML assessment focused on taxation.

10. There appears to be a universal understanding among competent authorities and application of what constitutes high/higher risk, medium risk and low risk, with high risk equalling the need for immediate action. The NRA and other risk assessments also classified risk on a geographic/provincial basis, with Jakarta, East Java, West Java and Central Java identified as the higher-risk provinces. Indonesia also considered the interconnectedness of specific crimes, TF and financial sectors.

11. The NRA concluded that for ML, corruption, narcotics and taxation are the three main proceeds generating crimes in Indonesia and pose higher ML risks—forestry/environmental crime and fraud are moderate risks. For TF, the NRA concluded that most TF activities in Indonesia involve financial support for domestic terrorist organisations, with donations to foundations or misappropriation of other NPOs' funds as high-risk, along with wire transfers, online payment system, and domestic and cross-border cash transactions and the informal sector.

12. The sectoral risk assessments identified real estate and motor vehicles as the two highest risk non-financial sectors.

(c) Scoping of higher-risk and lower-risk issues

13. During the ME onsite visit the assessment team focused on the higher-risk issues and lower-risk areas outlined below, based on materials provided by Indonesia (mainly Indonesia's risk assessments) and open-source information:

- *Terrorism and terrorism financing:* In line with Indonesia's high TF risk, as discussed above, the team placed increased focus on Indonesia's investigation and prosecution of terrorist financiers, including use of its TF offence, confiscation of TF assets, and other measures to combat TF. In addition, it placed increased focus on targeted financial sanctions (TFS) related to terrorism and terrorist financing, particularly: (i) implementation of TFS without delay, and (ii) designation of individual/entities pursuant to UNSCR 1373 commensurate with risk. The team also focused on the adequacy of Indonesia's measures to protect its NPO sector from TF abuse, commensurate with the identified TF risk.
- *Domestic proceeds including laundering offshore:* Indonesia's risk assessments and open-source materials highlight proceeds generated from offences associated with narcotics (including connections with organised crime), corruption and taxation and, to a lesser extent, forestry/environmental crime and fraud are higher risk—the team focused on these predicate crimes. In addition, in relation to how these proceeds were laundered within Indonesia, the team focused on their laundering abroad because open sources suggest that proceeds are moved offshore and repatriated as needed for commercial and personal use.[1]
- *Banking sector:* The team placed increased focus on banks as they dominate the financial sector—Indonesia's financial sector assets in 2015 equal about 72% of GDP with banking assets equal to about 55% of GDP and about 77% of total financial sector assets.[2]
- *Capital market sector:* At the end of 2015 stock market capitalisation was about 41% of GDP.[3] The 2015 NRA identifies the capital market as the second highest risk sector for ML and there is a strong foreign presence in the sector, particularly the bond market.[4] For these reasons the team focused on how entities operating in the sector mitigate their risks.
- *Non-banking sector:* While all other financial institutions[5] make up about 23% of total financial sector assets, the sector is growing, particularly insurance, which equals about

1 https://www.state.gov/j/inl/rls/nrcrpt/2016/vol2/253406.htm;
2 http://www.imf.org/en/Publications/CR/Issues/2017/06/12/Indonesia-Financial-System-Stability-Assessment-Press-Release-and-Statement-by-the-Executive-44981
3 http://www.imf.org/en/Publications/CR/Issues/2017/06/12/Indonesia-Financial-System-Stability-Assessment-Press-Release-and-Statement-by-the-Executive-44981
4 http://www.imf.org/en/Publications/CR/Issues/2017/06/12/Indonesia-Financial-System-Stability-Assessment-Press-Release-and-Statement-by-the-Executive-44981
5 Entities supervised by OJK: insurance companies, pension funds, financing institutions, other financing institutions, microfinance institutions. Entities supervised by Bank Indonesia (BI): MVTs and foreign exchange traders. Entities supervised by Bappebti: futures traders. Cooperatives are supervised by the Ministry of Cooperatives.

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7.2% of GDP.[6] With the exception of pension funds (see below), all other financial institutions are rated as medium risk in the 2015 NRA. However, the NRA does highlight non-bank money changers are higher risk. Given this, the sector warrants focus, including cooperation between supervisors.

- *Real estate sector:* Over the last five years the real estate sector has seen year-on-year growth of about 5%[7] and the sector equals about 3%[8] of GDP. The 2015 NRA rates property companies/agents as high risk and highlights that: (i) real estate is used to launder domestic and foreign proceeds, (ii) there are difficulties identifying the beneficial owner of property, and (ii) there is high internal AML/CFT vulnerability in sector entities. Given this, the sector warranted focus.
- Other DNFBPs: In the 2015 NRA, other DNFBPs[9] were rated as medium risk (except for motor vehicles) with the risk rating primarily driven by level of internal AML/CFT vulnerability. Given that the consequences related to these entities are lower, the team's focus was limited to fundamental elements of an internal AML/CFT regime. There are no casinos in Indonesia.
- *Pension funds:* Pension funds equal about 1.8% of GDP and the NRA rated these entities as low risk. For these reasons, the team placed less focus on pension funds.
- *Proliferation financing:* In line with the above discussion of PF, the team focused on Indonesia's recent implementation of its PF framework.

Materiality

14. Indonesia is a middle-income country with an open economy and a well-diversified financial sector. The banking sector is the dominant financial sector accounting for 77% of total financial sector assets. There are 44 locally owned financial conglomerates that dominate the domestic banking sector and financial services industry. In 2016, there were 1,913 banks in Indonesia including rural banks and Sharia banks. Of these, 103 were considered conventional banks. Indonesia currently has a moratorium in place on banking licences. By contrast, there were only 218 institutions in the capital markets and 606 in the non-bank financial sector (excluding non-bank money changers, remittance providers and futures traders). There were 1,064 licensed non-bank money changers and 113 non-bank money or value transfer service (MVTS) in 2016 to help service the 12.02 million foreign tourists and nine million Indonesians working abroad in 2016.

15. Indonesia has 1,318 authorised real estate agents, 833 gem and jewellery/precious metals dealers, 2,245 motor vehicle dealers, and 49 authorised arts and antique dealers. As at October 2017, there were 1,280 registered public accountants and about 23,075 lawyers. Gambling is illegal in Indonesia; consequently, there are no casinos in the country. Trusts cannot be formed under Indonesia law (see R.25), although there is no legal restriction on foreign trusts/trustees operating in the country.

16. Indonesia has a very broad and active civil society sector, with over 330,000 NPOs involved in a variety of activities. These NPOs are registered and/or incorporated (those in the formal economy) and non-registered and non-incorporated (those in the informal economy) (see R.8).

6 http://www.imf.org/en/Publications/CR/Issues/2017/06/12/Indonesia-Financial-System-Stability-Assessment-Press-Release-and-Statement-by-the-Executive-44981
7 http://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Documents/Part-II-Rev.pdf
8 http://www.bi.go.id/en/publikasi/laporan-tahunan/perekonomian/Documents/Part-II-Rev.pdf
9 With the exception of motor vehicle traders and DNFBPs acting as gatekeepers.

17. Indonesia is not a regional or international financial centre, a centre for company formation, or a tax haven.

Structural elements

18. The structural elements required for an effective AML/CFT system are in place in Indonesia with the following open-source reports providing an indication of their functioning. While the following reports show corruption may impact the functioning of Indonesia's AML/CFT system, particularly at the regional level, in general Indonesia's corruption-related scores are improving.

19. *Word Justice Project, Rule of Law Index*: Indonesia's 2017–18 overall score is 0.5210 and Indonesia ranks 63rd out of 113 jurisdictions included in the index. This is a decrease in global rank of two places, primarily due to a decrease in the score associated with the factor 'Open Government'.11 Factors below a score of 0.5 are 'Absence of Corruption',12 'Civil Justice,'13 and 'Criminal Justice'.[14]

20. *World Bank, World Wide Governance Indicators Country Snapshots*: The table below summarises the governance indices from the 2011 and 2016 World Bank World Wide Governance Indicators. Indonesia's scores and rankings for all indicators show improvement between 2011 and 2016.

Chapter 1 Table 1: World Bank, World Wide Governance Indicators Country Snapshots – Indonesia

Indicator	Governance Score (-2.5 to +2.5)[15]		Percentile Rank 2016 (0–100)[16]	
	2011	2016	2011	2016
Voice and Accountability	-0.01	0.14	48.83	50.25
Political Stability & Absence of Violence/Terrorism	-0.77	-0.38	20.85	33.33
Government Effectiveness	-0.26	0.01	46.45	53.37
Regulatory Quality	-0.35	-0.12	39.34	50.00
Rule of Law	0.59	-0.36	31.46	38.94
Control of Corruption	-0.70	-0.39	25.12	42.79

21. *World Economic Forum, Global Competitiveness Index:* Indonesia is ranked 36th out of 137 jurisdictions on the index but rose five places between 2016 and 2017 with improvements across all 12 pillars.

Background and other contextual factors

22. Indonesia is an archipelago with 18,000 islands and shares porous borders with its ASEAN neighbours (Association of Southeast Asian Nations). There are significant challenges in policing the

10 The Rule of Law Index is on a scale of 0 to 100 where 100 indicates strongest adherence to the rule of law.
11 This factor measures whether legislation and information on legal rights is publicised and the quality of this information from the government.
12 This factor measures absence of three forms of corruption: bribery, improper influence by public or private interests, and misappropriation of public funds or resources.
13 This factor measures whether people can resolve their grievances effectively though the civil justice system.
14 This factor measures the effectiveness of the criminal justice system.
15 Estimate of governance measured on a scale from approximately -2.5 to +2.5. Higher values correspond to better governance.
16 Indicates rank of country compared with all countries around the world. A percentile rank of 0 corresponds to the lowest ranking and 100 corresponds to the highest ranking.

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movement of people and goods through non-formal or traditional points of border crossing outside of international airports and major shipping ports. Indonesia has worked with its neighbours—such as the Philippines, which is also an archipelago country—to strengthen maritime patrols.

23. Indonesia's 1945 Constitution provides for freedoms of speech and press, but defamation and blasphemy laws impose limits. The media environment is open and vibrant in comparison to other countries in the region; media reports on government policy are often highly critical.

24. Public sector corruption is recognised as an ongoing problem. The Corruption Eradication Commission (KPK) is a powerful, autonomous body which has been very proactive in its anti-corruption efforts, including against high-profile politicians and senior government officials, including law enforcement.

25. The financial supervisors and major LEAs are established institutions in Indonesia. DNFBP supervisors are in early stages of development, with the exception of the PPATK (FIU).

26. Cash remains the dominant currency in transactions but demand for non-cash transactions is increasing. ATM and debit-card transactions nearly tripled from 2,000 trillion IDR (150 billion USD) in 2010 to 5600 trillion IDR in 2016. Moreover, the FinTech (financial technology) industry has developed rapidity in recent years servicing the previously unbanked, as well as those unwilling to use traditional financial industry services. There were only nine FinTech companies in 2011–12 compared with 135 in 2015–16.

AML/CFT strategy

27. In 2015, Indonesia's NCC issued a new national strategy, STRANAS Year of 2017–2019 to mitigate the highest risks identified in the NRA. These are corruption, narcotics trafficking and taxation crimes for ML, and NPOs (foundations) for TF. These are accorded the highest priority in the STRANAS with the top three ML risks listed in action item 1 and NPOs under action item 3. The STRANAS 2017–2019 is an integrated national-level policy incorporating action plans to strengthen the AML/CFT regime of Indonesia, including directives to conduct sectoral risk assessments and decisions on policies regarding budget allocation, time and resources. It builds on the earlier STRANAS 2012–2016. Implementation of the STRANAS 2017–2019 is monitored every three months with regular meetings to discuss progress on the action plans. PPATK has built an on-line secured system named the Reporting and Monitoring of National Strategy of Prevention and Eradication of Money Laundering and Terrorist Financing Information Systems (SIPENAS) for reporting and monitoring. Indonesia updated its STRANAS in late 2017 to reflect the updates to the NRA and it is being continuously updated to reflect findings from thematic risk assessments and SRAs, such as the risk assessment of legal persons.

Financial Inclusion Index

28. In the 2014 Global Financial Index, the Financial Inclusion Index of Indonesia was recorded at 36.1%. OJK also measured the level of financial inclusion through the National Financial Literacy Survey in 2013, based on use of formal financial products and/or services. According to the survey, the Financial Inclusion Index of Indonesia stood at 59.7% and the level of financial inclusion in Indonesia was recorded at 67.8%. Therefore, the national Financial Inclusion Index had increased by 8.1% from 2013–2016.

29. Indonesia has a proactive approach to promoting financial inclusion. Financial inclusion is part of Indonesia's Financial Sector Master Plan 2015–2019, and OJK has a proactive approach in its implementation including supporting FinTech. FinTech is expected to reduce the cost of financial inclusion programs through greater efficiency, thereby reaching more consumers in remote areas. AML/CFT preventive regulations provide for simplified CDD where risk is demonstrated to be lower,

and some banks have introduced savings accounts for financial inclusion with appropriate risk-mitigation measures, e.g. maximum transaction amounts.

Proliferation of WMD coordination

30. In October 2017, PPATK established the WMD Task Force that consists of PPATK, Ministry of Foreign Affairs (MoFA), INP, and Nuclear Energy Regulatory Agency (NERA). The task force has held two meetings which involved regulators and FIs. The WMD Task Force is established in order to improve PF-related coordination and implementation of TFS related to PF.

Legal and institutional framework

FIU and other functions under the mandate of the FIU

31. ***Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK)***, in English known as the Indonesian Financial Transaction Report and Analysis Centre (INTRAC), is Indonesia's FIU established as an independent government institution accountable directly to the President with the mandate to prevent and eradicate ML. PPATK has a total of 368 staff divided into the Administrative Secretariat and two operational divisions, namely Prevention and Eradication Affairs. The Prevention Affairs division comprises three directorates—namely, Reporting, Legal, and Supervision and Compliance—with the supervision directorate responsible for the AML/CFT supervision of *Pos Indonesia* (Postal), real estate/property companies or agents, motor vehicle traders (car dealers), diamond and jewellery/gold traders, art and antique goods traders, lawyers, and financial planners. The Eradication Affairs division undertakes FIU functions and comprises the directorates of Analysis Transaction (responsible for development of PPATK's proactive and reactive financial intelligence products); Examination, Research and Development; and Cooperation and Public Relations.

Legal and law enforcement

32. ***Attorney-General's Office (AGO)*** and other prosecution services. The High Public Prosecution Office and the District Public Prosecution Office execute powers in the field of prosecutions. The AGO is led by the Attorney General, who is appointed by and responsible to the President. The AGO has a dual role as an investigative and prosecutorial body—the Special Crimes and Money Laundering Unit prosecutes all ML cases, except KPK's corruption cases, and investigates ML associated with these special crimes.

33. ***Indonesian National Police (INP)*** is Indonesia's main law enforcement body and is responsible for investigating all crimes under the criminal procedure code, ML, and TF. The Special Economic Crime Directorate of INP has responsibility for investigating ML, with an AML Unit consisting of 20 investigators located at the INP headquarters in Jakarta. In addition, there are 30 regional AML units each consisting of 20–35 investigators dispersed throughout Indonesia. Special Detachment 88/Anti-Terror, a specialised counter-terrorism unit of the INP, is responsible for investigating TF. The Special Detachment 88 has branches and personnel in provinces of Indonesia (including those areas identified as high risk for TF), whilst the investigative division, including TF investigators, is based in INP headquarters in Jakarta.

34. ***Komisi Pemberantasan Korupsi or Corruption Eradication Commission (KPK)*** is mandated to eradicate corruption. It is responsible for the coordination and supervision of competent agencies responsible for eradicating corruption, and responsible for the investigation and prosecution of corruption cases and related ML cases involving state losses above one billion IDR (~74,000 USD)—i.e. cases with high public impact and/or high-level state officials. Corruption-related cases outside of KPK's jurisdiction are handled by the INP or AGO. In addition to enforcement actions, the

KPK carries out preventive measures including education and socialisation programs. Lastly, the KPK is responsible for monitoring state governance.

35. ***National Anti-Narcotics Board (NNB)*** is mandated to minimise abuse of controlled substances. The NNB's mandate extends to prevention and law enforcement actions. The NNB is responsible for investigating narcotic offences and related ML. The NNB has an ML Directorate under the Deputy Director of Eradication with 30 investigators, primarily seconded from other LEAs and the Military and 12 investigators specially trained in ML investigations.

36. ***Directorate General of Taxation (DG Tax)***, under the Ministry of Finance, is mandated to formulate and implement Indonesia's tax policy. DG Tax has 50 investigators who are responsible for investigating taxation offences and related ML.

37. ***Directorate General of Customs and Excise (DG Customs)***, under the Ministry of Finance, is mandated to formulate and implement Indonesia's customs and excise policy. DG Customs has investigators who are responsible for investigating customs offences and related ML. In addition, DG Customs is responsible for implementing Indonesia's cross-border declaration system.

Other key competent authorities

38. ***Ministry of Law and Human Rights (MLHR)*** is responsible to the president and administers laws and human rights in Indonesia. In relation to the AML/CFT regime, MLHR is mandated: (i) to regulate and conduct AML/CFT supervision of notaries, (ii) as the company registrar for companies, associations and foundations, and (ii) as the central authority for MLA and extradition.

Financial and DNFBP Supervisors (excluding those with dual responsibility, discussed above)

39. ***Otoritas Jasa Keuangan (OJK)***, in English known as the Financial Services Authority, is mandated to regulate and conduct prudential and AML/CFT supervision of all 13 FATF categories of financial institutions, except those trading in commodity futures.

40. ***Bank Indonesia (BI)*** is the Central Bank of Indonesia and mandated to formulate monetary policy, and to regulate and conduct prudential and AML/CFT supervision of non-bank payment and non-bank money changing service providers.

41. ***Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti)***, under the Ministry of Trade, is mandated to regulate and conduct prudential and AML/CFT supervision of futures trading.

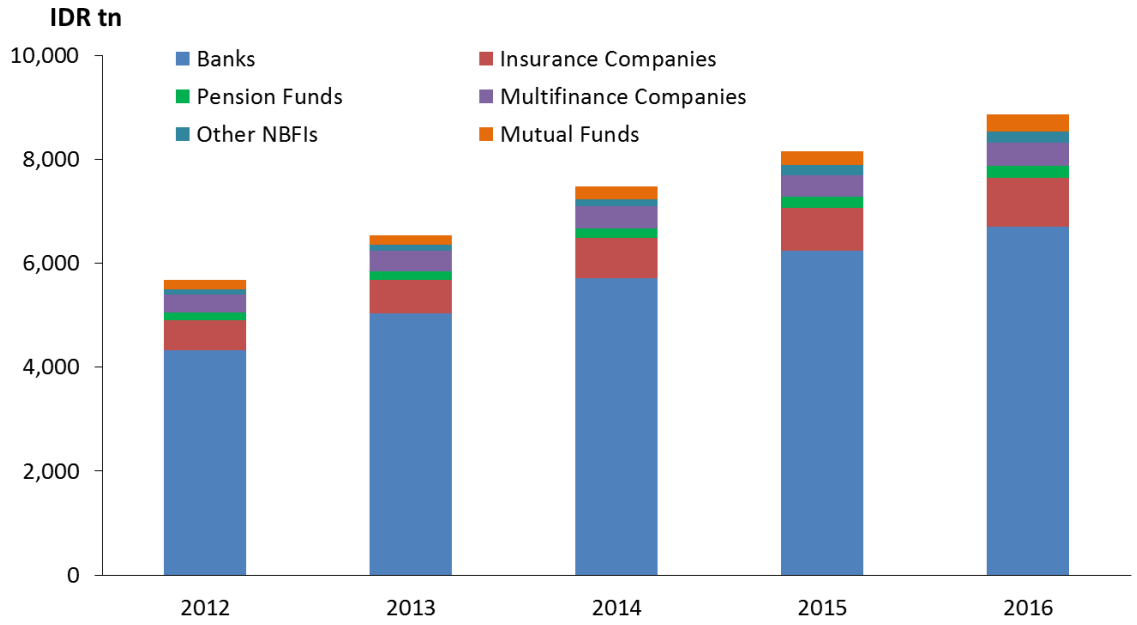
42. ***Ministry of Cooperatives and Small Medium Enterprises (MCS)*** is mandated to regulate and conduct AML/CFT supervision of cooperatives.

43. ***Ministry of Finance (MoF)*** is mandated to regulate and conduct AML/CFT supervision of accountants, public accountants, and auction houses.

Financial sector and DNFBPs

44. On average, Indonesia's ratio of financial sector assets to GDP from 2012 to 2016 was 12.8%. There are three main subsectors in the Indonesian financial sector, namely banking, capital markets, and the non-bank financial institutions (NBFI). The banking industry continues to play a dominant role in the national financial sector, with around 78% of total assets.

Chapter 1 Figure 1: The Development of Indonesia's Financial Sector Assets, 2012–2016



Chapter 1 Table 2: The Position of Indonesia's Financial Sector Assets, 2016

Financial Institution	Asset (IDR trillion)	USD Equivalent (billion)	% of financial sector assets
Banks	***6,837.87***	***506.16***	78%
Commercial Banks	6,729.80	498.16	77%
Rural Banks	108.07	8.00	1%
Non-Bank Financial Institutions	**1,922.64**	**142.32**	22%
Insurers & Social Security Agencies	965.33	71.46	11%
Pension Funds	238.30	17.64	3%
Multi-finance Companies	476.99	35.31	5%
Venture Capital Companies	12.33	0.91	0%
Infrastructure Financing Companies	55.17	4.08	1%
Guarantee Companies	15.38	11.14	0%
Indonesia Export Import Bank	99.02	7.33	1%
Secondary Mortgage Financing	13.12	0.97	0%
Pawnshop	46.99	3.48	1%
Total	**8,760.51**	**648.48**	**100%**

45. According to OJK's 2016 Annual Report, the total assets of the 44 financial conglomerate groups amounted to IDR 5,521.6 trillion (~USD 408.73 billion). In comparison, the total assets of the banking industry and financial services industry in Indonesia stood at IDR 6837.87 trillion (~USD 506.16 billion) and IDR 8,760.51 trillion (~USD 648.48 billion), respectively. Consequently, the total assets of the 44 financial conglomerates (33 are banking-sector controlled) accounted for ~81% and ~63%, respectively, of the banking industry and financial services industry—a significant portion.

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46. Pos Indonesia, a government-owned statutory authority, operates its service network to more than 17,000 islands throughout Indonesia. It provides current account and wire transfers.

Preventive measures

47. Indonesia's AML/CFT regime has undergone significant reform since the last assessment in 2008. Since the 2008 MER, Indonesia has enacted the AML Law and CFT Law and issued sector-specific AML/CFT regulations. The latter have been updated on a few occasions since the 2008 MER, most recently in 2017, in order to bring them into greater compliance with the 2012 FATF standards. New regulations have been issued to include some smaller FIs and DNFBPs not previously subject to AML/CFT measures. All 13 categories of FIs and DNFBPs are now subject to AML/CFT preventive measures. Overall, preventive measures for banking and other FIs supervised by OJK and BI, and real estate and motor vehicles supervised by PPATK, are more in compliance with the FATF standards. This is significant given these reporting entities are materially the most relevant sectors in Indonesia. Because the preventive AML/CFT requirements are detailed in sector-specific regulations, implementation of AML/CFT requirements consistent with the 2012 FATF standards has been varied.

48. In addition to the AML Law and CFT Law, the following are the most recent versions (earlier versions existed for some) of the enforceable preventive measures applicable to FIs and DNFBPs:

- Government Regulation No. 43 Year 2015 concerning on AML ("Government AML Regulation Year 43 of 2015").
- Financial Services Authority (OJK) AML/CFT Regulation No.12 01/2017 ("OJK AML/CFT Regulation for PJK").
- Bank Indonesia AML/CFT Regulation No.19 10/2017 ("BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers").
- Bappebti KYC Regulation No. 8 Year 2017 ("Bappepti KYC Regulation for Futures Traders").
- Ministry of Cooperatives KYC Regulation No. 6 Year 2017 ("MCS KYC Regulation for Cooperatives").
- PPATK KYC Regulation for Postal Providers No. 9 Year 2011("PPATK KYC Regulation for Postal Providers").
- PPATK KYC Regulation for Other Goods and Service Providers No.7 Year 2017 ("PPATK KYC Regulation for Other Goods and Services").
- Minister of Finance CDD Regulations No. 156 06/2017 for Auction House ("MoF CDD Regulations for Auction House").
- Minister of Law and Human Rights KYC Regulation for Notaries No.9 Year 2017 ('MLHR KYC Regulation for Notaries").
- PPATK KYC Regulation for Advocates (Lawyers) No.10 Year 2017 ("PPATK KYC Regulation for Advocates'").
- PPATK KYC Regulation for Land Titles Registrar No.11 Year 2017 ("PPATK KYC Regulation for Land Titles Registrar").
- Minister of Finance CDD Regulations No. 55 01/2017 for Accountants and Public Accountants ("MoF CDD Regulations for Accountants").
- PPATK KYC Regulations for Financial Planners No. 6 2017 ("PPATK KYC Regulation for Financial Planners").
- PPATK Decree No. 122 Year 2017 ("PPATK Decree No. 122").
- Joint TF Freezing Regulations Year 2015.

- Joint PF Freezing Regulation Year 2017.
- Presidential Regulation No. 18 Year 2017 on NPOs.

49. Indonesia has also issued regulations applicable to supervisors to guide them in implementing the risk-based approach.

Legal persons and arrangements

50. Indonesia permits the registration and formation of a number of types of legal persons including:

- Limited liability companies (LLCs) formed pursuant to the Company Law 2007. LLCs may be public with additional governance under the Capital Market Law of 1995 and have foreign ownership through share purchase or subscription at the time of establishment.
- Limited partnerships formed under Article 19 of the Commercial Code.
- Cooperatives (*koperasi*) formed under the Cooperative Law.
- Foundations (*yayasan*) and associations (*perkumpulan*): both are not-for-profit legal persons.

51. Express trusts cannot be formed under Indonesian law (see R.25 for further discussion); however, there is nothing preventing a trust or trustees created under the law of another country from operating in Indonesia.

Supervisory arrangements

52. All FIs and DNFBPs are subject to supervision by the seven AML/CFT supervisors in Indonesia. The OJK and BI are the two main financial sector supervisors. Upon creation of the OJK in 2011, responsibility for prudential and AML/CFT regulation and supervision of banks, capital market, insurance, pension fund, investment management, financial institutions and other financial services were transferred from BI to OJK. BI maintains supervisory responsibility for non-bank MVTS and non-bank money changers. The other three AML/CFT financial supervisors are: Bappebti which supervises futures traders; PPATK, which supervises Pos Indonesia (Pos Indonesia is a government-owned statutory authority); and MCS, which licenses and supervises cooperatives. PPATK, MLHR and Ministry of Finance are the AML/CFT supervisors for DNFBPs, but PPATK does not license the DNFBPs (including lawyers/advocates) it supervises. The lawyers/advocates licence provided by SRB is called PERADI.

53. There is no gaming or trust supervisor as gambling is illegal and trusts cannot be formed under Indonesian law. Foreign trusts/trustees are permitted to operate in Indonesia.

Chapter 1 Table 3: AML/CFT Supervisory Arrangements of FI and Dnfbps

Reporting Entities	Supervisor
Financial Institutions	
All 13 FATF categories of financial institutions, except trading in commodity futures trading	OJK
Non-Bank Payment and Non-Bank Money Changing Service Providers	BI
Commodity futures trading	Bappebti
Post Indonesia	PPATK
Cooperatives	MCS

DNFBPs	
Real estate/property company or agent	PPATK
Motor vehicle trader (Car Dealer)	PPATK
Diamond and jewellery/gold trader	PPATK
Art and antique goods trader	PPATK
Auction House	MoF
Lawyer	PPATK
Notary (company service providers)	MLHR
Land Titles Registrar	PPATK
Accountant and Public Accountant	MoF
Financial Planner	PPATK

International Cooperation

54. The MLHR is the central authority for MLA and extradition in accordance with the MLA Law of 2006, Extradition Law of 1979. Indonesia bilateral/multilateral agreements and international cooperation mechanisms, including extradition treaties and MLA treaties; liaison officers in Australia, China, Philippines, Hong Kong, China, Korea, India, Singapore, Turkey, Viet Nam and the United States; and there are further International Cooperation Treaties underway (such as MLA Treaties pending ratification process with the United Arab Emirates, Iran and Switzerland).

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key findings and recommended actions

Key findings

- Overall, Indonesia demonstrated a sound understanding of its ML/TF risks. Since the NRAs on TF and ML in 2015, Indonesia has undertaken 13 sectoral or strategic risk assessments (SRAs) and updated its NRAs on ML and TF. These assessments reasonably identify corruption, narcotics and taxation as the three main proceeds/ML-generating predicate offences, and NPOs/foundations as the major TF risk. Competent authorities met during the onsite demonstrated a sound understanding of TF risks. For ML, key ML investigators demonstrated a sound understanding.
- Indonesia has developed The National Strategy 2017–2019 for AML/CFT (STRANAS), which is focused on the key ML/TF risks and is being updating to reflect recent risk assessments. While the STRANAS highlights measures to be taken to address key ML/TF risks, activities of LEAs are not always prioritised on some key areas such as NPOs, legal persons and ML offshore.
- The framework for national coordination and cooperation through the AML/CFT National Coordination Committee (NCC) is very strong with only minor improvements needed. Overall, there is sound operational coordination among AML/CFT competent authorities.
- PF coordination is recent with the establishment on 3 October 2017 of the Task Force in Prevention and Eradication of Proliferation of WMD (WMD Task Force).
- Supervisors have promoted a sound awareness among reporting entities of the key findings contained in the NRAs, updates and relevant sectoral or strategic risk assessments, as demonstrated to the assessment team during the onsite visit. The major FIs (banks, securities and insurance) have high levels of risk awareness and have adjusted or considered the above risk assessments in their internal risk assessments. The overall sound level of awareness is a result of comprehensive programs undertaken by authorities to inform reporting entities of the findings of risk assessments.

Recommended Actions

- Continue to update the NRA and/or thematic risk assessments, including to more clearly identify which sub-sets of NPOs are higher risk; more detailed assessments to identify the ML risks of foreign-owned limited liability companies; and assess the risk of foreign legal arrangements.
- LEAs should further enhance their understanding of ML risks through taking a lead role in any future updates to the NRAs, thematic risk assessments and/or ML typologies.
- Complete the update to the STRANAS and ensure that competent authorities prioritise their actions and activities on evolving ML/TF risks, NPOs/foundations, legal persons and ML offshore.
- Continue to implement and strengthen PF coordination through the WMD Task Force.

55. The relevant immediate outcome considered and assessed in this chapter is IO1. The recommendations relevant for the assessment of effectiveness under this section are R1–2.

2

Immediate Outcome 1 (Risk, Policy and Coordination)

Core Issue 1.1: Country's understanding of its ML/TF risks

56. Indonesian authorities have drawn upon a range of assessments to identify, assess and understand Indonesia's ML/TF risks. Indonesia completed separate national risk assessments (NRAs) of money laundering (ML) and terrorism financing (TF) in 2015. In addition and since 2015, Indonesia has undertaken 13 sectoral or strategic risk assessments (SRAs) on NPOs, the banking sector, the securities sector, non-bank financial institutions, non-bank money changers and the money or value transfer service (MVTS), futures traders, goods and services providers (real estate and motor vehicles), accountants, auction houses, election funds, customs and excise, cross-border ML risk and legal persons. Just prior to the onsite visit (October 2017), Indonesia updated its NRA with white papers on ML and TF. The TF update focused on domestic terrorist networks affiliated with ISIS, and the ML update focused on taxation.

57. Overall, Indonesia through its NRAs for TF and ML, and sectoral/thematic risks assessments, demonstrate to a large extent its understanding of ML and TF risks. For TF, the assessment team agrees with the NRA conclusion that most TF activities in Indonesia involve financial support for domestic terrorist organisations, with donations to foundations or misappropriation of other NPOs' funds and the use of criminal proceeds as high-risk, along with wire transfers, online payments, and domestic and cross-border cash transactions. For ML, the assessment team agrees with the NRA's identification of corruption, narcotics and taxation as the three main proceeds generating crimes in Indonesia. Importantly, both the NRAs for ML and TF, and where relevant thematic/sectoral risk assessments, clearly identify and risk rate ML and TF risks by Indonesia's 34 geographic regions.

58. As mentioned, Indonesia updated its NRA in October–November 2017 for TF. While the 2015 TF NRA and the 2016 strategic assessment detailed a sound understanding of the TF risk to foundations, the update to the risk rating for the NPO sector in the white paper issued is less comprehensive. The white paper focused on funding specific to domestic networks related to ISIS, which is a prudent update but does not change the TF risk in the NPO sector. As noted, NPOs are now rated medium risk, banking and remittances high risk, cross-border cash couriers low risk, and use of social media to solicit funds as high risk for TF. The emergence of other high-risk sectors and changes in the threat posed by ISIL does not necessarily reduce the TF risk in the NPO sector, given the identified vulnerabilities and the threat for abuse by AQ and its affiliates, as well as other domestic terrorist groups. Other than the change to the risk rating for NPOs, the conclusions in the TF white paper are reasonable. The TF findings in the risk assessment of legal persons clearly identify foundations as the highest risk for TF.

59. For ML, the 2017 white paper re-rates taxation as medium risk and not one of the top three predicate crimes for illicit proceeds because of additional measures undertaken by Indonesia on taxation. The updated risk assessment of cross-border flows provides a sounder conclusion of the key risk of foreign jurisdictions, both incoming and outgoing, than contained in the 2015 ML NRA. Its findings are mostly consistent with the 2015 NRA results, although its heat-mapping findings conclude that corruption, narcotics and fraud are the three main cross-border illicit flows.

60. The risk assessment of legal persons that covers TF and ML provides more concise and pointed findings on the ML vulnerabilities of legal persons and includes sound recommendations. It addressed the gaps on legal persons in the 2015 ML NRA. However, it lacks a detailed analysis of the risk posed by foreign ownership of Indonesian companies. No risk assessment has been undertaken of foreign legal arrangements.

61. For ML, the key ML investigators—namely, KPK, NNB, AGO, and INP—demonstrated a sound and reasonable understanding. DG Tax and DG Customs understanding of ML risks were mixed and less complete.

62. For TF, competent authorities that met during the onsite visit, including those designated to investigate and supervise NPOs, demonstrated a generally sound understanding of the higher TF vulnerabilities and risks in the sector. Special Detachment 88, the SIA and BNPT displayed a strong understanding of these risks. Financial and DNFBP supervisors and major FIs displayed a significant understanding of the TF risk, while NPO supervisors and NPOs displayed a reasonable understanding of the TF risk. Regarding the risk rating of NPOs, while most agencies and NPOs indicated they were aware that the risk rating had changed from high to medium in the 2017 TF white paper, there was some disagreement about whether that change was appropriate.

Core Issue 1.2: National policies to address identified ML/TF risks

63. The National Strategy 2017–2019 for AML/CFT (STRANAS) focuses on the key risk areas identified in the NRA and includes seven strategies to target the key ML/TF risks including cross-border issues. Indonesia has started the process of updating STRANAS 2017–19 to reflect the white paper updates to the NRAs. These include the NCC decision in November 2017 to update/amend: (i) Strategy 2: to implement the effective risk mitigation of ML and TF in Indonesia; (ii) to add a new action plan on increasing the effectiveness of supervision related to the misuse of social media for TF; and (iii) to increase monitoring of, and optimise law enforcement measures in relation to, illegal remittance and unregistered money changers.

64. Indonesia has conducted extensive activities in recent years to further improve its AML/CFT regime. These include the NRAs and 13 sectoral/thematic risk assessments and an extensive program of outreach and awareness raising to reporting entities, as mentioned above. The risk assessment for legal persons contains some very useful recommendations to further mitigate the risks associated with legal persons, which are relevant to a number of competent authorities. The recommendations contained in this risk assessment will be implemented through an Action Plan Year 2018, which will be adopted in early 2018. Nevertheless, authorities have undertaken activities aimed at mitigating ML/TF risks associated with companies, such as prohibiting bearer shares.

65. As noted in IO.4 and IO.3, supervisory authorities have issued revised or new preventive measures to capture and/or to ensure those already subject to AM/CFT measures undertake institutional risk assessments and implement a risk-based approach. All categories of FIs, DNFBPs and other higher-risk sectors identified by Indonesia, such as motor vehicles and auction house are covered under the AML/CFT regulatory umbrella.

66. On TF-specific activities, as detailed in IO.9 and IO.10, authorities responsible for TF are correctly focusing on TF risks to the NPO sector; enhancing coordination in the investigation and prosecution of TF; and strengthening the use of targeted financial sanctions, including ongoing efforts to streamline the UNSCR 1267 designation process in response to any updates by the UN Security Council, and issuing a Joint Regulation on TF in 2015 and PPATK Decree in 2017. For the NPO sector, Indonesia promulgated a NPO Regulation in February 2017 in response to the NPO strategic risk assessment and recently formed an integrated NPO supervision team from key agencies. These are sound foundational activities, but ongoing implementation and additional activities are required.

67. As detailed in IO.7 and IO.8, with the exception of KPK in relation to corruption and to a lesser extent NNB in relations to narcotics, Indonesian LEAs' operational policies and activities are not identifying ML cases and conducting ML investigations commensurate with Indonesia's ML risks. The NRA and subsequent SRAs have assisted all six ML investigation agencies to prioritise and focus their efforts.

Core Issue 1.3: Exemptions, enhanced and simplified measures

68. The NRA and SRAs have been used to apply enhanced measures on areas of higher risks for both ML and TF such as PEPs, NPOs, real estate and higher-risk jurisdictions. Indonesia has subjected other sectors identified as higher risk, such as motor vehicles and auction houses, to AML/CFT measures. No FATF-designated sector, either FI or DNFBP, has been exempted from Indonesia's AML/CFT regime. From a financial-inclusion perspective, preventive-measures regulations provide for simplified CDD where risk is demonstrated to be lower, and some banks have introduced savings accounts to promote financial inclusion, which have appropriate risk-mitigation measures, e.g. maximum transaction amounts.

Core Issue 1.4: Objectives and activities of competent authorities

69. TF investigations and prosecutions by Special Detachment 88 and the AGO are focused on domestic terrorist activities and associated financing, which is largely consistent with the risks identified in the TF NRA and TF white paper and objectives of the STRANAS. While progress has been made on the implementation of terrorism-related TFS, given the identified TF risk from domestic and regional terrorist groups, Indonesia should more proactively use UNSCR 1373 designations. Regulatory measures for at-risk NPOs are in the initial stages of implementation, and Indonesia must continue to improve coordination among government agencies involved in NPO registration and monitoring.

70. To address the challenge of having multiple agencies with overlapping jurisdictions supervise and monitor the NPO sector, Indonesia established at the end of 2017 an integrated supervision team of relevant agencies to identify organisations involved with terrorism or TF. The integrated team will build a database of information on NPOs and their management (available to the public), which will also include a list of suspect entities (only available to government agencies, including Detachment 88) that is based on the DTTOT List as well as relevant court decisions.

71. Implementation of ML investigations focused on identified higher-risk areas is not consistent across all ML investigation agencies. The INP, which is responsible for investigating the majority of the predicate offences, indicated that it conducts a number of preliminary and primary investigations into ML where the predicate offences include corruption, narcotics, fraud, embezzlement, human trafficking, logging etc. These were considered in the NRA by the perception of LEAs to be offences that pose a high threat. Due to a lack of detailed information, it is unclear if ML investigations are consistent with Indonesia's ML risks and national AML/CFT policies. Although in general terms it seems the INP is targeting Indonesia's higher-risk predicate crimes of corruption and narcotics, the extent of other ML investigations is not clear. Further DG Tax policy also was contrary to National AML/CFT policies as it allowed a person/entity who evades tax to pay the principal of the taxes along with the fines so that enforcement efforts can be stopped including ML investigations.

72. Conversely, there appear to be proactive and coordinated activities to recover taxation proceeds. PPATK with Directorate General of Taxes in 2015 formed three taskforces in the field of taxation and have achieved significant taxation recoveries (refer IO.8). Given the situation described above, however, this may have been at the expense of ML investigations and prosecutions.

73. The major and most significant supervisor, the OJK, has commenced a full risk-based approach to AML/CFT supervision, which at the time of the onsite visit, focused on the two most significant sectors—namely, banking and securities. Previously it had implemented a risk-sensitive approach but was not fully risk-based.

74. BI, which is responsible for supervising non-bank money changers and MVTS providers, has focused its activities on the NRA-identified risks. For example, it has taken action to sanction or close down 783 unlicensed money changers and 13 unlicensed MVTS providers. BI has also imposed

sanctions on licensed non-bank money changers and non-bank MVTS providers. It has also commenced a full risk-based approach to AML/CFT supervision in 2017.

75. PPATK, in its role as a DNFBP supervisor, also adopted a risk-based approach in 2016, building on an earlier risk-sensitive approach. It has focused its supervisory activities on the higher-risk motor vehicles and real estate sectors. However, the lack of risk-based supervisory activities of precious stones and metals dealers is inconsistent with the ML NRA and the TF NRA, which deem this sector is at least a medium risk for ML and TF.

76. Other supervisors are still in the planning/implementation stage of a risk-based approach. Other than PPATK-supervised higher-risk sectors, there has been very limited risk-focused activities in the DNFBP sectors. This is a minor gap, except for notaries, given the gatekeeping role they play in company formation.

Core Issue 1.5: National coordination and cooperation

77. The framework for national coordination and cooperation through the NCC is strong. Presidential Decree Number 117 Year 2016 established the NCC as a designated national authority to be responsible for Indonesia's national AML/CFT policies. The NCC is a coordinating body made up of 16 government agencies led by the Coordinating Minister for Political, Legal and Security Affairs with the Head of PPATK as the secretary of the NCC. The NCC has already held over 23 meetings.

78. At the operational level, overall cooperation is also sound. Cooperation is generally strong among the key CFT agencies, including Special Detachment 88, PPATK, the BNPT, and the SIA, which coordinate through both interagency task forces and other formal and informal channels. Cooperation is also sound in relation to corruption, which is facilitated by KPK; and in relation to AML/CFT supervision between OJK and BI. INP and BNN have an MOU to facilitate cooperation related to narcotics.

79. PPATK is the lead agency on AML/CFT in Indonesia. It has 98 documents of cooperation with 85 ministries and domestic institutions, which facilitate information exchange, joint training, socialisation, coordination meetings, research, onsite visits, and other forms of cooperation that are in line with the duties and authorities of PPATK and those institutions

80. PF coordination is recent (October 2017) with the establishment of the Task Force in Prevention and Eradication of Proliferation of WMD (WMD Task Force) that consists of PPATK, MoFA, INP, and NERA. At the time of the ME onsite, the task force had held two meetings, which focused on coordination and implementation of the WMD Regulation and included regulators and FIs. Other WMD-related meetings were held in 2017 with five meetings held by MoFA focused on coordination and implementation of UNSCR 1540 and UNSCR 1718 and its successors, and requests for information from the UN.

Core Issue 1.6: Consultation with private sector on risks

81. Reporting entities including FIs, DNFBPs and other Indonesian-designated sectors (e.g. real estate) were consulted in the preparation of the ML and TF NRAs. This was in the form of responding to questionnaires and providing feedback. All FIs and DNFBPs indicated some form of consultation in the development of the NRAs and sectoral risk assessments. There appears to be comprehensive consultation with the private sector in the development of the risk assessment on legal persons with extensive one-on-one meetings or focus group discussions throughout Indonesia. There was a more focused consultation with the private sector on the two 2017 white papers updating the 2015 NRAs on ML and TF.

82. Awareness by FIs and DNFBPs of the NRA-assessed risks, including as updated by the white papers, appears high. The major FIs have started integrating the assessed risks in their internal risk

assessments, with banks the most advanced. The major FIs demonstrated a sophisticated and nuanced awareness and understanding of the TF/ML risk environment in Indonesia. DNFBPs have not, however, integrated the NRA findings in their internal risk identification, assessment, and mitigation measures as the obligation was only introduced in September 2017 in new or amended AML/CFT regulations.

83. The high level of awareness is a product of comprehensive programs undertaken by authorities to inform reporting entities of the findings of these assessments, either in full, sanitised versions or key findings. These include meetings with reporting entities located in the higher-risk provinces outside of the capital city, Jakarta. These awareness or outreach activities have been undertaken by the respective supervisory authorities, notably OJK, BI, Bappebti, PPATK and MLHR. The MOF and MCS have undertaken some outreach for accountants and savings and loan cooperatives. Supervisory authorities and PPATK are in various stages of informing reporting entities of recent assessments such as the cross-border and legal persons assessments. PPATK has published the cross-border and legal persons assessments and socialised the assessments by providing training to LEAs, all supervisory agencies and reporting entities.

84. PPATK in conjunction with local stakeholders initiated the Public Perception Index on ML/TF (PPI on ML/TF) in 2015 with the involvement of academia, independent survey institutes, experts team and practitioners. The PPI on ML/TF aims to enhance the public's understanding of ML and TF and is published annually as a monitoring tool to measure the effectiveness of the government's performance. Since its inception, annual results have shown an increase in public awareness.

Overall conclusions on Immediate Outcome 1

85. The assessment team in arriving at the rating has placed greater weight on competent authorities' sound understanding of Indonesia's TF risk; sound understanding of ML risks among the key ML investigators; good policy and operational coordination; and reporting entities' high level of awareness of the NRAs and sectoral/thematic risk assessments. As noted, understanding has not necessarily led to targeted activities consistent with the evolving risk profile among all competent authorities, and PF coordination is recent.

86. **Indonesia has a substantial level of effectiveness on IO.1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key findings and recommended actions

Key findings

IO.6

- Indonesia is actively using financial intelligence and other information to combat TF, predicate crimes, ML and to trace property for confiscation. LEAs are making good use of financial intelligence from PPATK and developing their own intelligence to investigate TF, higher-risk predicate offences related to corruption, narcotics and tax, and, to a lesser extent, ML associated with these predicates. Financial intelligence is also being used in corruption cases involving forestry/environmental offences.
- PPATK has information available to it from a wide range of sources and databases. The FIU receives STRs, CTRs, International Funds Transfer Instruction (IFTI) reports and Integrated Customers Information System (SIPESAT) reports from banks, the non-banking sector and, to a more limited extent, from DNFBPs with regard to STRs. PPATK also receives cross-border cash courier (CBCC) or BNI (bearer negotiable instruments) reports from DG Customs. STRs are of high quality and submitted on time with submission from banks and non-banking sectors generally consistent with the make-up of Indonesia's financial sector and ML/TF risks.
- PPATK supports the operational needs of LEAs through proactive disseminations, reactive disseminations, including by operational task forces and the provision of expert advice on the use of its financial intelligence for ML/TF and predicate crime investigations and prosecutions. PPATK is also supporting the strategic needs of LEAs, primarily via products developed by the Directorate of Examination and Research.
- PPATK's analysis process is robust, and based on discussions with LEAs, review of example disseminations and a demonstration of PPATK's analysis systems; the assessment team has concluded that PPATK's proactive disseminations are of high quality, which is also reflected in their use by LEAs. Some improvements in the use of information from other competent authorities and timeliness of reactive disseminations are needed, but high-priority requests including for TF are not impacted.
- PPATK undertakes wide-ranging cooperation and information exchange. PPATK has 98 cooperation agreements with 85 ministries and domestic institutions, which facilitate information exchange, joint training, socialisation, coordination meetings, research, onsite visits, and other forms of cooperation that are in line with the duties and authorities of PPATK and those institutions. PPATK maintains the security and confidentiality of electronic and non-electronic information exchanges.

IO.7

- Since 2013, ML investigations mostly relate to corruption, narcotics and fraud, and the 324 individuals convicted of ML are for self-laundering with few complex cases and only one conviction of a legal person. The majority of convictions relate to corruption, which is consistent with Indonesia's risk profile and STRANAS 2017–2019. The number of investigations and convictions for other higher-risk predicate crimes of taxation and forestry/environmental offences is not consistent with risks identified in the 2015 ML NRA.
- The lower number of ML investigations and convictions is mainly due to ML investigators lacking resources or skills, or prioritising their other functions, or focusing on predicate crimes and

revenue collection.

- Sanctions imposed for ML convictions since 2012 seem proportionate and dissuasive with an average prison sentence of approximately five years. Indonesia's one ML conviction of a legal person suggests sanctions are not proportionate and dissuasive.

IO.8

- Indonesia's 2017–2019 STRANAS includes a policy objective to pursue asset recovery in ML cases related to narcotics, corruption, and taxation, but not explicitly for TF or predicate crimes. The 2017–2019 STRANAS does, however, include a strategy specifically focused on prevention and eradication of TF (Strategy 3), which includes objectives to optimise the handling of all criminal actions, including confiscations, related to TF.
- Terrorism and TF-related activities in Indonesia generally involve smaller amounts of funds and Indonesia has some terrorism and TF confiscations.
- Data and case examples provided to the assessment team show that LEAs seize instrumentalities of crime, property laundered, and proceeds in the investigation stage as evidence or seized property, which, combined with seizures ordered during prosecution, can be confiscated upon conviction. Evidence is managed by Rupbasan, while other seized property is managed by the case investigator or the prosecutor depending on the status of the case. Since it became operational in 2015, the Asset Recovery Centre within the AGO has been responsible for coordinating all activities related to asset recovery, except in KPK corruption cases, which are managed by its internal asset recovery unit (established in 2016).
- Consistent and comprehensive data and statistics were not provided from all LEAs and for all asset-recovery activities related to ML and all predicate crimes. Indonesia is, however, confiscating property in predicate crime cases related to corruption and, to a lesser extent, narcotics. AGO and KPK are both confiscating property of corresponding value in corruption cases. Overall, the value realised by the State is not fully commensurate with the team's understanding of the level of corruption offending in Indonesia and the movement of funds overseas. There have been more limited confiscations in ML and in other predicate crime cases.
- The limited administrative fine, required to be paid on the spot with cash being carried, for false or undeclared currency/BNI is not consistent with Indonesia's cross-border risk.

Recommended actions

IO.6

- PPATK should continue to enhance STR reporting by DNFBPs and reporting on forestry/environmental crimes, as well as enhance the use of financial intelligence directly related to forestry/environmental crimes.
- PPATK should continue to enhance use of its electronic communication system to improve timeliness of reactive disseminations.
- LEAs should continue to enhance use of their own financial intelligence in investigations of ML and predicate crime cases.

IO.7

- Prioritise ML investigations and prosecutions in line with Indonesia's ML risks by strengthening institutional frameworks (including adequate internal policies and procedures) and increasing LEAs capabilities and capacity.

- Strengthen the capacity and capability of the AGO, primarily the Special Crimes and Money Laundering Unit, in order to enable it to effectively fulfil its mandate of ML prosecutions, special crimes prosecutions, and ML investigations.
- Improve LEAs capacity and capability to target and investigate complex ML cases in line with Indonesia's risk profile including foreign proceeds, stand-alone ML cases and cases involving legal persons.
- Establish a specific, consolidated operational AML strategy for investigation of ML related to forestry/environmental crimes, which covers parallel investigations and use of financial intelligence in ML and predicate offences. This should include adopting written internal policies, procedures and mechanisms for more effective cooperation and coordination, investigation and seizure.

IO.8

- Develop a national policy for TF confiscations in line with Indonesia's risk and context.
- Continue to enhance the capability and capacity of the Asset Recovery Centre to execute and coordinate Indonesia's asset-recovery activities that address proceeds-of-crime confiscation in accordance with Indonesia's ML risks including for all higher-risk predicate crimes and property moved overseas. Activities should include targeted proceeds-of-crime confiscation training to LEAs, prosecutors and the judiciary.
- Continue to enhance the capability and capacity of the KPK's Asset Tracking, Evidence Management, and Execution Unit and case investigators to confiscate property in KPK corruption cases.
- Develop a strategic and coordinated approach to cross-border confiscations including through enhancing the capacity of agencies involved and improved intelligence, profiling and agency coordination at all major cross-border ports.

87. The relevant immediate outcomes considered and assessed in this chapter are IO6–8. The recommendations relevant for the assessment of effectiveness under this section are R.3, R4, and R29–32.

Immediate Outcome 6 (Financial intelligence ML/TF)

General framework

88. PPATK is established under Article 37 of the AML Law as an independent government institution accountable directly to the President of Indonesia with the duty to prevent and eradicate ML. PPATK has a total of 368 staff divided into the Administrative Secretariat and two operational divisions, namely Prevention and Eradication Affairs. The Prevention division includes three directorates, namely Reporting, Supervision and Law, while the Eradication Affairs division includes the directorates of Analysis (responsible for development of PPATK's proactive and reactive financial intelligence products), Examination and Research and Cooperation, and Public Relations.

Core Issue 6.1: Use of financial intelligence

89. Indonesia is using financial intelligence and other information to combat ML, TF, and predicate crimes. As discussed in R.30, Indonesia has six ML investigators—namely, INP, KPK, BNN, AGO, DG Customs, and DG Tax. Detachment 88, the specialised counter-terrorism unit of the INP, is designated to investigate TF. These investigators are all authorised to receive PPATK proactive

disseminations and request information from PPATK. These investigators are making good use of financial intelligence from PPATK in all stages of their ML/TF and predicate crime investigations and other LEA actions (see Table 6.1) and are developing their own financial intelligence to investigate ML/TF and predicate offences and trace property for seizure and confiscation, as discussed below in detail.

Table 6.1: Use of PPATK Intelligence (2013–October 2017)

Category of Final Use	Agency and Number							Total
	Detachment 88	KPK	DG Tax	INP[17]	NNB	AGO	DG Customs	
Number of proactive disseminations	*48*	*288*	*119*	*90*	*10*	*100*	*11*	666
Final use in the different stages of a ML/TF or predicate crime investigations/prosecution								
Preliminary investigation	24	32	10	17	4	6	0	93
Primary investigation	8	35	4	27	2	10	2	88
Prosecution	0	1	0	2	1	3	0	7
Trial (*proactive dissemination has been followed up by investigation, prosecution, and case reached trial)*	8	13	0	5	0	11	2	39
Final use in other LEAs actions								
Termination of LEAs Actions	0	0	0	1	0	3	0	4
Review *(reviewed by investigator, which may include checking into databases and identifying the predicate crime allegations and parties involved)*	1	53	21	9		11	1	96
Asset tracing	0	4	0	0	0	0	0	4
Agency-specific uses *(this includes a range of activities such as cross-checking against agencies' data or internal investigations)*	0	14	45	0	0	3	0	62
Total	**41**	**160**	**80**	**61**	**7**	**47**	**5**	**401**
% of disseminations used	**85%**	**55%**	**67%**	**68%**	**70%**	**47%**	**45%**	**60%**

90. *Detachment 88 (Terrorism and TF investigations)* – between 2013 and October 2017, Detachment 88 received a total of 48 proactive disseminations related to terrorism/TF, of which 41 have been used mainly for preliminary investigations, as detailed in Table 6.1. However, Indonesia has not been able to provide a disaggregated figure of how many of these disseminations were just for TF. As an example of Detachment 88's use of PPATK's proactive dissemination, see Case 9.3.

91. *KPK (ML and corruption investigations and prosecutions)* – between 2013 and October 2017, KPK received a total of 228 proactive disseminations of which 160 have been used mainly in reviews and primary investigations, as detailed in Table 6.1. As an example of KPK's use of PPATK financial intelligence products, see Case 6.1.

[17] This INP data relate only to ML and predicate crimes and excludes disseminations to Detachment 88 in relation to terrorism or terrorist financing.

Case 6.1: KPK's Use of PPATK's Dissemination— Corruption and ML by Former Inspector General of the INP

PPATK received STRs concerning DS, a high-ranking police officer (former Head of Traffic Police Corps and in 2012 he served as the Head of the Police Academy) who maintained several accounts with significant funds. PPATK analysis of DS's accounts found frequent cash deposits and withdrawals in significant amounts ranging from ~10 million IDR (~740 USD) to ~3 billion IDR (~222,000 USD). DS was also known to maintain a USD account which showed similar pattern of transactions and opened time-deposit accounts in which the funds were derived from cash deposits. Besides that, DS was also active using his debit cards for shopping.

PPATK analysis identified affiliated individuals who received transfers from DS, including three of DS's wives. Based on the analysis, PPATK suspected corruption and disseminated the proactive analysis report to KPK. Following KPK investigation and prosecution, DS was proven guilty of corruption and ML in 2013 and sentenced to 10 years in prison and 500 million IDR (~37,000 USD) fine (may be substituted for six-month' confinement). In addition, KPK seized 54.6 billion IDR (~4 million USD) in property, USD 60,000 in cash and ordered DS to pay substitute money of 32 billion IDR (~2.35 million USD).

92. NNB (ML and narcotics investigations) – between 2013 and October 2017, NNB received a total of 10 proactive disseminations, of which seven have been used mainly in preliminary investigations, as detailed in Table 6.1. As an example of NNB's use of PPATK financial intelligence, see Case 6.2.

Case 6.2: NNB's Use of PPATK's Dissemination—Narcotic Investigations with International Elements

The PPATK's analysis of JT was triggered by mining international funds transfer data. The analysis showed JT was sending funds overseas in large amounts to multiple parties—both companies and individuals. PPATK identified PJ's involvement with a number of companies and, based on account data, IFTI data on overseas payments, and customs data on imported and exported goods, PPATK was able to establish links between JT and an international narcotics syndicate. PPATK disseminated an examination report to NNB.

Through additional cooperation between PPATK, BNN's asset-tracing unit, and MLHR in regard to MLA, a total asset-tracing amount to the value of 3.6 trillion (~266.45 million USD) was found in 11 jurisdictions. In August 2017, JT was sentenced to two years and two months' imprisonment and fined 50 million IDR (~3,700 USD).

93. DG Tax (ML and tax investigations) – Between 2013 and October 2017, DG Tax received a total of 119 proactive disseminations, of which 80 were mainly used for agency-specific uses, such as review of tax compliance, as detailed in Table 6.1. As an example of DG Tax's use of PPATK financial intelligence, see Case 6.3.

Case 6.3: DG Tax's Use of PPATK's Dissemination—Tax Offence Conviction and Confiscation

This case was triggered by a request from DG Tax to PPATK. The alleged offence was that AH and his associates had issued false invoices to gain personal profit. PPATK's analysis of AH and his associates identified bank accounts and companies and discrepancies between actual transactions and tax

invoices. Person AH was convicted of tax crimes and sentenced to 2.5 years in prison, fined 246 billion IDR (~18.27 million USD), and had property to the value of 26.87 billion IDR (~1.9 million USD), including cash, vehicles, land and buildings, confiscated.

3

94. *INP (ML and all other predicate crime investigations)* – Between 2013 and October 2017, INP (excluding Detachment 88) received a total of 90 proactive disseminations, of which 61 were used mainly in primary investigations of fraud, as detailed in Table 6.1.

95. *AGO (ML and special crimes investigations and prosecution of all cases expect KPK's corruption cases)* – Between 2013 and October 2017, AGO received a total of 100 proactive disseminations, of which 47 were used mainly in reviews and in trials, as detailed in Table 6.1. As an example of the AGO's use of PPATK's financial intelligence products, see Case 7.2.

96. *DG Customs (ML and customs investigations)* – Between 2013 and October 2017, DG Customs received a total of 11 proactive disseminations, of which five were used mainly in primary investigations and in trails, as detailed in Table 6.1.

97. In addition to use of PPATK's proactive disseminations by LEAs, between 2014 and 2016, PPATK made a total of 317 disseminations to non-law enforcement agencies in relation to TF and predicate crimes, including: (i) eight to SIA related to TF, three to the Ministry of Environment and Forestry, and (iii) 10 to AML/CFT supervisors. These disseminations were mainly used for internal purposes with agencies reporting to the assessment team that they found the information received was of good quality and useful.

98. *Use of internally generated financial intelligence and other relevant information by LEAs:* INP, AGO, KPK, NNB, AGO, and DG Tax have internal units that develop financial intelligence and have access to other relevant information. These agencies are developing financial intelligence, in some cases adding to or supplementing PPATK reactive disseminations, or using other relevant information, for asset tracing and in case initiation, as discussed below:

99. *Detachment 88* – develops its own financial intelligence in its terrorism/TF investigations in addition to PPATK's financial intelligence. It has an extensive network of intelligence sources, including financial intelligence throughout Indonesia and internationally, including via its MOU with a major international MVTS provider with coverage of Indonesia's higher-risk terrorism/TF remittance gateway. Specific examples of its use of its own financial intelligence or other relevant information are included in IO.9.

100. *KPK* – uses its financial intelligence, for example, Wealth Reports to identify potential ML and corruption cases. In 2016, KPK undertook 139 preliminary investigations and 96 primary corruption-related investigations, and the Asset Tracking, Evidence Management, and Execution Unit managed the tracking of 382,784,665,936 IDR (~28.3 million USD) in assets in 20 corruption cases (see IO.8).

101. *AGO* – AGO's Asset Recovery Centre may obtain and use information from a number of key government agencies including INP, DG Tax, local government for land and building records and banks and non-bank FIs, and is responsible for the tracing, securing, maintaining, forfeiting, and repatriation of property for offences investigated and/or prosecuted by the AGO (see IO.8).

102. *NNB* – NNB's Sub Directorate Data Asset and Network supports investigators by providing financial intelligence, particularly asset tracking and asset-network mapping. As highlighted in IO.8, between 2013 and 2016 NNB advised that it handled 59 narcotics-related ML cases resulting in the seizure of assets worth 500 billion IDR (~37 million USD). Indonesia provided case examples to the assessment team.

103. DG Tax – DG Tax can develop financial intelligence using powers (e.g. can compel banks, accountants, notaries and other parties to provide information) in its tax investigations.[18] Indonesia provided some examples to the assessment team. In addition, see IO.8 for tax-related confiscations.

104. Indonesia is only using financial intelligence and other relevant information in relation to forestry/environmental crimes to a limited extent.

Core Issue 6.2: STRs and other reports received and requested by competent authorities

105. PPATK has information available to it from a wide range of sources and databases. As displayed in Table 6.2, the FIU is receiving STRs, CTRs, IFTI Reports (from banks and other financial service providers only), and SIPESAT Reports[19] from banks, the non-banking sector and, to a lesser extent, DNFBPs in regard to STRs. The FIU is also receiving CBCC Reports from DG Customs (see Tables 6.2–6.5). PPATK also has the power to obtain further information, including from other government agencies, FIs and DNFBPs in the course of its duties. As discussed below in detail, reports received and requested contain relevant and accurate information, which allows PPATK to perform its FIU functions effectively.

Table 6.2: All Reporting

Report Type	2013	2014	2015	2016	Oct 2017	Total
STRs	41,971	39,125	57,411	48,600	46,889	**232,996**
CTRs	1,534,758	1,851,086	2,226,749	2,759,658	2,336,952	**10,709,203**
DNFBP TR	28,801	30,715	42,230	42,212	31,742	**175,700**
CBCC reports	3,461	1,467	3,286	7,304	6,739	**22,257**
IFTI reports	Reporting commenced in 2014	14,708,121	26,550,253	25,393,645	26,037,968	**92,689,987**
SIPESAT reports	Reporting commenced in 2014	167,102,269	56,302,279	37,087,601	166,233,843	**426,725,992**

Table 6.3: STRs Received by PPATK by Reporting Entities

Reporting entity	2013	2014	2015	2016	Oct 2017	Total	% of Total STRs
Banks	20,683	23,565	27,003	25,500	26,276	**123,027**	53%
Non-banking sector	21,257	15,500	30,260	23,020	20,533	**110,570**	47%
DNFBPs	31	60	148	80	80	**399**	0%
Total	**41,971**	**39,125**	**57,411**	**48,600**	**46,889**	**232,996**	100%

106. *Quantity, quality, and timeliness of STR reporting:* The FIU is receiving STRs, consistent with the make-up of Indonesia's financial sector, that are of good quality and submitted on time. Table 6.3 shows an increase in STRs submitted by banks and the non-banking sector from 2013 to 2017. Although there was a decrease in the number of STRs submitted between 2015 and 2016 across all reporting groups, since 2014 there has been a year-on-year improvement in on-time reporting and quality of STR reporting as evident from verbal reports by PPATK and an increase in the number of STRs scoring high on automated STR pre-analysis criteria (see discussion below). The banking sector submitted ~53% of all STRs made between 2013 and 2017, which is consistent with the make-up of Indonesia's financial sector given that the quality of STR reporting by banks is significantly better than

18 DG Tax conducted 44 Tax Investigations in 2013, 73 in 2014, 48 in 2015, 63 in 2016 and 42 in 2017.

19 SIPESAT reports are the integrated customers information system reports submitted by financial service providers that contain specific information regarding customers—does not include balance and transaction information.

from the non-banking sector. Notwithstanding, it is not clear whether there is satisfactory reporting among all banks in the sector.

107. Since 2013, a total of 399 STRs has been submitted by DNFBPs (see Table 6.2). Until early 2017 DNFBPs were obliged to file CTRs with a threshold of 500 million IDR (~37,000 USD) and STRs when requested by PPATK based on its analysis of reported DNFBP TRs or other reports. Since the new regulation in early 2017, DNFBPs are required to submit proactive STRs with 80 proactive STRs submitted at the time of the onsite20.

108. *Consistency of STR reporting with Indonesia's ML/TF risks:* STR reporting is somewhat in line with Indonesia's key ML risks as identified in the NRA. STR reporting for corruption is second highest; however, reporting for forestry/environmental crime and narcotics seems low, while fraud seems higher than the risk level identified in Indonesia's 2015 NRA (see Table 6.4 below). Nevertheless, data show that many STRs are submitted without an identified predicate crime, and that PPATK's disseminations, which include an identified predicate crime, are more in line with Indonesia's ML risks. In addition, STR reporting is broadly in line with the NRA's geographic ML/TF risks with the higher-risk regions of Jakarta and Java accounting for 48.7% and 27.5% of total STRs, respectively.

109. To improve STR reporting in relation to narcotics and environmental crimes, PPATK recently issued guidance on STR reporting for narcotics crimes, and at the time of the onsite PPATK was developing guidance for environmental crimes. Previously, PPATK had issued guidance on STR reporting related to the securities sector, corruption cases, and recent ML court decisions.

Table 6.4: FI Identified Predicate Crimes in STRs

Predicate Offences	2013	2014	2015	2016	Oct-17	Total	~% total STRs
Terrorism/TF	47	56	165	227	313	**808**	.5%
Corruption	1,764	2,724	2,077	2,829	2,836	**12,230**	5.3%
Narcotics	665	422	504	528	291	**2,410**	1%
Tax	145	213	622	387	414	**1,781**	1%
Forestry/environmental	7	4	31	13	130	**185**	0%
Fraud	10,331	8,854	6,379	6,574	5,263	**37,401**	16%
Other predicates	1,590	3,000	3,730	2,493	2,294	**13,107**	5.6%
Unidentified crime	27,436	23,797	43,106	35,363	34,688	**164,370**	71%
Total	**41,985**	**39,070**	**56,614**	**48,414**	**46,229**	**232,312**	

110. Critically, STR reporting is consistent with Indonesia's TF risk. As shown in Tables 6.4 and 6.5, Indonesia is receiving STRs related to terrorism/TF with data provided to the assessment team showing that these STRs include reporting on NPOs (total of 40 STRs since 2013) and FTFs (total of 113 since 2013).

Table 6.5: Terrorism/TF-Related STR Reporting

Reporting Entities	2013	2014	2015	2016	Oct 2017	Total
Proactive STRs						
Banks	29	31	104	85	47	**296**
Non-banking sector	1	4	7	17	46	**75**
DNFBPs	n/a	n/a	n/a	n/a	0	**0**
Sub-Total	30	35	111	227	93	**371**
Reactive STRs (submitted in response to a request by PPATK)						
Banks	17	21	54	121	210	**423**
Non-banking sector	0	0	0	4	10	**14**
DNFBPs	0	0	0	0	0	**0**

20 Ten months since the introduction of the new reporting requirement.

Sub-Total	17	21	54	125	220	**437**
Total	**47**	**56**	**165**	**227**	**313**	**808**

111. PPATK has 98 cooperation agreements with other agencies and can request additional information (not in the form of reactive STRs) from these agencies/organisations in its analysis process.

Core Issue 6.3: Operational needs supported by FIU analysis and dissemination

112. From discussions during the ME onsite visit, it is clear the PPATK is providing high-quality financial intelligence in support of Indonesia's anti-terrorism/TF, ML and predicate crime activities. PPATK supports the operational needs of LEAs through proactive disseminations (Analysis and Examination reports) and reactive disseminations, all of which are developed through a robust analysis process. PPATK is also supporting the operational needs of LEAs through strategic analysis of key ML/TF risks, operational tasks forces, and the provision of expert advice on the use of its financial intelligence products.

113. All STRs and incoming requests, from both LEAs and foreign FIUs, undergo a process of prioritisation for analysis and response. For STRs, there is an automated pre-analysis process, within PPATK's GRIPS system (Gathering Reports & Information Processing System) to establish prioritisation for further analysis: STRs rated as high in the GRIPS system are manually examined and, where appropriate, prioritised for analysis; STRs rated medium or low are added to the FIU's database and used in the analysis of other reports. For LEA and foreign FIU requests, an initial verification is conducted to check if PPATK has available information, then requests are manually examined and prioritised for analysis based on ML/TF risks and the priorities of PPATK, LEAs and/or foreign FIUs.

114. PPATK conducts two forms of analysis: analysis and examination. In general terms, an examination is a more in-depth analysis that involves a team of analysts, but both analysis processes involve, to varying degrees, the following three stages: (i) data mining—the analyst will review all data accessible to PPATK and may request additional information from FIs/DNFBPs and other institutions, (ii) site visit—depending on the characteristics of the case, the analyst may visit FIs or DNFBPs with the aim of accelerating the collection of data/information and ensure completeness and accuracy, and (iii) decision to disseminate—for proactive disseminations, analysts are required to identify an indication of a criminal offence (based on transaction characteristics) before dissemination; for reactive analysis, the analyst is required to explain the association between the financial transactions and alleged criminal acts. Where a predicate offence cannot be identified in a proactive dissemination, PPATK seeks additional information and consults further with LEAs, if needed. (See Core issue 6.4 discussion on PPATK's Cooperation and Public Relations Directorate.) The aim of this approach is to enhance the quality of intelligence reports disseminated by showing a more comprehensive flow of funds and stating the indication of crime; however, this is resource-intensive and may unduly delay the dissemination. PPATK could consider implementing a more flexible approach regarding the need to identify the predicate crime prior to making disseminations.

115. *Proactive disseminations:* PPATK has made a total of 666 proactive disseminations (analysis and examination reports) to LEAs that investigate ML/TF investigators between 2013 and October 2017 (see Table 6.1), and 317 proactive disseminations to other authorities in the same period. PPATK disseminations are somewhat in line with Indonesia's ML/TF risks with PPATK making the majority (~43%) of its disseminations to KPK (corruption related); DG Tax (tax related) and to a lesser extent NNB (narcotics related), see Table 6.1. There have been limited disseminations related to forestry/environmental crimes with only three disseminations to the Ministry of Environment and

Forestry. However, financial intelligence is also being used in corruption cases involving forestry/environmental offences.

116. For TF, since 2014 PPATK has disseminated: (i) 48 analysis reports to Detachment 88 including four reports related to NPOs and 12 related to FTFs, and (ii) eight analysis reports to SIA.

117. *Reactive disseminations:* Since 2013 PPATK has received a total of 2,159 requests from LEAs, primarily INP, with PPATK completing ~81% of requests including 27 TF-related requests from Special Detachment 88. With the exception of TF requests, which are prioritised, the timeliness of information exchange with some ministries/agencies varies depending on the nature of the request. If data are available in PPATK's database and require limited analysis, requests take, on average, two to five days to complete. If more complex analysis is required, including obtaining information from FIs or DNFBPs, the average time needed to fulfil the request may increase to 14 to 35 days. Requests from foreign FIUs are discussed in IO.2.

Core Issue 6.4: Cooperation and exchange of information/financial intelligence

118. PPATK disseminates strategic analysis on key ML/TF risks to supervisors and LEAs. As discussed in IO.1, these strategic analyses are of good quality and are used by relevant competent authorities.

119. PPATK has wide-ranging cooperation and information exchange. PPATK has 98 documents of cooperation (Memorandum of Understanding and Cooperation Agreement documents) with 85 ministries and domestic institutions, which facilitate information exchange, joint training, socialisation, coordination meetings, research, onsite visits, and other forms of cooperation that are in line with the duties and authorities of PPATK and those institutions including AML/CFT supervisors.

120. For disseminations, PPATK uses its Secure Online Communications (SOC) system, which allows PPATK to communicate directly with LEAs in real time via a private VPN network including sending documents and other media. However, only LEAs in Jakarta are connected to the SOC—between 2014 and 2016, 263 analysis results were disseminated via SOC. Non-electronic disseminations are made in writing equipped with security measures such as the application of codes; level for security classification and access rights; security serial number; and security printing.

121. Critical to PPATK's cooperation is its Cooperation and Public Relations Directorate, which is staffed by ex-investigators and ex-prosecutors, and is established to assist LEAs to utilise PPATK's financial intelligence for the initiation, investigation and prosecution of ML and predicate crimes. Over the period 2014–2016, the directorate held 508 meetings between PPATK analysts and law enforcement apparatus. These meetings were held to coordinate and discuss various matters, including handling of cases.

122. For TF, PPATK has established an on-call terrorism/TF analysis team for rapid support of Detachment 88 and other competent authorities. To support the work of Detachment 88, especially when there is a terrorism/TF-related incident, the terrorism/TF analysis team accelerates production and use of financial intelligence by liaising directly with Detachment 88, other relevant competent authorities, FIs and DNFBPs.

Case 6.7: PPATK's On-Call Terrorism/TF Analysis Team—Thamrin Attack

On 14 January 2016, a series of bomb blasts and a shootout occurred in Thamrin, Jakarta. A number of people were involved in the attack, which left civilians dead and wounded. Soon after the incident, the terrorism/TF analysis team contacted Detachment 88 to obtain information regarding the perpetrators of the attack. The team then conducted database searches to identify account ownership and transactions and sent queries to reporting parties to obtain data. Subsequently,

PPATK disseminated the analysis results regarding AH, RH, and other persons that were suspected to be linked with the attackers.

Overall conclusions on Immediate Outcome 6

123. The assessment team in arriving at the rating has placed greater weight on competent authorities' use of financial intelligence in relation to TF and higher-risk predicate crimes of corruption, narcotics and taxation including their use of internally generated financial intelligence and other relevant information. While there are some gaps in STR reporting, PPATK recently issued guidance on these gaps, and PPATK's analysis process is robust with disseminations being of high-quality and supported by PPATK's active coordination with LEAs, particularly in relation to TF.

124. **Indonesia has a substantial level of effectiveness on IO.6.**

Immediate Outcome 7 (ML Investigation and Prosecution)

General framework

125. Indonesia's AML law is the core legal framework for ML with articles three to five criminalising ML, and predicate crimes criminalised in the Criminal Code and a number of specific laws, as discussed in R.3.

126. ML criminal proceedings are regulated by the Criminal Procedures Code and divided into the following stages: preliminary investigation—investigators determine whether a crime has been committed; primary investigation—investigators (see below) identify possible suspects, obtain more evidence of the crime, identify any further suspects and, upon completion of the investigation, submit the dossier to prosecutors; indictment—prosecutors examine the dossier and, where legal requirements are met (prosecutors can return incomplete cases to investigators for further ML investigation and/or asset tracing), present the case to the judge; and trial—a panel of judges (normally three judges) examines the case and rules, by judgment, of the guilt or innocence of the accused. While approval from the AGO is not required for a preliminary investigation to move to the primary investigation stage, the AGO must be informed of the case.

127. As discussed in R.30, Indonesia has six ML investigators, with varying powers (see R.31), designated to investigate ML—namely, INP, KPK, BNN, AGO, DG Customs, and DG Tax. Indonesia has a third investigator responsible for the preliminary investigation of environmental crimes with no jurisdiction, capacity or capability to conduct financial or ML investigations—cases must be transferred to INP for primary investigation.

Core Issue 7.1: ML identification and investigation

128. Indonesia LEAs use financial intelligence received from PPATK and internal information/financial intelligence to initiate and investigate predicate crimes and, to a lesser degree, money-laundering cases. All ML investigators, as outlined above, utilise their investigative powers, such as tips from the public, information obtained during the predicate investigation, inquiries with other government agencies, court orders, interviews, surveillance, undercover operations and wiretaps—the last three only applying to BNN, INP, and KPK, who are authorised to utilise such powers.

129. While Indonesia is prioritising predicate crimes, between 201021 and 2017, ML investigators undertook 545 primary ML investigations including 370 by INP, 53 by AGO, 24 by KPK, 90 by NNB, six by DG Tax, and two by DG Customs. These investigations are discussed below in reference to Indonesia's higher-risk predicate crimes.

ML investigations related to corruption

130. As displayed in Table 7.1, since 2013, Indonesia has undertaken 97 corruption-related primary ML investigations, which have resulted in the indictment of 108 individuals and the conviction of 101 individuals for ML. KPK, AGO and INP are all designated to investigate corruption and related ML (see also IO.7 Box 1 for case examples). KPK investigates and prosecutes corruption-related ML cases involving a state loss above one billion IDR (~74,000 USD), cases with high public impact and/or high-level state officials. Corruption-related cases outside of KPK's jurisdiction are handled by the INP or AGO (see below discussion of LEA cooperation and coordination on corruption).

131. KPK has undertaken 24 primary ML investigations, which have led to 19 indictments and 12 convictions (see Table 7.1). KPK is using PPATK disseminations (five PPATK disseminations have been used to initiate five ML investigations by KPK) and its own sources (i.e. KPK anti-corruption reporting; internal KPK financial intelligence; and information obtained by KPK's Asset Tracking, Evidence Management, and Execution Unit) to identify ML cases; is undertaking parallel financial investigations on a case-by-case basis; and has the capability to investigate corruption-related ML (see Case 6.1 and IO.7 Box 1). However, due to limited resources it is prioritising predicate crime investigations. During discussions at the face-to-face visit, KPK articulated to the assessment team that it primarily pursues ML in high-profile cases and when assets were unable to be confiscated under the predicate crime conviction.

132. While detailed statistics on corruption-related ML investigations by the INP were not provided to the assessment team, since 2013 INP has conducted 20 ML investigations and AGO has undertaken 53 ML investigations. These investigations have led to a total 89 convictions. Similar to KPK, AGO and INP, ML cases are identified from both PPATK disseminations and their own information sources and both agencies generally have the capability to investigate corruption-related ML (see IO.7 Box 1). However, AGO is prioritising its primary prosecution function over its special crimes ML investigation function, and INP is prioritising predicate crime investigations due to limited resources.

Table 7.1: Corruption-Related ML Investigations and Convictions

	2013	2014	2015	2016	2017	Total
KPK						
Primary investigations *(number of cases)*	7	5	1	3	8	**24**
Indictments *(number of individuals)*	5	7	2	2	3	**19**
Convictions *(number of individuals)*	1	4	3	2	2	**12**
INP (data between 2010 and 2017)						
Primary investigations *(number of cases)*	?	?	?	?	?	**20**
Indictments by AGO *(number of individuals)*	?	?	?	?	?	**?**
Convictions *(number of individuals)*	4	13	6	8	6	**37**
AGO						
Primary investigations *(number of cases)*	8	13	7	14	11	**53**
Indictments *(number of individuals)*	9	16	12	23	29	**89**
Convictions *(number of individuals)*	2	6	11	15	18	**52**

21 In a number of places throughout IO.7, statistics from 2010 are included because Indonesia did not provide statistics pertaining to only the period under review.

Total						
Primary investigations *(number of cases)*	?	?	?	?	?	**97**
Indictments *(number of individuals)*	?	?	?	?	?	**?**
Convictions *(number of individuals)*	**7**	**23**	**20**	**25**	**26**	**101**

133. LEA cooperation and coordination on corruption: As identified above, there are three LEAs that investigate corruption and associated ML. A strength of Indonesia's efforts to combat corruption is its LEA cooperation and coordination, which is overseen by KPK. INP and AGO are required to inform KPK (known as a Commencement of Investigation Command or SPDP) within 14 days of starting a preliminary corruption investigation. Through MOUs between INP, AGO and KPK, corruption-related cooperation and coordination extends to: (i) KPK assistance for other LEAs by providing experts, security, and infrastructure, (ii) data and information exchange to support law enforcement processes, and (iii) training and development. Furthermore, in 2016 KPK initiated an online SPDP system (e-SPDP), which, in addition to recording preliminary investigations, includes automated case progression red flags. However, the e-SPDP was not fully operational at the time of the ME onsite visit.

IO.7 Box 1: ML Corruption Cases

KPK, AGO, and INP have undertaken 97 corruption-related primary ML investigations, which have resulted in the indictment of 108 individuals and the conviction of 101 individuals for ML. Three case examples are below:

- *INP ML case related to procurement corruption:* INP conducted an investigation into an alleged corruption case in the procurement of uninterruptible power supply (UPS) for high schools in West Jakarta and Central Jakarta. From the financial intelligence report provided by PPATK, the investigators identified fund flows between several companies owned by AU and his associates, and several members of the Jakarta Legislative Council. AU was sentenced to six-years' prison and fined 500 million IDR (~37,000 USD) for the corruption offence and sentenced to four years for the ML offence.
- *INP ML case related to corruption in the natural resource sector:* PPATK disseminated the examination report to the INP, which alleged, through analysis of relevant data and an onsite inspection, that LS was involved in illegal logging, illegal petroleum trading, corruption, taxation, and money laundering. In September 2014, LS was sentenced to 15 years' imprisonment and fined five billion IDR (~370,000 USD) by the Supreme Court.
- *KPK ML and corruption case against former Mayor of Madiun (BI):* KPK conducted the investigation for an alleged corruption where BI received funds from third parties such as entrepreneurs and private companies based in Madiun. BI was proven guilty of corruption and ML in 2017 and sentenced to six years in prison and fined one billion IDR (~74,000 USD) (may be substituted for four-months' confinement). The court ordered that the accused's assets obtained from the gratuity be confiscated by the state.

ML investigations related to narcotics

134. While detailed statistics on narcotics-related ML investigations was not provided to the assessment team, the INP and NNB are designated to investigate ML cases related to narcotics. Since 2014, NNB has conducted 90 ML investigations related to narcotics, and INP has conducted 16 investigations. These investigations have led to a total of 89 individuals being convicted. NNB cases are identified from both PPATK disseminations (PPATK disseminations have led to one ML investigation) and their own information sources (e.g. information from the Sub Directorate Data Asset and Network) and it has the capability to investigate narcotics-related ML. However, NNB is prioritising predicate crime investigations due to limited resources and budget allocation, which at

the regional level (outside of Jakarta) is for one ML case per year—at the central level, NNB has a budget allocation for 22 ML investigations per year.

135. Regarding INP, in the assessment team's view, the low number of narcotics-related ML investigations (16 in total) is due to INP's broad mandate for ML investigations and prioritisation of other ML investigations (see below), resourcing levels, and other law enforcement responsibilities/priorities associated with being a National Police Force, including overseeing and providing support to DG Customs and DG Tax investigators.

Table 7.2: Narcotics-Related ML Investigations and Convictions

	2013	2014	2015	2016	2017	Total
NNB						
ML primary investigations by NNB *(number of cases)*	13	12	17	21	27	**90**
ML indictments by AGO *(number of individuals)*	16	?	?	19	?	**35**
ML convictions *(number of individuals)*	2	5	4	15	0	**26**
INP (data between 2010 and 2017)						
ML primary investigations by INP *(number of cases)*	?	?	?	?	?	**16**
ML indictments by AGO *(number of individuals)*	?	?	?	?	?	**?**
ML convictions *(number of individuals)*	0	2	1	5	0	**8**
Total						
Primary investigations *(number of cases)*	**13**	**12**	**17**	**21**	**27**	**106**
Indictment *(number of individuals)*	**16**	**?**	**?**	**19**	**?**	**35**
Convictions *(number of individuals)*	**2**	**7**	**5**	**20**	**0**	**34**

136. LEA cooperation and coordination on narcotics: The INP and BBN advised that cooperation starts at the preliminary investigation stage to ensure that there is no duplication. This cooperation has been formalised under an MOU between the two agencies. The BNN also has a number of secondments within its structure that include the INP, DG Customs, DG Tax and other agencies, which enhances cooperation and coordination related to narcotics.

ML investigations related to tax offences

137. Since 2013, DG Tax has undertaken seven ML investigations related to tax offences, which have led to two persons indicted and convicted of ML. During the ME onsite visit, DG Tax explained that all cases were identified through parallel financial investigation. While these two cases demonstrate that, to some extent, DG Tax has the capability to investigate ML, it is prioritising predicate crime investigations and associated revenue collection.

138. Regarding revenue collection, tax legislation allows tax investigations and prosecutions to be dropped at all stages of the case upon joint approval of DG Tax and the Attorney-General and payment of the tax lability and a fine (up to 150% of the tax lability) by the offender—no ML cases have been dropped.

ML investigations related to forestry/environmental crimes and all other predicate crimes

139. While there were gaps in the statistics provided to the assessment team, as displayed in Table 7.3, since 2010, excluding corruption and narcotics, INP has undertaken 188 ML investigations with the vast majority of cases related to fraud, and less to banking offences and forgery. Since 2013, INP's ML investigations have led to 142 ML convictions (see Table 7.4). INP ML investigations are being initiated by PPATK's disseminations, internal information/intelligence and predicate crime investigations (~70% of INPs ML convictions were initiated independently by the INP). Based on statistics provided, case examples and discussions during the ME onsite visit, INP has the capability to investigate ML, particularly in relation to fraud.

140. In addition to the above discussion on INP's priorities, preliminary investigators of environmental crimes have no jurisdiction, capacity, or capability to conduct financial or ML investigations with all cases transferred to INP for primary investigation. This may contribute to the absence of ML investigations related to environmental crimes—there has been one ML investigation related to illegal logging and transportation (see Table 7.4). Notwithstanding this, to some extent, corruption-related ML investigations are mitigating risks associated with forestry/environmental offences as there is a strong nexus between corruption and forestry/environmental crimes in Indonesia (see Case 6.5).

Table 7.3: INP's ML Investigations and Convictions (except for Corruption and Narcotics Investigations)

Primary Investigations (number of cases) between 2010 to 2017	
Forestry/environmental offences	0
Fraud offences	125
Banking offences	14
Forgery offences	16
All other predicate crimes	33
Total primary ML investigations *(number of cases)*	**188**

141. DG Customs has conducted a limited number of ML investigations but provided to the assessment team an overview of one investigation where property was identified and seized. Although this case demonstrates how useful ML investigations could be to Customs in retrieving state revenue, ML investigations are not widely used or prioritised.

Core Issue 7.2: Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

142. As displayed in the above tables and Table 7.4, since 2013 Indonesia has convicted 234 individuals of ML, which is somewhat consistent with Indonesia's ML risks and national priorities as ~58% of all convictions related to higher-risk predicates including 43% related to corruption and 15% related to narcotics. However, this may not be consistent with the level of corruption and narcotics offending. The limited number of ML convictions for taxation and lack of convictions in relation to forestry/environmental offences is not consistent with ML risks or with the 2017–2019 STRANAS. It should be noted that ~11% of all convictions related to fraud, which is a medium risk for ML.

143. The data provided to the assessment team make a comparison between the number of ML investigations (cases), indictments (individuals), and convictions (individuals) challenging, but in general terms there is a high conviction rate, with Indonesia informing the assessment team that only high-profile cases are pursued, particularly in relation to corruption, and, as discussed below, most cases are not complex and are for self-laundering.

Table 7.4: Number of ML Convictions (individuals) between 2013 and 2017

Predicate crimes	2013	2014	2015	2016	2017	Total
Higher-risk predicate crimes						
Corruption	7	23	20	25	26	**101**
Narcotics	2	7	5	20	0	**34**
Tax	0	0	1	0	0	**1**
Forestry/environmental crimes	0	1	0	0	0	**1**
Sub-total	**9**	**26**	**26**	**45**	**26**	**137**
Other predicate crimes						
Forestry/environmental offences	0	1	0	0	0	**1**
Fraud offences	3	6	7	10	0	**26**

Banking offences	1	4	4	5	0	**14**
Forgery offences	0	3	3	0	0	**6**
Stand-alone ML	2	5	12	0	0	**19**
All other predicate crimes	0	4	13	14	0	**31**
Sub-total	**9**	**23**	**39**	**29**	**0**	**97**
Total	**18**	**54**	**65**	**74**	**26**	**234**

Core Issue 7.3: Types of ML cases pursued

144. Overall, statistics and case examples provided to the assessment team and discussions during the onsite visit suggest that LEAs are not focused on complex ML cases, but rather self-laundering offences by natural persons. The data provided to the team show that in most ML cases, ML convictions are for self-laundering, with some foreign predicate ML cases (INP has had eight cases and the KPK has had four). Third-party ML cases consist of four or five cases related to narcotics, and there have been 19 stand-alone ML convictions.

145. Indonesia has obtained a ML conviction of a legal person in one case (see Case 7.2). In the case studies provided by the BNN and INP, their investigations uncovered how legal persons were being used for ML including through companies. LEA agencies, in particular the BNN, DG Tax, DG Customs and the KPK, are aware of how legal entities are used to launder the proceeds of predicate offences but tend to focus and prioritise their ML investigations on the natural person. Prior to Supreme Court Regulation Number 13 Year 2016, there was a legal impediment to pursuing a legal person for ML.

Case 7.2: Indonesia's First Successful Conviction of a Legal Person for ML

In 2017, PT BBU was found guilty of corruption and money laundering and fined Rp750 million IDR (~55,500 USD) with a six-month confinement subsidiary.

Core Issue 7.4: Effectiveness, proportionality and dissuasiveness of sanctions

146. Sanctions imposed for ML convictions, since 2012, seem proportionate and dissuasive with the average prison sentence being approximately five years. In addition, in most convictions natural persons are required to pay a fine, which may be substituted for additional time in prison. Indonesia's one ML conviction of a legal person suggests sanctions are not proportionate and dissuasive.

Core Issue 7.5: Extent to which other criminal justice measures are applied where ML conviction is not possible

147. Indonesia has a framework (Article 67 AML Law and Supreme Court Regulation Number 1 Year 2013) for confiscation of assets where the ML offence cannot be pursued because the offender cannot be located (non-conviction-based confiscation) as discussed in IO.8.

Overall conclusions on Immediate Outcome 7

148. Indonesia's ML investigations and prosecutions are mainly self-laundering related to corruption and narcotics. Indonesia is not pursuing ML investigation and prosecution of other higher-risk predicate crimes and has only recently begun to focus on more complex ML cases including the conviction of one legal person for ML in 2017.

149. **Indonesia is rated a moderate level of effectiveness on IO.7.**

Immediate Outcome 8 (Confiscation)

Core Issue 8.1: Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

150. Indonesia's 2017–2019 STRANAS includes a policy objective to pursue asset recovery in ML and predicate cases related to narcotics, corruption and taxation; however, the 2017–2019 STRANAS does not include an explicit policy objective to pursue TF confiscations. The 2017–2019 STRANAS does, however, include a strategy specifically focused on prevention and eradication of TF (Strategy 3), which includes objectives to optimise the handling of all criminal actions, which covers confiscations, related to TF.

151. While Indonesia does not seem to be pursuing confiscations for other predicate crimes as a national policy including through agency-level policy objectives, ML investigators all highlighted to the assessment team that confiscation of criminal proceeds and instrumentalities is essential for the purposes of fighting ML and predicate offence criminality. Furthermore, Indonesia established the Asset Recovery Centre to coordinate its asset-recovery activities in 2014, the KPK has an asset-recovery unit (established in 2015), and with the exception of DG Customs, other LEAs and DG Tax have internal asset-tracing units.

Core Issue 8.2: Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad

152. While some statistics and case examples were provided to the assessment team showing freezing, seizure, and confiscations, Indonesia did not provide comprehensive and/or consistent statistics for: (i) seizures by all LEAs in relation to ML and all higher-risk predicate crimes; (ii) court-confiscation orders in relation to ML and all higher-risk predicate crimes; (iii) amounts forfeited to the state for all higher-risk predicate crimes; (iv) amounts granted to the community or government agencies. Most competent authorities lack system-level statistics to properly measure and assess whether the high-level policies are actually successful in leading to decisions in courts. However, at the time of the ME onsite visit, the Asset Recovery Centre was in the initial stages of developing a national database for management of proceeds of crime.

Provisional measures

153. PPATK, INP (in relation to terrorism and TF), KPK and NNB have legal frameworks for provisional measures such as examination and freezing of financial transactions upon suspicion of ML/TF and all other criminal acts. As displayed in Table 8.1, PPATK and NNB have frozen funds related to ML and narcotic offences; however, no data were provided to the team on provisional measures undertaken by other LEAs or in relation to other predicate crimes.

Table 8.1: Financial Transactions Frozen by PPATK and NNB

	2013	**2014**	**2015**	**2016**	**2017**	**Total**
PPATK - upon suspicion of ML						
Number of cases	7	5	3	11	12	**38**
Value IDR	6.1 billion	6.0 billion	304 million	31 billion	32 billion	**74.5 billion**
~Value USD	451,000	444,000	22,000	2.2 million	2.3 million	**5.5 million**
NNB - upon suspicion of ML and narcotics crimes						
Number of cases	15	11	12	25	27	**90**
Value IDR	49.5 billion	13.7 billion	14.7 billion	189.6 billion	105 billion	**372.5 billion**
~Value USD	3.7 million	1.01 million	1.01 million	14.0 million	7.8 million	**27.5 million**
~Total Value USD	**4.2 million**	**1.5 million**	**1.1 million**	**16.2 million**	**10.1 million**	**33.1 million**

Proceeds of crimes, instrumentalities and property of corresponding value

154. In general terms, LEA investigators seize instrumentalities of crime, property laundered, and direct proceeds during the investigation stage as evidence or seized property, which, combined with seizures ordered by prosecutors or judges, can be confiscated upon conviction. Physical evidence required for judicial proceedings is managed by Rupbasan, while other seized property is managed by case investigators or the prosecutor depending on the status of the case. Evidence and seized property are confiscated by judges and forfeited to the state budget, via the Ministry of Finance, granted to the community, or paid to victims as compensation. In criminal cases, the execution of court judgments including asset confiscation is carried out by the prosecutor. Since it became operational in 2015, the Asset Recovery Centre within the AGO has been responsible for coordinating all activities related to asset recovery, except in KPK corruption cases.

155. Case examples provided to the assessment team show that AGO, INP (including Detachment 88), NNB and KPK have seized vehicles/motorbikes, real property, cash, jewellery and heavy machinery in their ML/TF and predicate crime investigations and prosecutions. For example, between 2013 and 2016 NNB advised that they seized 62 motor vehicles, 14 motorcycles, 160 pieces of jewellery, 60 pieces of land and 47 houses/apartments. The estimated value of seizures in relation to corruption and narcotics is presented in Table 8.2—statistics on seizures for ML and other predicate crimes—and by other LEAs was not provided. However: (i) DG Customs in one of its ML investigations seized funds in bank accounts, land and buildings, machinery and an insurance policy to a total estimated value of approx. 6.2 million USD, (ii) between 2013 and 2017, INP seized property to an estimated value of 1.6 billion IDR (~120,000 USD) in narcotics investigations, including seven motorcycles, eight cars, 35 properties (land and houses), and four pieces of jewelleries; and (v) between 2013 and 2017, INP advised that they seized 147,901 logs, 72 ships, three speedboats, 157 motorcycles, 1,036 cars and trucks, 46 boats, 223 special vehicles in relation to forestry/environmental investigations.

Table 8.2: Value of Seizure Actions during Investigations and Prosecution of Corruption and Narcotics Offences

	2013	2014	2015	2016	2017	Total
Corruption offences						
INP/AGO investigations/prosecutions						
Value IDR	?	390.5 billion	642.6 billion	363.7 billion	?	**1.4 trillion**
~Value USD	?	37 million[22]	47.5 million	30.2 million[23]	?	**103 million**
KPK investigations/prosecutions						
Value IDR	232.4 billion	168.2 billion	791.3 billion	325.7 billion	117.4 billion	**1.64 trillion**
~Value USD	17.2 million	12.5 million	58.6 million	24.1 million	8.7 million	**121.1 million**
Narcotics Offences						
NNB/AGO investigations/prosecutions						
Value IDR	52.4 billion	83.2 billion	85.2 billion	279.1 billion	103 billion	**602.9 billion**
~Value USD	3.9 million	6.2 million	6.3 million	20.7 million	7.6 million	**44.7 million**
~Total Value USD	**21.1 million**	**55.7 million**	**112.4 million**	**75 million**	**16.3 million**	**280.5 million**

156. Overall, statistics and case examples provided to the assessment team show that Indonesia is confiscating property in predicate crime cases related to corruption and, to a lesser extent, narcotics. There has been some confiscation of property in ML cases, mainly in relation to corruption, as discussed below in detail.

22 This figure includes ~8.1 million in USD currency rescued in proceedings.

23 This figure includes ~264 thousand in in USD currency rescued in proceedings.

157. *Confiscations related to corruption:* KPK, AGO and INP all investigate corruption with AGO and KPK both prosecuting corruption cases, and as part of prosecutions property has been confiscated for the state and gifted to the community and paid to victims as compensation. Since 2013, as a result of AGO's asset-recovery actions in corruption cases, 217.78 million USD has been realised by the State including from sale of goods at auction, confiscated cash and confiscations of corresponding value (see Table 8.3), and value of property gifted to the community is 11.82 million USD (Table 8.5). In addition, a proportion of funds derived from the sale of seized property, total amount of 46.1 million, is related to corruption offences (see Table 8.3).

158. To enhance confiscations related to ML/TF and predicate crimes, in 2014 Indonesia established the Asset Recovery Centre (ARC) within the AGO to ensure optimal asset recovery in Indonesia. The Asset Recovery Centre became operational in 2015 and is responsible for all phases of asset recovery and coordination of all asset-recovery activities including those of Public Prosecutor working units involved in asset recovery, LEAs and other relevant domestic and foreign competent authorities. Before 2014, AGO had no specialised teams/units for, or coordinated approach to, asset recovery. While the Asset Recovery Centre is continuing to enhance its capability and capacity, it is undertaking a range of successful asset-recovery activities (see IO.8 Box 1) and at the time of the ME the Indonesian Government had allocated significant funds to continue to enhance its functioning.

IO.8 Box 1: Asset Recovery Centre Cases

The Asset Recovery Centre is responsible for all phases of asset recovery and coordination of Indonesia's asset-recovery activities. Examples of some its activities since 2015 are:

- Settlement of shares, value of 3.5 billion IDR (~259,000 USD) as the payment of substitute money in a 2015 corruption case.
- Auction of land and buildings, value of 1.09 billion IDR (~81,000 USD), in a 2016 corruption case.
- Sales and auction of one gas station, three pieces of land, and one kiosk, value of 2.46 billion IDR (~182,200 USD), in a 2017 ML case.
- Auction of 24 units of heavy equipment (excavators, dump trucks, and chainsaws), value 1.06 billion IDR (~78,150 USD), in a 2016 forestry case.

159. While limited comprehensive data and statistics were provided, since 2013, as a result of KPK's confiscation actions, 73.3 million USD have been realised by the State including confiscation of corresponding value and some high-value and complex cases (see Case 6.1) including where KPK has contracted third parties to manage assets and where KPK has sold assets before final court decision (see Case IO.8 Box 2). In addition, KPK has managed the gifting of property in the total value of 4.9 million USD to the community or other government agencies.

160. In 2016, to enhance its asset-recovery activities and overcome capability and capacity limitations of Rupbasan, KPK established an Asset Tracking, Evidence Management, and Execution Unit. Before 2016, KPK had no specialised teams/units, with KPK investigators and prosecutors responsible for the management of seized property and evidence being held by Rupbasan. While the Asset Tracking, Evidence Management, and Execution Unit is continuing to enhance its capability and capacity, KPK's 2016 Annual Report highlights the unit's successful activities, which are included in IO.8 Box 2.

IO.8 Box 2: KPK's Asset Tracking, Evidence Management, and Execution Unit Cases

Some successes of the Asset Tracking, Evidence Management, and Execution Unit in 2016 are:

- Tracing of 382.78 billion IDR (~28.3 million USD) in assets in 20 corruption cases.
- Management of payment of court compensation orders to victims in the total amount of 84.40 billion IDR (~6.2 million USD).
- Management of money confiscation orders in the total value of 291.75 billion IDR (~24.6 million USD).
- Reaching an agreement where the defendant auctioned his 30 cows for a total amount of 900 million IDR (~66,620.00 USD) before final court decision. KPK then seized the funds, which are being maintained by KPK until the final court decision where the funds will be either confiscated by the state or returned.

161. *Confiscation of corresponding value related to corruption:* As discussed in R.4, Indonesia has a limited provision for confiscation of property of corresponding value in corruption cases. Since 2013, KPK and AGO have confiscated ~82.44 million USD under this mechanism (see Table 8.2 and Table 8.3). The confiscation of property of corresponding value by both KPK and AGO is a key strength of Indonesia's asset confiscation activities related to corruption.

162. *Civil confiscation related to corruption:* Indonesia can pursue civil confiscation where there is a loss of state revenue and criminality cannot be proven. While Indonesia has provided limited data and statistics, as displayed in Table 8.3, 101.9 million USD was realised by the State between 2013 and 2017.

Table 8.3: Deposited Funds into Ministry of Finance Non-Tax Revenue Accounts from Asset Management Activities of AGO between 2013 and 2017— ML and all Predicate Crimes

Account	2013	2014	2015	2016	2017	Total
	~USD	~USD	~USD	~USD	~USD	USD
Deposited funds from sale of confiscated property from ML and all predicate crime case convictions	10.6 million	9.3 million	8.5 million	7.8 million	9.9 million	**46.1 million**
Deposited funds from auction of confiscated property from corruption cases	*Data collection commenced in 2015*		3.2 million	429,000	338,000	**3.97 million**
Deposited funds from confiscated cash from ML cases	*Data collection commenced in 2015*		81,000	366,000	105,000	**552,000**
Deposited funds from auction of confiscated property from ML cases	Data collection commenced in 2015		65,000	7,000	268,000	**340,000**
Deposited funds from confiscated cash from corruption cases	7.9 million	33 million	2.9 million	2 million	3.1 million	**48.9 million**
Deposited funds from confiscation of corresponding value in corruption cases	4.1 million	7.5 million	12.9 million	20.3 million	16.2 million	**61 million**
Deposited funds from civil confiscations in corruption cases *(figures as a result of*	*Data collection commenced in 2014*	18,000	17.8 million	82.5 million	1.6 million	**101.9 million**

state losses on the basis where criminality cannot be proven – Article 32 et seq. of the anti-corruption law)						
TOTAL	**22.6 million**	**49.80 million**	**45.45 million**	**113.4 million**	**31.51 million**	**262.77 million**

Table 8.4: Deposited Funds into Ministry of Finance Non-Tax Revenue Accounts from Asset Management Activities of KPK between 2013 and 2017

	2013	2014	2015	2016	2017	**Total**
Confiscation Actions	~USD	~USD	~USD	~USD	~USD	**~USD**
Deposited funds from confiscated cash from ML cases	**?**	7,402	427,500	27.15 million	**?**	**27.5 thousand**
Deposited funds from confiscated cash from corruption cases	**?**	6.07 million	13.00 million	3.63 million	**?**	**22.7 million**
Deposited funds from confiscation of corresponding value in corruption cases	6.7 million	2.39 million	1.76 million	10.43 million	159,000	**21.44 million**
Deposited funds from sale of confiscated property from corruption cases	**?**	-	1,067	298,000	**?**	**309,000**
Total	**6.7 million**	**8.53 million**	**15.20 Million**	**41.51 million**	**159 thousand**	**72.10 million**

Table 8.5: Property Gifted to the Community or Government Agencies

Offence	2013	2014	2015	2016	2017	**Total**
	~USD	~USD	~USD	~USD	~USD	**~USD**
Managed by AGO						
ML (all predicates)	-	-	-	-	2.02 million	**2.02 million**
Corruption	1.24 million	3.73 million	-		6.84 million	**11.82 million**
All other predicate crimes	-	-	-	.09 million	.09 million	**.019 million**
Sub-total	1.24 million	3.73 million	-	.09 million	8.96 million	**14.03 million**
Managed by KPK						
Corruption	**-**	**-**	-	.36 million	4.58 million	**4.9 million**
Total	**1.24 million**	**3.73 million**	**-**	**.094 million**	**8.96 million**	**14.03 million**

163. *Confiscations related to ML (all predicates):* While Indonesia was unable to provide comprehensive statistics on confiscations related to ML, case examples provided to the assessment team show that ML investigators are tracing and seizing property during their investigations with property confiscated upon conviction with the support of the Asset Recovery Centre and KPK's Asset Tracking, Evidence Management, and Execution Unit more recently. Since 2015, Indonesia has confiscated ~919,600 USD in ML cases with the majority of these cases related to corruption and narcotics (see Table 8.3, Table 8.4 and IO.8 Box 1). It is important to note that Indonesia provided some case examples of confiscation in ML convictions before this date; however, detailed statistics were not provided (see Case 6.1 as an example of this). In addition, (i) 2.02 million USD in property was gifted to the community in five ML cases in 2017 (see Table 8.5), and (ii) a proportion of funds derived from sale of seized property, total amount of 46.1 million, is related to ML (see Table 8.3).

164. *Non-conviction confiscations for ML:* Indonesia has a framework (Article 67 AML Law and Supreme Court Regulation Number 1 Year 2013) for confiscation of assets where the ML offence cannot be pursued because the offender cannot be located or is deceased. This has been used in three cases related to narcotics, fraud and cybercrime for a combined confiscation total of approx. 655,950 USD.

165. *Confiscations related to narcotics:* While Indonesia was unable to provide comprehensive statistics on confiscations related to narcotics, case examples provided to the assessment team show that NNB is tracing (see Case 6.2) and seizing property during its investigations (see Table 8.2) with property confiscated, with the support of the Asset Recovery Centre, upon conviction (see Case 8.2). In addition, a proportion of funds derived from the sale of seized property, total amount of 46.1 million, is related to narcotics offences (see Table 8.3).

Case 8.2: AGO Narcotics Related confiscation

In 2017 AGO, in combination with NNB, confiscated 4.7 trillion IDR (~347 million) in assets owned by PT, who was convicted of narcotics-related offences.

166. *Confiscations of all other offences and collection of tax liability:* From the data provided, the assessment team has been unable to differentiate confiscations related to forestry/ environmental or other crimes. Case examples show that Indonesia has confiscated some property in forestry/environmental crime cases (see IO.8 Box 1) and upon conviction of other crimes, for example, fraud. A proportion of funds derived from the sale of seized property, total amount of 46.1 million, is related to forestry/environmental and all other offences (see Table 8.3). DG Tax is pursuing collection of outstanding tax (see Table 8.6), which included some complex and large cases.

Table 8.6: Tax Recovery

	2012	2013	2014	2015	2016	Total
	~USD	~USD	~USD	~USD	~USD	~USD
Tax liabilities collected *(It is unclear the percentage of these recoveries that are linked to criminal proceeds/instrumentalities.)*	114 .7 million	24.2 million	2.8 million	120 million	107.5 million	**369.2 million**

167. *Confiscation related to terrorism and TF:* Detachment 88 informed the assessment team that they carry out seizing activities during investigations of terrorism and TF and property is being confiscated in both terrorism and TF convictions (see Table 8.7). In addition, as discussed in IO.9, Indonesia has imposed fines in combination with other sanctions in all its TF convictions.

Table 8.7: Confiscation Actions in Terrorism and TF cases

Year	# of Cases	Confiscated Property in TF Cases	# of Cases	Confiscated Property in Terrorism Cases
2013	3	Cash 37.81 million IDR (~2,800 USD); three sewing machines; two motorcycles; and coin money of 10 (ten) packs	?	Cash 2,052 USD; three motorcycles; three sewing machines
2014	0	nil	?	Cash 117 USD
2015	1	Cash 3,092,600 (~228 USD)	?	1,512 USD; one motorcycles
2016	2	Cash 2,022,000 (~150 USD)	?	Cash 1,691 USD; 10 motorcycles; one car; 13 laptops; one video camera
2017	2	Cash 50,000 IDR (~3.70 USD); Cash one Malaysian Ringgit (~0.25 USD); Cash 12,700 Cambodia Riel (~3.15 USD); Cash	?	Cash 10,074 USD; five cars; 14 motorcycles; one laptop

		1,000 Vietnamese Fong (~.05 USD); Cash 1 Philippine peso (~.02 USD); Cash 10,059 USD; 1 Car		

168. *Foreign predicates and property moved overseas:* Indonesia has taken action in five cases related to property moved overseas. These cases primarily are related to corruption and narcotics in Hungry, Australia, Singapore, Jersey and one case involving freezing of ~189.5 million USD in 11 jurisdictions (see IO.8 Box 2). Indonesia has also undertaken some limited actions in relation to foreign predicate cases where proceeds are located in Indonesia. Overall, Indonesia is only extending its asset-recovery activities outside of Indonesia to a limited extent, including that judges are not consistently issuing asset-confiscation orders for assets known or suspected to be located abroad.

IO.8 Box 2: Asset Recovery Activities in Relation to Property Moved Overseas

Indonesia has five cases where it has taken actions in relation to property moved overseas; three cases are detailed below:

- As part of a parallel investigation between KPK and UK Serious Fraud Office (SFO), Singapore has frozen a total of 198,134.66 USD upon request of the MLHR, and at the time of the ME onsite, Indonesian and Singapore were in discussion regarding the repatriation of funds (see Case 2.3 for a full description of the case).
- In June 2014 the MLHR submitted an MLA request to Australia for the freezing and repatriation of funds related to corruption offences of Person X. Based on this request, Australian competent authorities froze three bank accounts for a total of approximately 500,000.00 USD in August 2015. At the time of the ME onsite visit, Indonesia and Australia were in discussion regarding the repatriation of funds.
- At the time of the ME onsite visit, Indonesia had an ongoing narcotics case in which Indonesia had requested the freezing of assets to a total value of ~189.5 million USD in 11 jurisdictions.

Core Issue 8.3: Confiscation of falsely or undeclared cross-border transaction of currency/BNI

169. Indonesia has implemented its Cross-Border Cash Carrying (CBCC) declaration system at all its formal border crossings. At Soekarno-Hatta International Airport, which handles 51% of all international flights, DG Customs has implemented the CBCC declaration system and also measures (both covert and overt in nature) to detect criminal activity, including smuggling of cash and narcotics. In 2016, there was 36 cases of CBCC violations (21 inbound and 15 outbound cases) with the total administrative fines imposed of USD $133,480. In 2017 there were 21 cases of CBCC violations (11 inbound and 10 outbound) with total administrative fines of USD $53,609. As discussed in R.32, payment of administrative fines must be made on the spot with cash being carried by the individual. There have been no administrative fines imposed at other border crossings.

170. In addition, between 2014 and 2016, DG Customs has confiscated property, under the Customs Law, to an estimated value of 273 billion IDG (~20.22 million USD); however, the categories of items confiscated were not provided to the assessment team.

Core Issue 8.4: Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities.

171. Consistent with the STRANAS 2017–2019 and Indonesia's ML risks, Indonesian confiscations are mainly in corruption cases and the collection of tax lability. Overall, the value realised by the State is not fully commensurate with the team's understanding of the level of corruption offending in Indonesia and movement of funds overseas. Nor is the value realised in confiscation actions for ML

and other predicate offences, particularly narcotics and forestry/environmental crimes, consistent with the team's understanding of Indonesia's ML risks.

172. The limited administrative fines required to be paid on the spot with cash being carried, for falsely or undeclared currency/BNI, is not consistent with Indonesia's cross-border risk.

173. Terrorism and TF-related activities in Indonesia generally involve smaller amounts of funds. Direct support and donations, terrorist group membership fees, and abuse of NPOs generally involve smaller amounts and are associated with lower-income persons. Domestic terrorism activities including operation of domestic terrorism organisation generally has minimal costs. For these reasons, the value of Indonesian TF confiscation is consistent with the assessment team's understanding of Indonesia's TF risks.

Overall conclusions on Immediate Outcome 8

174. Indonesia has a policy objective in the STRANAS 2017–2019 to pursue asset recovery in ML cases of higher-risk predicates and TF. LEAs are seizing property during their investigations, and confiscations upon conviction are mainly related to corruption including property of corresponding value. Indonesia provided more limited evidence of confiscations in relation to ML or its other higher-risk predicate crimes. As terrorism and TF-related activities in Indonesia generally involve smaller amounts of funds, the value of Indonesian TF confiscation is consistent with the assessment team's understanding of Indonesia's TF risks.

175. **Indonesia is rated a substantial level of effectiveness on IO.8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key findings and recommended actions

Key findings

IO.9

- Competent authorities understand that most TF activity in Indonesia involves financial support for domestic terrorist organisations, with donations to foundations or misappropriation of other NPOs and the use of criminal proceeds as high-risk, along with electronic funds transfers, online payment systems, and domestic and cross-border cash transactions. Authorities are also aware of TF activity involving Indonesians serving as FTFs, as well as terrorist groups operating in Southeast Asia that use Indonesia as a transit jurisdiction.
- Since 2013, Indonesia has prosecuted 55 TF cases and obtained convictions in all 55 cases with convictions for terrorist financing, collecting funds, movement of funds, and use of funds.
- These TF prosecutions and convictions are generally consistent with Indonesia's TF risks. Sanctions are effective, proportionate and dissuasive for natural persons. Indonesia has not prosecuted or convicted a legal person of TF.
- TF is identified, both domestically and from international cooperation, via several mechanisms and then investigated by Special Detachment 88. Indonesia is largely successful in identifying TF activity associated with a terrorist attack, as well as TF where there is no link to a terrorist attack; however, consistent with Indonesia's TF risk profile, this happens much less frequently.
- Indonesia appears to have integrated countering TF into its broader national approach to counterterrorism, which employs both a 'soft approach' and a 'hard approach'. To coordinate its terrorism and TF activities, Indonesia has a number of task forces, which function appropriately.
- While Indonesia has employed other criminal justice measures when it is not practicable to secure a TF conviction, it does not appear to be doing so in line with its TF risk profile.

IO.10

- For UNSCR 1267, Indonesia's domestic listing process requires interagency agreement and administrative judicial approval following UN listing. Indonesia listed on the DTTOT List (domestic list) all UN-designated individuals and entities; however, listing in the period under review were not made without delay. While the Head of PPATK Regulation Number 18 of 2017 (which authorises PPATK to issue circular letters to FIs requiring them to freeze transactions pursuant to UNSCR 1267) was in force and effect by the end of the ME onsite, as demonstrated by its enactment during the onsite visit, it had no impact on Indonesia's level of effectiveness for IO.10. Indonesia's use of listings under UNSCR 1267 is not consistent with identified TF risks. Indonesia has frozen 150,000 USD in 26 bank accounts, seven properties, and one life insurance policy in the amount of USD 3,700.
- In June 2017 Indonesia listed on the DTTOT List five individuals and one entity pursuant to UNSCR 1373; no funds have been frozen pursuant to these listings, and Indonesia has not requested a foreign jurisdiction to designate an individual/entity, and it has not listed any individuals/entities upon foreign request. Indonesia has only made limited use of its UNSCR 1373 TFS framework to combat its high TF risk.
- Indonesian banks are conducting automated screening against the DTTOT List, relevant UN Sanctions Lists, and other sanctions lists of all transactions and all customers. Screening outside

of the banking, securities and other major FIs is mixed.

- Indonesia displayed a generally sound understanding of the TF risk for its NPO sector and has, to some extent, implemented measures to address the identified risks. The NPO Regulation, issued in February 2017, imposes identification and recordkeeping for donations and disbursements, as well as limits on where funds can be sent and received from. While these measures may increase transparency for NPO financial activity, they are not targeted at those NPOs at higher risk of TF abuse, such as *pesantren* (religious boarding schools).
- Authorities are monitoring for terrorist abuse of NPOs based on risk, but competent authorities have only taken limited action against the NPOs identified by Indonesia as having links to terrorist groups, such as the UN-listed Hillal Amar Society Indonesia, whose website is still active.
- An integrated supervision team of relevant agencies has been established to improve monitoring and information sharing among NPO supervisors and identify organisations involved with terrorism or TF, suspend the organisation's registration and operating permits, and facilitate a more formal legal process.

IO.11

- The major deficiencies identified in R.7 regarding Indonesia's legal framework to implement UN WMD TFS also impact effectiveness.
- Regarding DPRK-related individuals/entities listed on the UNSCR 1718, Indonesia has designated all individual/entities. However, other than the listings included in UNSCR 2375, these designations were not done without delay. Indonesia has not designated any of the Iranian individuals/entities on the UNSCR 2231 List.
- As of the date of the onsite visit, no funds or other assets of designated persons/entities have been identified or frozen.
- Banks displayed a sound understanding of their TFS obligations related to UN-listed DPRK individuals/entities; the non-banking sector displayed a mixed understanding and implementation of their TFS obligations. DNFBPs displayed limited understanding and implementation of their TFS obligations.
- PPATK, OJK and BI have undertaken some outreach to the private sector, mainly to banks; however, due to the recent enactment of the PF Joint Regulations, supervisory actions specifically examining for compliance with freezing obligations have not been undertaken.

Recommended Actions

IO.9

- PPATK, Detachment 88, and the BNPT should continue to enhance coordination and information sharing to proactively identify TF activity not linked to a terrorist attack.
- Detachment 88 should develop clear policies and procedures for the circumstances under which it will prioritise a TF investigation, including where the TF activity is not linked to a terrorist attack.
- Continue to improve coordination between PPATK, Detachment 88, the BNPT and the SIA to integrate CFT into the national CT strategy and enhance the use of other administrative measures or actions to disrupt TF where criminal prosecution under the CFT Law or terrorism law is not possible.

IO.10

- Continue to improve implementation of UNSCR 1267 without delay.
- Enhance use of the UNSCR 1373 framework to combat TF by designating individuals/entities to the DTTOT List and making and positively responding to cross-border asset-freezing requests, where appropriate.
- Implement a prohibition on providing funds or other financial services to listed individuals and entities, or where such a prohibition already exists for FIs or DNFBPs, clarify the existing obligation.
- Continue to improve implementation of TFS obligations, particularly in sectors less compliant, through clear direction and outreach and take enforcement action where violations of the freezing-without-delay requirement occur.
- Work to further refine the subset of NPOs that are identified at high-risk of TF abuse and subject to the NPO Regulation as well as enhanced monitoring.
- Continue to improve coordination and supervision of at-risk NPOs, including *pesantren*, through the integrated team, and continue to encourage registration of unregistered NPOs.
- Take law enforcement or other administrative action against NPOs and their management that are affiliated with or providing support to terrorists or terrorist organisations.

IO.11

- Address TC deficiencies highlighted in R.7 and strengthen Indonesia's legal framework for implementing TFS for PF without delay.
- Domestically designate all the Iranian individuals/entities designated pursuant to UNSCR 2231.
- Continue to expand the work of the WMD Task Force, conduct outreach, and provide guidance to the private sector on UN WMD TFS, including how to identify sanctions evasion activity being conducted on behalf of listed DPRK individuals and entities.
- Supervise FIs and DNFBPs for obligations pursuant to the PF Joint Regulation.

176. The relevant immediate outcomes considered and assessed in this chapter are IO9–11. The recommendations relevant for the assessment of effectiveness under this section are R.5–8.

Immediate Outcome 9 (TF Investigation and Prosecution)

TF risk

177. Threats include designated indigenous terrorist groups, such as Jemaah Islamiyah and a loose network of spin-off groups (some with links to ISIL and al-Qaida), which have carried out attacks as recently as 2017. As discussed in IO.1, Indonesia assessed its TF risk through the 2015 TF NRA, and just prior to the onsite visit, updated this assessment with a white paper on TF. The assessment team agrees with the NRA conclusion that most TF activity in Indonesia involves financial support for domestic terrorist organisations, with donations to foundations or misappropriation of other formal NPOs and the use of criminal proceeds seen as high risk, along with wire transfers, an online payment system, and domestic and cross-border cash transactions. The TF White Paper also identified TF activity associated with Indonesians who have gone overseas to fight with ISIL. While Indonesia views most of these individuals as 'misguided' and employs de-radicalisation measures

rather than law enforcement action, they have identified FTF financial facilitators in Indonesia, as well as key Indonesian ISIL financial operatives, such as UN-designated Bahrun Naim. Indonesian authorities, including Special Detachment 88 and the National Counter Terrorism Agency/NCTA (BNPT), are also aware of the growing threat posed by terrorists seeking to join ISIL affiliates in the Philippines that are using Indonesia as a transit point to move funds, personnel and equipment. This has included funds being move through remitters, as well as cash couriers.

4

Core Issue 9.1: Prosecution/conviction of types of TF activity consistent with the country's risk profile

178. Indonesia's competent authority for the investigation of terrorism and TF is Detachment 88, the specialised counter-terrorism unit of the INP. Detachment 88 has personnel in provinces in Indonesia outside of Jakarta (including those areas identified as high risk for TF) focused on collecting intelligence and disruption, while the investigative division, including TF investigators, is based in Jakarta.

179. Prosecutions are conducted by the Task Force on Terrorism and Transnational Crime, a specialised unit of the AGO that is based in Jakarta. All terrorism and TF cases are tried in Jakarta (due to security reasons), with most cases being tried in the East Jakarta District Court. In December 2017, to increase the resources available for terrorism and TF criminal cases, the AGO converted the Task Force on Terrorism and Transnational Crime into a directorate. This organisational change will ensure a consistent flow of resources and add several additional prosecutors and administrative staff to prosecuting terrorism and TF.

180. Generally, these two key competent authorities are sufficiently resourced with trained staff (especially given the new resources for the AGO's terrorism and TF criminal cases) and pursue TF investigations and prosecutions that are largely consistent with Indonesia's identified key TF risks.

181. Since 2013, Indonesia has prosecuted 55 cases and obtained convictions in all of them. While the total number of individuals convicted is unclear, the 44 cases since 2014 involved the following TF activities: terrorist financier (6 cases); collecting funds (16 cases); movement of funds (19 cases); and use of funds (3 cases).

182. Case studies provided by Indonesia show that the number and type of prosecutions/convictions are generally consistent with Indonesia's TF risk profile. For example, given that funds used for terrorist attacks in Indonesia are primarily derived from domestic sources and used for domestic terrorism, such as donations by supporters, the larger number of cases involving collection is consistent with the identified TF risk (see discussion in Box 1). Also, convictions have been obtained for cases involving the funding of FTFs and funds from legal and illegal sources (see discussion in Box 1). Notwithstanding this, there has been some cross-border TF activity, and Indonesia has investigated and prosecuted a few cases with international connections (e.g. Hendro Fernando—see case example below).

IO.9 Box 1: Investigations of Raising/Collecting Funds

Indonesian authorities identified cases involving the collection of funds from both illegal and legal sources. In one case, a group of individuals robbed a branch of an Indonesian bank in Lampung Province and stole approximately 36,000 USD with the intention of providing the funds to UN-designated *Mujahadeen Indonesian Timur* (MIT), with penalties for individual defendants ranging from 7 to 13 years in prison. In another case, an individual charged with stealing motorcycles and providing the proceeds to MIT was sentenced to 13 years in prison.

Funds raised from legal sources have come from savings, donations from supporters, and asset sales. Indonesian authorities arrested an individual who was part of a larger support group of terrorists in

Aceh province. This group raised approximately 60,000 USD to support the military; the individual in this case raised approximately 2,000 USD from his own savings as well as donations from others.

Indonesian authorities also identified cases involving the financing of FTFs. In one case, a defendant sold a house for approximately 45,000 USD and then used the funds, along with other proceeds from the sale of personal property, to pay for flights, visas and the travel expenses of seven individuals who were seeking to travel to Syria to join ISIS.

Investigations of Moving Funds

Indonesia identified cases where individuals were charged for serving as financial conduits between terrorist groups and their supporters. In one case, a defendant was contacted through social media by UN-designated Santoso, the former leader of MIT, and asked to open a bank account at an Indonesian bank and pass Santoso the account number. Santoso then indicated that he would give the name and account number of the defendant to supporters of MIT, who would then send funds that the defendant would transfer to MIT or use to procure supplies for MIT. The individual was sentenced to five years, four months in prison.

183. Recent investigations have also involved funds linked to social media, which the TF white paper has identified as high risk. In these cases, terrorist supporters (mostly located in Indonesia, but also overseas) would solicit or request funds via social media, but then the actual transfer of the funds was through banks or money remitters.

184. Indonesia also provided information on the extent of criminal investigations and prosecutions involving abuse of NPOs. The NPO strategic analysis identified a number of terrorism cases that involved foundations and Islamic boarding schools (*pesantren*). In these cases, while Indonesia pursued criminal prosecution against the individuals at the foundations and Islamic boarding schools, the NPOs and their management were not involved with or knew of the terrorist activity, and so were not subject to criminal prosecution. For those cases where Indonesia has identified complicit NPOs and managers that have knowingly facilitated terrorist activity or TF, it has pursued criminal investigation and prosecution, which is largely consistent with its identified risk.

Core Issue 9.2: TF identification and investigation

185. TF is identified, both domestically and from international cooperation, via several mechanisms and then investigated by Detachment 88, as outlined below.

186. *TF linked to a terrorist attack:* Indonesian authorities indicated during the onsite that most preliminary investigations of TF are linked to a terrorist attack. Detachment 88 indicated its TF investigative focus is on financial investigations that are associated with terrorist attacks and views these investigations as a way to disrupt terrorist activity; Detachment 88 is less focused on independently investigating TF activity that is not associated with a specific terrorist act; however, it has pursued these investigations in some cases (see below).

187. Following an attack, Special Detachment 88, with support from PPATK (see IO.6), will conduct a parallel financial investigation to determine how the attack was financed and identify additional suspects and/or the terrorist network (see Case 9.2). The depth of these investigations depends on the financial activity of the suspected terrorist. For example, they will not conduct complex financial investigations where the terrorist acts are self-funded by small amounts of money. Indonesian authorities indicated they also face challenges in TF investigations where funds are largely transferred in cash and there are no transaction records. In these cases Detachment 88 uses other investigative or intelligence means to identify suspected terrorist facilitators. However, for more

sophisticated attacks, Detachment 88, with support from PPATK, will review the financial activity of suspects—see IO.9 Box 1 as an example.

Case 9.1: Surakarta Attack

Following the attack on the Surakarta Police headquarters (a regional city in central Java), several funds transfers used to finance the attack were identified from bank accounts of individuals who were in communication with Bahrun Naim, a UN-designated and Syria-based Indonesian ISIS operative. Detachment 88 and PPATK identified Naim as the source of approximately 600 USD, which were transferred to other accounts located outside Indonesia through the use of an online payment system. The individual involved in the financing the attack is being prosecuted under the CFT Law, and Naim has been added to the UNSCR 1267 sanctions list and the DTTOT List.

Case 9.2: Disruption of *Mujahadeen Indonesian Timur* (MIT)

UN-designated *Mujahadeen Indonesian Timur* (MIT) is a terrorist group operating in Java and Sulawesi, Indonesia and also active in Indonesia's eastern provinces. MIT comprises fighters who trained at a former Jemaah Islamiyah (JI)-sponsored camp in Aceh, Indonesia. MIT members have ties to other terrorist organisations and some members have travelled to Syria and Iraq to fight with ISIS. Since 2012, the MIT has targeted Indonesian Government officials and security forces, killing numerous civilians and police officers in multiple attacks.

In 2015, Detachment 88 arrested an individual who was providing funds and weapons to MIT. The individual was using an ATM card for a bank account owned by Hendro Fernando (HF) (see case example below). Detachment 88, working with PPATK, identified other bank accounts owned by HF as well as remittance transfers that had been used to provide MIT with approximately 80,000 USD. This analysis identified individuals overseas, including Bahrun Naim, a UN-designated and Syria-based Indonesian ISIS operative, who were providing funds to support MIT. With this information, Detachment 88 and PPATK, coordinating with the AGO's office, identified and arrested other individuals who had received funds from Naim and other overseas operatives with instructions to use the funds to purchase arms and other material for MIT.

188. *TF not linked to a terrorist attack:* Indonesian authorities have also identified a few cases where the TF activity was not directly linked to a terrorist attack. These cases involved individuals who were providing financial (as well as other material) support to domestic terrorist organisations, and were initiated from both information available to Detachment 88 from existing terrorism investigations, as well as information from external parties, such as: (i) intelligence information from domestic sources (this can be from the State Intelligence Agency/SIA (BIN) or INP), (ii) international sources (see IO.2), (iii) STRs or analysis from PPATK, or (iv) other information, such as information gathered from social media.

Case 9.3: Hendro Fernando

In the case of HF, PPATK identified suspicious financial activity involving a foundation HF was affiliated with, then undertook a more comprehensive assessment of HF's transactional activity. This identified further transactions involving a suspected terrorist in Syria, and PPATK sent this analysis to Detachment 88. Detachment 88 then investigated HF and found that in addition to serving as a TF facilitator, HF was also involved in planning a terrorist attack in Indonesia. Detachment 88 then arrested HF and several accomplices, and their trial is now pending.

Case 9.4: Funds to Philippines (Marawi City)

In March 2017, Detachment 88 identified financial activity by an individual who was suspected of being involved with an earlier terrorist attack in Indonesia. Detachment 88, working with PPATK and directly with a financial institution, received and analysed transactions by the individual as well as several of his associates that identified over 50,000 USD being sent on behalf of suspected terrorist supporters in Indonesia to a terrorist organisation in Marawi City, Philippines. Detachment 88 then arrested three individuals who were involved in this terrorist financing network and shared additional information with Philippine authorities.

189. In those cases where an SIA investigation identifies potential TF activity, they will formally request PPATK (via letter) to review the information and perform transactional analysis on the subject of their investigation. SIA will then review this information, conduct additional information gathering as necessary, and share the results with Detachment 88. When SIA identifies financial information that may indicate an imminent terrorist threat, they will share directly with Detachment 88.

190. Between 2013 and 2017, PPATK disseminated 48 reports on terrorism or TF to Detachment 88. Of these 48 reports, 24 led to preliminary investigations by Detachment 88, and eight to full investigations, all of which resulted in criminal prosecution and conviction. Notably, PPATK disseminations to Detachment 88 were responsible for approximately 30% (24 out of 78) of the preliminary TF investigations initiated between 2013 and 2017, and approximately 20% (8 out of 44) full investigations.

191. *International cooperation:* As discussed in IO.2, Indonesia has several international cooperation mechanisms including counterpart-to-counterpart cooperation. While Indonesia has initiated a limited number of MLA requests on terrorism, informal cooperation is more common, including through direct outreach to identified points of contact at foreign law enforcement agencies and through liaison officers. Statistics are, however, not kept and no information was provided on the number of informal requests for assistance made to counterpart LEAs.

192. In summary, Indonesian authorities, most notably PPATK and Detachment 88, successfully identify and investigate TF activity associated with terrorist attacks, in part due to the strong cooperation between PPATK, Detachment 88, and other key agencies. Indonesian authorities can also identify and investigate TF where there is no link to a terrorist attack. Consistent with Indonesia's TF risk profile, this happens much less frequently than TF investigations linked to a terrorist act. For TF activity with an international nexus, Detachment 88 relies largely on informal cooperation, but this appears to be effective at identifying Indonesian links and pursuing investigations. Indonesia provided no information on which TF investigations are derived from CT investigation.

Core Issue 9.3: TF investigation integrated with—and supportive of—national strategies

193. Indonesia appears generally to have integrated countering TF into its broader national approach to counter-terrorism. The BNPT is responsible for development and implementation of Indonesia's national counter-terrorism strategy. This strategy employs a two-pronged approach: (i) a 'soft approach' focused on de-radicalisation and pressing those with extreme and violent religious or political ideologies to adopt more moderate and nonviolent views; and (ii) a 'hard approach' focused on monitoring, propaganda, and alertness. One of the six core elements of the 'hard approach' involves 'coordinating and supervising the transfer of funds allegedly used for terrorism'.

194. The AGO, Detachment 88, and BNPT also coordinate ongoing pre-investigations and investigations involving terrorism and TF, which occurs under the authority of a regulation issued by the Director of the BNPT. The BNPT and Detachment 88 have also formed a task force focused on TF to serve as a forum for strategic coordination on TF issues.

195. Indonesia has also formed an interagency Counter FTF Task Force, led by the INP and BNPT, to address the threat posed by the large number of Indonesian FTFs. However, it is unclear whether the Counter FTF Task Force takes action against TF associated with FTFs.

Core Issue 9.4: Effectiveness, proportionality and dissuasiveness of sanctions

196. Indonesia indicated that for TF cases prosecuted in 2017, the average prison sentence was seven years and the average fine was 5 million IDR (~370.00 USD). For cases prosecuted in 2015 and 2016, the average prison sentence was nine years, and the average fine was 500 million IDR (~37,000 USD), while for 2014 the average prison sentence was six years. The assessment team considers these sanctions to be proportionate and dissuasive.

197. In many of Indonesia's TF cases, the individual was also convicted for charges under the terrorism law for involvement in a terrorist act, as well as under the CFT Law. The AGO indicated that sentences for individuals directly involved in terrorist acts will carry harsher sanctions, while convictions for crimes where the individual is involved in planning or support (including financial support) will receive more lenient sentences. However, in those few cases provided to the assessment team, where the individual was charged only under the CFT Law, the criminal sanctions were 5 years, 7 years, 10 years and 13 years, which the assessment team finds to be effective, proportionate, and dissuasive.

198. As part of Indonesia's efforts to counter radicalisation, criminal sentences for convicted terrorists or terrorist financiers can be reduced if they agree to participate in a de-radicalisation program. However, as this has been used rarely, it does not materially affect Indonesia's ability to impose effective, proportionate, and dissuasive sanctions. Additionally, participants are subject to enhanced monitoring following release from prison.

Core Issue 9.5: Alternative measures used where TF conviction is not possible (e.g. disruption)

199. Through its national counterterrorism strategy, Indonesia purports to be employing other criminal justice, regulatory or other measures to disrupt TF activities. While Indonesia did provide an example of a conviction of an individual under Electronic Information and Transactions Law for using social media to support terrorism, Indonesia does not appear to be pursuing non-TF criminal charges against potential terrorism suspects in a manner consistent with their identified TF risk. The AGO indicated that they do not prioritise criminal prosecution using non-TF criminal offences for individuals with links to terrorism where prosecution for terrorism or TF is not practicable.

200. Both the BNPT and SIA indicated they will take disruptive action against terrorists and their supporters, including Indonesians who are attempting to travel to conflict areas and join terrorist groups, and may use financial information provided by PPATK to support this. Members of the DTTOT Task Force also indicated that they will consider domestic listing on the DTTOT List where there is not sufficient information to move forward with a pre-investigation for charges under the CFT Law, but where the 'reasonable basis' standard applies.

Overall conclusions on Immediate Outcome 9

201. The assessment team in arriving at the rating has placed greater weight on Indonesia's 55 TF convictions, with competent authorities generally well-resourced to identify, investigate, and prosecute TF, and do so consistent with Indonesia's identified TF risk. Detachment 88, working with PPATK, the SIA, and other agencies, regularly identifies and investigates TF activity associated with a terrorist attack, and, to a lesser extent, TF activity not associated with a terrorist attack. Criminal penalties imposed in TF cases are effective, proportionate, and dissuasive. Indonesia has generally integrated CFT with its broader national efforts to counter terrorism.

202. **Indonesia is rated a substantial level of effectiveness on IO.9.**

Immediate Outcome 10 (TF Preventive Measures and Financial Sanctions)

General framework

203. Indonesia's legal framework for TFS pursuant to (i) UNSCRs 1267/1989/2253 and 1988 and (ii) UNSCR 1373 is established under the 2013 CFT Law, the Joint TF Freezing Regulations of 2015 and PPATK Decree Number 122 of 2017 (and their respective annexes). The Head of PPATK Regulation Number 18 of 2017 (which authorises PPATK to issue circular letters to FIs requiring them to postpone transactions pursuant to UNSCR 1267 listings) was in force and effective by the end of the ME onsite visit. However, as there was no change to the UNSCR 1267 list between enactment of the regulations on 16 November 2017 and the end of the ME onsite visit (17 November 2017), it has no material impact on Indonesia's level of effectiveness for IO.10 and is not included in the following discussion of IO.10.

Core Issue 10.1: Implementation of targeted financial sanctions for TF without delay

204. The process for the domestic implementation of UN listings on the AQ/ISIL Sanctions List and Taliban Sanctions List is as follows: Indonesia's UN mission transmits information to the MoFA, which then makes a recommendation to the DTTOT Task Force (consisting of the MoFA, PPATK, Special Detachment 88, SIA and BNPT) for domestic listing. Agencies on the DTTOT Task Force review their databases for additional information (e.g. additional identifiers or assets held by designated persons) and make a recommendation to the INP. The INP then submits an application to the Central Jakarta District Court (CJDC), which reviews the application to ensure it meets the standard for listing (although CJDC judges noted during the ME onsite visit that this review is administrative and limited to confirming the individual is listed at the UN, and that the CJDC has not rejected an application for listing from the INP). Once the application is approved, the CJDC will issue an order to add the individual/entity to the domestic DTTOT List. New listings are sent to reporting entities via GRIPS, and reporting entities are required to report to PPATK or their supervisor whether they hold any assets on behalf of the listed individual or entity and, if so, if they have frozen those assets.

205. The same general process is followed for UNSCR 1373 designations. The DTTOT Task Force will review both domestic and foreign requests for listing, and make a recommendation to the INP,

which will then review and make a recommendation for listing on the DTTOT List to the CJDC. While the CJDC ultimately determines whether to approve a listing request, the CJDC indicated that it will approve the recommendation of the INP and its role is largely administrative, similar to the UN listings. Factors that influence whether to list domestically pursuant to UNSCR 1373 include: (1) whether the individual is an ideologue, financier, or donor; (2), their capacity to influence other people; (3), their location; and (4) their affiliation with a known terrorist organisation.

206. Initial listings on the DTTOT List are for six months. They can be extended twice (for three months each), but then must be renewed after that (all of this requires approval by the CJDC). Agencies in the DTTOT Task Force have assigned personnel to monitor listings that are approaching extension or renewal, and the CJDC noted that initial listings to the DTTOT List have been renewed and extended in a timely manner (so no individual or entity has been delisted because of failure to renew or extend the listing).

207. Regarding TFS pursuant to UNSCRs 1267/1989/2253 and 1988, since the enactment of the Joint TF Freezing Regulations of 2015 and as of 17 November 2017, Indonesia has listed all the UN-listed individuals and entities, including the 21 Indonesian individuals and five Indonesian entities, and has frozen funds or other assets owned or controlled by these Indonesian individuals/entities (see below). Indonesia once provided additional information to the AQ/ISIL Sanctions Committee (confirming the death of a listed Indonesian national). However, Indonesia did not demonstrate to the assessment team that it is implementing TFS without delay. Indonesia did not provide the team with actual listing times of designations to the DTTOT List. Based on the extended and multiagency domestic listing process and comments by competent authorities during the ME onsite visit, due to administrative issues some listings may have been delayed for approximately four additional days above the three days allowable in the TF Freezing Regulations of 2015. Prior to the enactment of the Joint TF Freezing Regulations of 2015, it took Indonesia several years to list all the Indonesian nationals on the AQ/ISIL Sanctions List. While the DTTOT Task Force has developed measures to speed up the listing process (such as an application to permit electronic approval and signatures for new listings), these had not been implemented by the end of the ME onsite visit.

208. Regarding TFS pursuant to UNSCR 1373, in June 2017 Indonesia designated five individuals and one entity, but has not designated any individual upon request of a foreign jurisdiction. Indonesian FIs have not identified and frozen any funds or other assets owned or controlled by these individuals. The MoFA indicated that while it has received requests for listing from foreign jurisdictions pursuant to UNSCR 1373 (consisting of requests via other embassies as well as requests for identifying information and supporting evidence about a suspected individual or entity), these requests did not include all the information required by Article 44 of the CFT Law, and so they could not act on them (although it is unclear exactly what information was missing from the requests). The MoFA did note that even if the request does not comply with Article 44 of the CFT Law, they will still pass the information to the DTTOT Task Force. Indonesia has not made a foreign request for designation pursuant to UNSCR 1373.

209. Indonesian banks are conducting automated screening against the DTTOT List, relevant UN Sanctions Lists, and other sanctions lists (e.g. The Office of Foreign Assets Control (OFAC) Specially Designated Nationals (SDN) List) of all transactions and all customers. This means that, in practice, the larger banks will screen and freeze assets of UN-listed persons even if there is a delay in domestic listing on the DTTOT List.[24] Several of the largest banks have frozen funds of individuals or entities on the DTTOT List and have filed freezing minutes with PPATK. However, this did not occur until the Joint TF Freezing Regulations of 2015 were implemented, and 20 of the Indonesian individuals or

[24] One Indonesian bank that met with the assessment team stated that they assessed the transaction-freezing provisions of the AML Law (Article 26) that granted FIs legal authority to freeze transactions of UN-listed individuals or entities even if they were not listed on the DTTOT List.

entities had been on the UN list for over 10 years before that. Screening outside of the banking, securities and other major FI sectors is mixed with large entities conducting automated screening and small entities conducting manual screening of new customers. These entities were more reliant on updates to the DTTOT List, as they did not routinely screen against the relevant UN Sanctions Lists. Screening by DNFBPs is variable with some manual screening of new customers by larger entities. Neither non-bank FIs nor DNFBPs have frozen funds of individuals or entities on the DTTOT List.

210. While some Indonesian banks indicated they would not provide financial services to a designated individual or entity, other Indonesian FIs and DNFBPs were less clear about their obligations on the provision of funds or other financial services to designated individuals or entities. FIs do have an obligation to reject transactions or close accounts of designated customers (see c.6.5(c)); however, this would not cover all types of financial services, and Indonesian FIs and DNFBPs are not fully prohibiting designated individuals and entities from being able to engage in financial services.

Core Issue 10.2: Targeted approach, outreach and oversight of at-risk non-profit organisations

211. Indonesia has a very broad and active civil society sector, with over 330,000 formal CSOs. These include more than 110,000 NPOs involved in a variety of activities. NPOs are registered and/or incorporated (those in the formal economy) or non-registered and non-incorporated (those in the informal economy)—see R.8. Formal NPOs are incorporated, as foundations or associations via notary deed and registered with the Ministry of Law and Human Rights, and/or registered with the Ministry of Home Affairs, then receive operating permits from other ministries depending on their activities (e.g. religious-focused NPOs must receive a permit from the Ministry of Religious Affairs). Indonesia also has a large number of informal NPOs, which are groups of individuals affiliating together without legal form or formal registration.

212. As noted in IO 1, Indonesia displayed a generally sound awareness of the risk that domestic NPOs can be misused to raise funds or otherwise provide support to domestic terrorist groups. PPATK, Detachment 88, the SIA and BNPT displayed a strong understanding of these risks. Supervisors, financial institutions and NPOs displayed a reasonable understanding of the TF risk. This understanding is based on competent authorities' activities and Indonesia's review of the TF risks to NPO section—namely, in the 2015 TF NRA, the 2016 NPO Strategic Assessment, and the 2017 TF white paper. Regarding the risk rating in these reviews, while most agencies and NPOs and banks that met during the ME onsite visit indicated they were aware that the risk rating had changed from high (in the 2015 TF NRA) to medium (in the 2017 TF white paper), there was some disagreement about whether that change was appropriate.

213. Indonesia has some elements of a framework to promote accountability, integrity and public confidence in the administration and management of NPOs, but focused and proportionate regulatory measures for at-risk NPOs are in the initial stages of implementation, and therefore it is too early for Indonesia to demonstrate their effectiveness in mitigating the TF risk to NPOs, as discussed below.

214. Based on the findings of the 2016 NPO Strategic Assessment, Indonesia passed the NPO Regulation to increase financial transparency and reporting among certain subsets of NPOs. As discussed in R.8, the NPO Regulation requires identification and recordkeeping for donations and disbursements, as well as limits on where funds can be sent to and received from. The specific measures in the NPO Regulation are to some extent based on identified risks (e.g. the recordkeeping threshold for donations is based on TF typologies). While the NPO Regulation is intended to apply only to those NPOs that were identified as being at high risk for TF, in practice it appears it will apply to a majority of NPOs. The NPOs interviewed during the onsite visit indicated that most NPOs would comply, and that they did not consider the identification and recordkeeping requirements

burdensome (some were already in compliance based on their own pre-existing internal controls). As the NPO Regulation was just issued in February 2017, it is too early to judge its effectiveness in mitigating the TF risk to NPOs.

215. Indonesia has also established an integrated supervision team of the relevant ministries (Law and Human Rights, Foreign Affairs, Religious Affairs, Social Affairs, Home Affairs, as well as PPATK, the INP, and AGO) to address the identified vulnerability of having multiple agencies with overlapping jurisdictions supervise and monitor such a large number of organisations. The integrated team has started to build a database of information on NPOs and their management (available to the public) that will include a list of suspect entities (only available to government agencies, including Detachment 88) that is based on the DTTOT List as well as relevant court decisions. If the integrated team were to identify an organisation involved with terrorism or TF, it would suspend the organisation's registration and operating permits, and then await a more formal legal process (or action by Detachment 88). The 2016 NPO Strategic Assessment also identified unregistered NPOs as facing a higher risk of TF abuse. In response, Indonesian authorities are also beginning to engage with unincorporated NPOs to integrate them into the NPO registration and monitoring system and increase transparency of these organisations.

216. Indonesian authorities have begun to implement risk-based measures to address the TF abuse for formal NPOs, but further improvements and actions are needed in coordinating supervision and monitoring to demonstrate that these changes can effectively mitigate terrorist abuse of at-risk NPOs. For example, it is unclear whether relevant agencies have taken any supervisory action against those NPOs involved in terrorism or TF, such as the 19 foundations or 28 *pesantren* identified in the 2016 NPO Strategic Assessment as being involved in terrorism cases.

217. While Detachment 88 had taken action against individuals affiliated with one NPO (the Azam Dakwah Centre) linked to a terrorist group, it is unclear what law enforcement or other action has been taken against the UN-listed Hillal Amar Society Indonesia (HASI), as their website is still active. The integrated team should also ensure that data on NPOs, especially their officers and directors, is available on the database in an easily searchable format. The integrated team should also meet regularly to discuss challenges posed by specific NPOs and share supervisory information. Further, given the identified TF abuse of *pesantren*, MoRA and other members of the integrated team should work to improve identification of specific schools that may be facilitating support to terrorist groups as well as prevent individuals who are suspected of links to terrorist groups from founding or working at *pesantren*.

218. The level of engagement and outreach with at-risk NPOs is uneven. While PPATK (and to some extent BNPT) has done outreach to NPOs and held workshops on the results of the TF NRA, engagement on potential mitigating measures has been more limited, although both supervisors and NPOs indicated that the TF NRA and new NPO Regulation has been socialised to the NPO community. The Integrated Team should engage at-risk NPOs about emerging TF risks to these organisations and possible mitigating measures.

Core Issue 10.3: Deprivation of TF assets and instrumentalities

219. As of the end of the ME onsite visit, for individual/entities listed in the DTTOT List pursuant to UNSCRs 12617/1989/2253 and 1988, the following assets have been frozen, which is consistent with Indonesia's identified TF risk. However, Indonesia did not demonstrate pre-emptive tracing of asset owners or controlled by associates or persons acting on behalf of designated persons or entities. Assets frozen by Indonesia are:

- 26 accounts in five banks for a total value of approximately USD 150,000 (all belonging to designated Indonesian individuals or entities);

- 7 properties (parcels of real estate, value not provided); and
- 1 life insurance policy in the amount of about USD 3,700.

220. Effectiveness of confiscations in the context of TF investigations and prosecutions is considered in IO.8. The AGO indicated that in terrorism or TF prosecutions, they will review the evidence collected during the investigation to determine if there are any items of economic value. If there are, they will be included in the indictment, and if used to commit a terrorist act or TF offence they will be forfeited to the State or for disposal.

Core Issue 10.4: Consistency of measures with overall TF risk profile

221. While assets frozen and confiscated, pursuant to UNSCR 1267, are generally consistent with Indonesia's TF risk, given the significant domestic terrorism and TF activity in Indonesia, the use of listings under UNSCR 1267 is not consistent with identified TF risk. In addition, Indonesia is not utilising its TFS framework pursuant to UNSCR 1373 to combat its high TF risk; the use of the UNSCR 1373 framework does not seem to be integrated into Indonesia's wider CT/CFT strategy; and Indonesia is not using designations to combat regional terrorism and TF activity. However, recent additions to the DTTOT List of Indonesian-based terrorists indicate this may be changing.

222. The implementation of UN TFS in banks and securities is significantly more advanced than other FIs. While banks and securities pose the highest risk of TF in Indonesia, the lower level of implementation in other non-bank FIs and DNFBPs is not consistent with Indonesia's TF risk, particularly for remitters. Indonesian FIs and DNFBPs are not fully prohibiting designated individuals and entities from being able to engage in financial services, and the lack of a clear and consistent legal prohibition on providing funds or financial services to designated persons creates the opportunity for domestic terrorists to access smaller banks or remitters.

223. While Indonesia has taken some important initial steps with regard to NPOs, further action is necessary to address the significant TF threat to, and vulnerability of, the NPO sector. While the creation of the integrated team and recent outreach and engagement are a good start, these activities should be increased. PPATK and other relevant agencies should continue to refine and more narrowly scope the group of at-risk NPOs, engage these NPOs, and provide guidance and best practices on preventing TF abuse. The lack of focus by MoRA and other agencies on abuse of pesantren to provide support to terrorist groups is also not consistent with the identified TF risk. Given the vast size of the sector and identified risk (and actual cases) of foundations and pesantren being misused for terrorism or TF, the SIA, BNPT and Detachment 88 should continue to improve coordination to identify and disrupt terrorist attempts to abuse the NPO sector and take action against NPOs, their management, employees and affiliated individuals, where appropriate.

Overall conclusions on Immediate Outcome 10

224. Indonesia has implemented all UNSCR 1267 listings and banks have frozen some funds of UN-listed Indonesian nationals; however, these listings were not implemented without delay. Indonesia has only made limited use of its UNSCR 1373 asset-freezing mechanism. Indonesia displayed a sound awareness of the TF risk for its NPO sector and has, to some extent, implemented measures to address the identified risks. However, these measures are not targeted at all NPOs at higher risk of TF abuse, such as pesantren. Recently, an integrated supervision team of relevant agencies was established to improve information sharing among NPO supervisors and monitor for terrorist abuse of NPOs based on risk, but competent authorities have only taken limited action against the NPOs identified by Indonesia as having links to terrorist groups. Indonesian authorities have also engaged in some outreach to NPOs, but this has not been based on risk.

225. **Indonesia is rated a moderate level of effectiveness on IO.10.**

Immediate Outcome 11 (PF Financial Sanctions)

Exposure to PF-related sanction evasion

226. Indonesia has some exposure to DPRK financial activity (and possible sanction evasion) as DPRK nationals and diplomats work in Jakarta and have individual accounts at Indonesian FIs. Prior to the May enactment of the PF Joint Regulations of 2017, some FIs identified and closed customer accounts of individuals on the UNSCR 1718 Sanctions List. Indonesian FIs have filed 27 STRs related to financial activity involving DPRK nationals with accounts at those institutions. Indonesia also has some commercial and financial links with Iran including some Iranian banks that have correspondent relationships with Indonesian banks, and bilateral trade is growing.

Core Issue 11.1: Implementation of targeted financial sanctions related to proliferation financing without delay

227. There are major shortcomings in Indonesia's legal framework for TFS related to proliferation financing, namely (i) obligation to freeze is not enforceable on banks and other FIs regulated by OJK and Bappebti; (ii) there is no prohibition on providing funds or financial services to designated persons; and (iii) Indonesia has also not designated any of the Iranian individuals/entities to the WMD list, as discussed below in detail.

228. In May 2017, Indonesia enacted the PF Joint Regulations of 2017 to implement UN TFS related to WMD proliferation. While the PF Joint Regulations of 2017 do not explicitly identify the relevant UNSCRs that are to be implemented, Indonesia indicated that it can apply to TFS under UNSCR 1718 (and its successor resolutions) and UNSCR 2231. Under the PF Joint Regulations of 2017, UN DPRK listings are implemented domestically via the following process: Indonesia's UN mission transmits the name and identifying information to the MoFA, which then notifies PPATK, the INP, the SIA, and NERA. Each of these agencies, based on intelligence or other information contained in their own files, will make a recommendation to PPATK on listing in the national WMD List. PPATK then reviews the recommendations of the relevant agencies, makes a decision to list domestically, then transmits the listing to identified points in the relevant supervisory agencies. Listings are also sent to reporting entities via GRIPS, and reporting entities are required to file freezing minutes (regardless of whether they received a hit or not) with PPATK or their supervisor.

229. Other than those entities regulated by BI, FIs (including banks) and DNFBPs do not have a legally enforceable obligation to freeze assets of individuals and entities listed on the national WMD List. Further, there is no legal prohibition on providing funds or financial services to designated persons.

230. Indonesia has also not designated any of the Iranian individuals/entities on the UNSCR 2231 List, although there is no technical barrier to designation. The Ministry of Foreign Affairs communicated to the assessment team that while they do not disagree that UNSCR 2231 imposes TFS on some Iranian individuals and entities, they do not believe the designations are in the 'spirit' of the Joint Comprehensive Plan of Action.

231. Regarding DPRK-related individuals and entities listed on the UNSCR 1718 Sanctions List resolutions, Indonesia has designated all individual/entities. However, other than the listings included in UNSCR 2375, these designations were not done without delay. For the three entities and one

individual listed in the Annex to UNSCR 2375 on 11 September 2017, Indonesia added them to its domestic list on 11 September 2017. At the time of the ME onsite visit these new listings had been communicated to FIs and DNFBPS electronically (via the GRIPS email system and through posting on the PPATK website), as well as in hard copy. The assessment team also viewed copies of freezing reports filed by FIs in response to listings on the national WMD List (all of which were negative).

Core Issue 11.2: Identification of assets and funds held by designated persons/entities and prohibitions

232. As of the date of the onsite visit, no funds or other assets of designated persons/entities had been identified or frozen, although the assessment team was shown evidence that banks and other FIs were filing the required freezing minutes with PPATK.

233. On 3 October 2017, Indonesia formed a WMD Task Force, which is charged with implementing the PF Joint Regulations and coordinating to prevent and eradicate WMD PF. At the time of the ME onsite visit, an analysis of STRs related to DPRK individuals with accounts at Indonesian banks had already been shared by PPATK with members of the WMD Task Force and the Task Force met to discuss implementation of UNSCR 2375. Indonesia indicated that the WMD Task Force could be used to share information on sanction-evasion activity and other PF risks, but this had not yet been done at the time of the onsite visit. The WMD Task Force is also reviewing bilateral requests regarding financial activity of UN-listed individuals or entities in Indonesia.

Core Issue 11.3: FIs and DNFBPs' understanding of and compliance with obligations

234. During the onsite visit, banks displayed a sound understanding of their TFS obligations related to DPRK, despite the lack of a legally enforceable obligation to freeze assets. Banks were aware of the asset-freezing requirement for entities on the national WMD List, received email (via GRIPS) and hard-copy updates to the national WMD List from PPATK, and filed freezing minutes with PPATK, the INP, or their supervisor following an update to the WMD List. Larger banks indicated that they use commercially available screening software that is automatically updated with new UN listings.

235. While some banks indicated they would not provide financial services to a DRPK individual or entity listed on the national WMD List (and would file an STR with PPATK in response to an attempted transaction), as noted above, this is not a legal obligation, and other Indonesian FIs and DNFBPs were less clear about their obligations on the provision of funds or other financial services to designated DPRK individuals or entities. The lack of an ongoing legal prohibition on providing funds or financial services to listed individuals and entities and existing DPRK commercial and diplomatic presence in Indonesia create some risk for sanctions evasion.

236. The non-banking sector displayed a mixed understanding of their TFS obligations. Non-bank remitters, securities dealers and money changers were familiar with the national WMD List and received electronic and hard-copy updates from PPATK and their supervisors, but there was some confusion about whether they had to receive a hard-copy notification of an update to the national WMD List for the asset freeze to have legal effect. Furthermore, these institutions used their own monitoring systems, which included information only from the WMD List and therefore transactions or assets involving UN-listed individuals/entities not yet added to the WMD List could be missed (e.g. Iranian individuals/entities). Non-bank FIs indicated they would file an STR if a listed individual or entity tried to execute a transaction, but they may not necessarily reject the transaction.

237. DNFBPs displayed limited understanding and implementation of their TFS obligations.

Core Issue 11.4: Competent authorities ensuring and monitoring compliance

238. PPATK, OJK, and BI have undertaken some outreach to the private sector (mainly to banks) on individuals and entities listed on the national WMD List. PPATK has also received the required freezing minutes from reporting entities indicating whether they have identified any assets owned or controlled by listed persons. While the above competent authorities have conducted supervision of compliance with TFS for terrorism (see IO.3), given the recent enactment of the PF Joint Regulations, they have not specifically examined compliance with freezing obligations related to individuals/entities listed on the domestic WMD List.

Overall conclusions on Immediate Outcome 11

239. The major technical shortcomings in Indonesia's legal framework to implement TFS for PF significantly impact effectiveness. Indonesia has not listed any of the Iran-related UN listings, and almost all DPRK listings to the WMD List occurred well after the date of UN listing. Indonesia has frozen no funds related to WMD TFS, the obligation to freeze assets is only enforceable for a small subset of FIs, and designated individuals and entities are not prohibited from accessing funds or financial services.

240. **Indonesia is rated a low level of effectiveness on IO.11.**

CHAPTER 5. PREVENTIVE MEASURES

Key findings and recommended actions

Key findings

- Major FIs supervised by OJK demonstrate a sound understanding of ML/TF risks and AML/CFT obligations. Banks in particular have exhibited relatively more sophisticated implementation of RBA, CDD, EDD, STR, TFS, recordkeeping and other AML/CFT requirements.
- Non-bank MVTS and money changers supervised by BI have a reasonable understanding of ML/TF risks and AML/CFT obligations. They are aware of the RBA requirements just introduced in the newly amended BI Regulations of September 2017, but they have not yet been implemented. Non-bank MVTS and money changers have implemented AML/CFT requirements to some extent though not as well as major FIs. Some non-bank MVTS and money changers have benefited from their engagement and partnership with international remittance companies and banks in improving their AML/CFT mechanisms, particularly in the development of red flags for STRS.
- Other FIs supervised by other financial supervisors, including futures traders, savings and cooperatives, as well as the post office, have not yet implemented an RBA, and they are either in the early stages of implementing AML/CFT requirements or have relatively rudimentary implementation.
- There is some understanding of ML/TF risks and of the requirements in the various AML/CFT regulations among DNFBPs. Larger DNFBPs supervised by PPATK have a better understanding than other DNFBPs. Except for some large, internationally affiliated accountancy firms, DNFBPs have not yet implemented the RBA. Real estate and motor vehicle dealers have not implemented effective measures to mitigate the risks identified in the NRA and SRA. By and large, DNFBPs have not yet implemented AML/CFT measures effectively.
- There are gaps in the targeted financial sanctions regime. While some Indonesian banks indicated they would not provide financial services to an individual or entity listed on the DTTOT List, there is no legal requirement in Indonesia to do so, with REs only required to file an STR (see c.6.5(c)). Other Indonesian FIs and DNFBPs were less clear about their obligations on the provision of funds or other financial services to designated individuals or entities.
- For BO measures, banks pay special attention to higher-risk customers and are undertaking reasonable measures to identify the BO. FIs consider it very challenging to identify the ultimate BO in certain situations because of the layers of legal ownership.
- Except for DNFBPs, most FIs and non-bank FIs have a sound understanding of the risks posed by PEPs and NPOs identified as high risk in Indonesia's NRA and have mechanisms to mitigate the risks. Some FIs met during the onsite visit expressed the view that there is a need for the government to establish a centralised database on domestic PEPs, as the Indonesian government has more detailed information on domestic PEPs.

Recommended actions

- All FIs should implement the RBA, with more guidance and awareness raising provided by supervisors.
- DNFBPs should implement the required AML/CFT preventive measures and progress should be monitored and reflected in supervisory reports.

- DNFBPs should be provided with further guidance on implementing both the existing and additional/newer requirements in the amended AML/CFT regulations issued in 2017.
- Indonesia should further amend its AML/CFT regulations to address its remaining technical deficiencies, focusing first on deficiencies related to higher-risk sectors and then deficiencies in other sectors.
- Competent authorities should consider establishing an effective mechanism for ensuring the compliance with PEPs obligations such as a centralised database on domestic PEPs.

241. 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)

Core Issue 4.1: Understanding of ML/TF risks and AML/CFT obligations by FIs and DNFBPs

a) Banks, securities, insurance, and other FIs

242. Overall, OJK-supervised banks, securities and insurance companies have a sound understanding of ML/TF risks in Indonesia. They demonstrated a sound understanding of risks associated with their products, customer base and distribution channels, and of the findings in the NRAs, SRAs, and the recent white papers on taxation and TF. These include higher-risk customers such as PEPs and NPOs, and risks associated with the 37 geographic regions in Indonesia. For other OJK-supervised non-bank FIs, such as financing companies, the level of their understanding of risks is limited to STR red flags, and customer and geographic risks, as identified in the NRA. They have not yet implemented an RBA. They demonstrated an understanding of higher-risk customers such as PEPs. Some FIs have adjusted their own risk ratings to reflect the white papers' amendments to the TF risk rating for NPOs and ML risk rating for taxation. Other FIs, particularly banks, regard these findings as only references for their own risk assessments, and update their internal risk ratings based on their own understanding of ML/TF risks, risk appetites and customer profiles. In general, OJK-supervised FIs demonstrated a sound understanding of the requirements in the OJK AML/CFT Regulation, including on CDD, EDD, PEPs, STRs, and TFS. By and large, the assessment team considers that banks exhibit a more sophisticated understanding of their ML/TF risks and AML/CFT obligations. This is significant given the banking sector accounts for 74% of the total assets of the financial sector in Indonesia.

243. BI supervised non-bank MVTS and money changers demonstrated a reasonable understanding of their ML/TF risks and AML/CFT obligations. They are aware of ML/TF risks and conclusions identified in the NRAs, SRA, and white papers. During the onsite meetings, they showed their understanding of ML/TF in relation to certain high-risk customers, such as NPOs and PEPs, and jurisdictional risks. They are also aware of the additional RBA requirements in the amended BI AML/CFT Regulations issued in September 2017.

244. For FIs supervised by other regulators (Bappebti, PPATK, and MCS), they have an understanding of the higher ML and TF risks associated with PEPs and NPOs, respectively, and are either in the early stages of implementing AML/CFT requirements or have rudimentary implementation. The NRA and SRA have only been considered by 11 of the 61 futures traders in the implementation of their own risk assessments. Futures traders are aware of the new RBA requirement in the 2017 updated Bappebti AML/CFT regulation, although it is a new concept for them. Pos Indonesia, which provides account services for welfare distribution and remittance

services, demonstrated to the assessment team a general understanding of its ML/TF risks. However, Pos Indonesia has not yet implemented an RBA. Loans and savings cooperatives are in the early phase of implementing the MCS AML/CFT KYC Regulation, which was only introduced in September 2017.

b) DNFBPs

245. There is some understanding of ML/TF risks among DNFBPs and of the requirements in the various AML/CFT regulations. The larger DNFBPs supervised by PPATK—such as large real estate companies, large gold/precious metal dealers, large notaries and accountants—have a reasonable understanding of the ML/TF risks (e.g. PEPs and NPOs), and of their AML/CFT obligations. All DNFBPs met during the onsite visit were aware of the 2015 NRA.

Core Issue 4.2: Application of mitigating measures by FIs and DNFBPs

a) Banks, securities, insurance, and other FIs

246. Banks have AML/CFT policies and procedures and have developed action plans to refine their policies and procedures to mitigate risks identified in their own risk assessments and/or the NRAs and SRAs. The four banks met during the onsite visit demonstrated their clear understanding and sound implementation of RBA. Banks have classified customers, products and distribution channels according to ML/FT risk levels. They have taken the results of NRAs and SRAs into consideration and have implemented EDD on higher-risk customers and transactions to address the main threats identified in the NRA (e.g. corruption, narcotics, taxation, and TF threats), such as PEPs, NPOs and housewives (typologies show housewives are commonly used as a front for ML). Enhanced measures have also been undertaken on certain transactions, such as international wire transfers with higher-risk jurisdictions. For high-risk customers, approval from senior bank officials for establishment of business is required, with more stringent and frequent transaction monitoring and customer data updating (at least once a year). Securities and insurance companies have implemented RBA similar to banks. Banks are also not providing financial services to those entities on the UNSCR 1267 list, even if they have not been listed on the DTTOT sanctions list (there is a delay in UNSCR 1267-listed entities appearing in the DTTOT List). In sum, ML/TF risks are adequately managed by banks, securities and insurance companies as they have implemented control measures pertaining to the main threats, as identified in the NRA, in terms of customer on-boarding, transaction monitoring and STR red flags, among others.

247. FIs other than banks, securities and insurance companies have basic risk-mitigation measures, which are sufficient for their risk profiles. Non-bank MVTS and money changers are in the early stages of RBA implementation because it is a new requirement in the recently amended BI AML/CFT Regulation issued in September 2017. Nevertheless, they have CDD/EDD and basic BO procedures and have adopted some risk-mitigation measures for higher-risk customers, such as PEPs, NPOs, housewives and students.

248. Financing companies are still in the development stage of RBA. Financing companies conduct a preliminary analysis of customers and transactions taking into account the highest-risk offences and red flags identified in the NRA. Financing companies undertake risk-mitigation measures, such as rejecting business relationship or filing an STR.

249. Most futures traders have rudimentary RBA implementation. It is a new concept for the futures traders, and Bappebti is assisting them with guidance and training. Bappebti KYC Regulation for Commodity Futures Trading was only updated just before the onsite visit to include RBA.

250. Pos Indonesia has not implemented an RBA as this requirement was only introduced in 2017. It does have basic EDD measures in place including monitoring unusual transactions.

251. The level of AML/CFT implementation by savings and loans cooperatives is not clear since they have not been inspected by MCS and the MCS AML/CFT KYC Regulation was only introduced in September 2017.

b) DNFBPs

252. The RBA has yet to be implemented by DNFBPs, except for some large, internationally affiliated accountancy firms. These firms have internal EDD procedures to mitigate the main risks, including for higher-risk customers. Real estate and motor vehicle dealers have not implemented effective measures to mitigate risks identified in the NRA and SRA.

Core Issues 4.3: Application of CDD and recordkeeping by FIs and DNFBPs

General

a) Banks, securities, insurance, and other FIs

253. Banks, securities and insurance companies have sound CDD policies and procedures based on RBA. These FIs risk rate customers, and the levels of CDD and frequency of ongoing due diligence are based on the customers' risk profiles. Banks use E-KTP (Electronic ID) in performing CDD and they can conduct verification using the Population and Civil Registration System.

254. For financial inclusion, banks also implement simplified CDD measures for customers without E-KTPs, but have some risk-mitigation measures, such as limits on savings or transaction amounts. Examples of basic savings accounts include TabunganKu (no-frills saving).

255. For beneficial-owner (BO) measures, banks pay special attention to higher-risk customers, such as housewives and students, to verify whether they are acting on behalf of another person(s), and adopt EDD, if applicable. With regards to BO of legal persons, banks undertake reasonable measures to identify the BO, including accessing the MLHR registry, their own AML/CFT system, commercial providers, declarations from the customers regarding BO, online searches, other available tools, and onsite interviews, if needed. FIs consider it very challenging to identify the ultimate BO in certain circumstances because of the layers of legal ownership. Based on the supervision results of OJK, FIs have suspended transactions in the event of any doubts regarding BO identities. All persons during the on-boarding stage must sign and declare whether or not they are the BO(s). This is used also to identify persons who may be trustees for foreign trusts.

256. For NPOs, some banks still consider them as high risk even though they are no longer rated high risk (now medium risk) in the white paper. Banks only accept registered and/or incorporated NPOs by checking the registry of MLHR, MoHA, MoRA and other registries for verification. For existing customers that were established before the re-registration of NPOs in 1998, banks will enhance their monitoring of those customers.

257. The major banks met during the onsite visit advised the assessment team that they had rejected, and would continue to reject, business relationships or transactions with customers whenever there is a failure to complete CDD/EDD (including BO), or have reasonable suspicion that funds are related to the proceeds of crimes, or the customer is on the DTTOT sanctions list. Securities and insurance companies implement CDD policies and procedures similar with banks and advised the assessment team that they would refuse a customer if CDD is incomplete.

258. Financing companies are still in the process of using E-KTP in performing CDD. Financing companies have a policy of refusing business relationships with prospective customers that are perpetrators of crimes, or in the sanction lists of terrorists, terrorist organisations, or proliferation financing.

259. Overall, OJK provided information and data based on offsite and onsite inspection reports to demonstrate that implementation of CDD/EDD/BO has been continuously improving. For example, in the banking sector in 2014, 62 banks were rated as having a 'moderate' level of compliance and 37 banks were rated 'good', reflecting adequate and effective compliance. By 2016, 46 banks were rated 'good' and two banks were rated 'very good'. Banks previously rated 'moderate' had decreased from 62 to 52 banks. However a minority of banks are still rated 'poor'. OJK also gave evidence to the assessment team that banks have achieved a moderate level of compliance to BO requirements. Similar progress has been made in the capital markets, insurance sector, and the NBFI is supervised by OJK.

260. All OJK-supervised FIs have policies and procedures to maintain all transaction records, CDD documents and STR information for at least five years. No issues have been found by OJK with respect to the procedures and implementation of recordkeeping by FIs.

261. According to BI's supervisory findings, the general compliance levels of non-bank MVTS and money changers for CDD and recordkeeping are fair and satisfactory, respectively. Non-bank money changers conduct CDD on all customers and the threshold for EDD on remittance is IDR 100 million (USD7402) and over. Money changers only accept customers in person. For CDD measures related to BO, they only do one layer of identification behind the customers. During the onsite meeting with a money changer, the money changer informed the assessment team that in the past five years there was no case of customer rejection because of incomplete CDD. Non-bank MVTS providers undertake CDD, EDD and recordkeeping measures, but rely on customer statements to identify BO. In cases of incomplete CDD, they would reject the transaction and file an STR. However, some MVTS providers would still proceed with processing the remittance payment without complete EDD and file an STR. In terms of financial inclusion, MVTS is a major channel for Indonesian migrant workers abroad to send money home and there is a need to strike a balance between legal compliance and the needs of the underserved. During the onsite visit, the MVTS provider stated that they would ask for a letter from a customer's neighbour as a fall-back CDD measure to verify the identity of the customer.

262. For other FIs, Pos Indonesia relies on data from the Ministry of Social Welfare to conduct CDD on its current customers who receive their income support from the Ministry of Social Welfare. They also cross-check with the national ID card system. For remittance services, customers have to complete a remittance payment form to declare the source of funds. Commodities futures traders are required to conduct CDD on their clients by using ID cards and to keep records of all CDD documents and STR analysis. It is not clear the level of compliance of FIs other than those supervised by OJK. Loans and savings cooperatives are in the early stage of understanding and implementing AML/CFT requirements, as the MCS AML/CFT KYC Regulation was only introduced in September 2017.

263. Overall, FIs are implementing CDD measures broadly consistent with the risk profiles of their customers, products and distribution channels, with banks implementing more complex CDD measures at one end of the spectrum, and Pos Indonesia implementing basic CDD measures on the other end. As mentioned, savings and loan cooperatives have only commenced implementation of CDD measures.

b) DNFBPs

264. CDD procedures in the DNFBP sector are rules-based and overly dependent on required documents and self-declaration. There is no or little information available on BO in the DNFBPs. There

are no or very few examples of refusal to provide client services for incomplete CDD. In some cases, real estate providers complete transactions even where CDD is not completed.

Core Issue 4.4: Application of enhanced or specific measures by FIs and DNFBPs

a) Banks, securities, insurance, and other FIs

(i) PEPs

265. Banks and other major FIs supervised by OJK have a sound understanding and implementation of measures on PEPs. EDD for PEPs is generally sound and adequate as evidenced by OJK's compliance ratings. Banks have mechanisms to identify PEPs in most circumstances through their screening processes and databases to implement EDD. The information of their PEPs database is mainly from KPK (Government Official Wealth Report), PPATK (AML-CFT news), General Election Commission website, law enforcement agencies, commercial databases, media and customers' statements. Banks perform regular updates on data concerning PEPs (politically exposed persons). Securities and insurance companies have similar procedures in place. Both FIs and OJK consider identifying PEPs to be very challenging. Some FIs during the onsite recommended that the government create a centralised database because it would have more detailed information, at least for domestic PEPs. PPATK is now considering establishing a database on domestic PEPs. This will help FIs improve compliance with PEPs obligations. Overseas PEPs use well-known, international commercial service providers.

266. The general compliance level of non-bank MVTS providers and money changers is fair, based on BI's overall compliance rating of the two sectors. BI has stated it has no supervisory findings of non-compliance of MVTS providers and money changers. During the onsite meetings, MVTS and money changers demonstrated their awareness that PEPs are high risk and they should conduct EDD on PEPs. The interviewed MVTS provider has a database for PEPs with information mainly from KPK, commercial vendors, and the media.

267. According to Bappebti's inspection results, futures traders have policies and procedures for PEPs and have conducted EDD on PEPs. Some futures traders have more rigorous monitoring measures on PEPs, while some adopt a de-risking stance against PEPs. The general compliance level of PEPs measures, based on the scoring system by Bappebti, is below 50%. Based on the supervisory findings of Bappebti, the implementation of futures traders varies to a great extent ranging from no screening procedures of PEPs to an electronic screening system of PEPs.

268. For other FIs, Pos Indonesia has basic EDD procedures and indicated that these have been applied on a few occasions on PEPs. Given the average value of a current account is low (~ 600,000 IDR to 2 million IDR—USD44 to USD148), large transactions are unusual and are able to be identified. Savings and loans cooperatives are in the early stage of understanding and implementing AML/CFT requirements as the MCS AML/CFT KYC Regulation was only introduced in September 2017.

(ii) Correspondent banking

269. In general, banks are implementing correspondent banking requirements consistent with the FATF standards, as demonstrated in OJK's internal compliance rating for banks. As stated by OJK, banks have conducted a due diligence process by using any relevant external sources to ensure the respondent banks have adopted and implemented adequate AML/CFT controls. Supervisors have not experienced any cases involving cross-border correspondent banking with any shell banks. During onsite meetings, banks confirmed that they submit questionnaires to all respondent banks, adopt necessary CDD measures, or adopt EDD measures for higher-risk banks.

(iii) New technologies

270. Banks have introduced new products, such as electronic banking and smart apps. Before launching the new technology or new product, banks have internal policies and procedures to conduct risk assessments, including ML/TF risk mitigation. In terms of risk mitigation, for example, banks determine a threshold in every e-banking transaction. Securities companies have similar policies and procedures. Some securities companies will set up a team with compliance officers to assess the ML/TF risks of new products such as online transactions. The use of new technology in the insurance sector is e-app (online submission of application forms) and digital products. Insurance companies have assessed products before launching as well. However, financing companies are still in the process of developing internal policies regarding new technologies.

271. All OJK-supervised FIs must obtain approval from OJK before launching new products. Through the licensing process, OJK will identify and assess associated risks and evaluate risk mitigations. In general, from OJK's supervisory perspective, FIs have implemented robust risk assessments, which include ML/TF risks, prior to launching.

272. E-money, e-wallet, and mobile banking are common products in non-bank MVTS supervised by BI. Non-bank MVTS providers are required to obtain BI's approval prior to launching new products and must have adequate risk-management and information-management systems in place. The BI's approval process requires MVTS providers to submit information on risk identification, assessment and mitigation, including ML/TF risks. In general, implementation by MVTS of new technologies is sound, based on the results of BI's onsite supervision. For example, one telecom-based MVTS provider conducted a risk assessment on transactions made through server-based e-money by analysis of transaction volume and amount. The assessment result identified transactions in small amounts with high frequency as high ML/TF risks. For risk mitigation, the MVTS provider developed an application system to trace transaction flow and the history of customers. The BI's compliance rating of the telecom-based MVTS provider with e-money services in terms of CDD implementation is satisfactory.

273. For new technology risks such as virtual currencies (VCs), BI has issued a media release stating that bitcoin and other virtual currencies are not legal tender in Indonesia. Payment transaction processing providers are prohibited from processing VC transactions. BI conducts monitoring of the activities and conversion of VCs. In response, there are media reports of VC exchanges closing voluntarily following BI's pronouncement. The BI's office in Bali and the INP in 2017 investigated businesses in Bali that advertised online about their bitcoin payment services. Based on the investigations, bitcoin ATMs in Bali have closed since November 2017. Nevertheless, there are still bitcoin exchanges and ATMs operating in Indonesia.

274. As futures traders can only market products (futures contracts and derivatives contracts) approved by Bappebti, any use of new technologies, such as the trading or transaction system, is subject to approval by Bappebti. However, it is not clear whether FIs and supervisors have taken ML/TF risks into consideration before launching new products or services.

275. For other FIs (postal and cooperatives), Pos Indonesia has very limited use of new technologies. Its business model and low-income customer base mean that delivery of its products requires customers to interact physically with its outlets. For disabled customers, staff of the post office will deliver the cash in person (a form of financial inclusion). The situation with savings and loans cooperatives is not clear, although Indonesia has stated that their customers are also in the low income to very low-income category, and they need to interact physically with cooperatives for deposits and withdrawals.

(iv) Wire transfer rules

276. Banks met during the onsite visit demonstrated a clear understanding of wire transfer rules. In cases of incomplete originator or beneficiary information, banks have policies and procedures to reject such transactions. Banks also report all cross-border transfers (International Funds Transfer Instructions or IFTIs) to PPATK through the GRIPS system.

277. Based on onsite meetings with non-bank MVTS providers, they appear to have implemented wire transfer rules and conduct CDD on all remittance transactions, including on the recipient for incoming remittance to ensure the recipient is the true beneficiary. Their procedures require them, in cases of incomplete CDD information, to reject the remittance transaction, but for incomplete EDD, the MVTS will still proceed with the remittances and then file a STR. MVTS are required to file IFTI reports on all cross-border transfers to PPATK.

278. Pos Indonesia works with a major international remittance provider for all international remittances and therefore follows the payment instruction procedures of that company. The ratio of incoming to outgoing international remittances is approximately 31 to 1 and domestic remittance is the largest category. Prior to remittance processing, Pos Indonesia requires customers to complete their remittance form with the necessary CDD/EDD information, including source of funds and purpose of transaction. There is a single transaction limit of IDR 25 million but no cumulative maximum.

(v) Targeted financial sanctions –TF

279. Indonesian banks are conducting automated screening against the DTTOT List, relevant UN Sanctions Lists, and other sanctions lists (e.g. OFAC SDN List), of all transactions and all customers. Several of the largest banks have frozen funds of individuals or entities on the DTTOT List and have filed freezing reports with PPATK. However, this did not occur until the Joint Regulations of 2015 were implemented, and 20 of the Indonesian individuals or entities had been on the UN list for over 10 years before that. Screening outside of the banking, securities and insurance sectors is mixed with larger entities conducting automated screening and small entities conducting manual screening of new customers. These entities were more reliant on updates to the DTTOT List, as they did not routinely screen against the relevant UN Sanctions Lists. Screening by DNFBPs is variable with some manual screening of new customers by larger entities. Neither non-bank financial institutions nor DNFBPs have frozen funds of individuals or entities on the DTTOT List. Overall banks, securities and insurance companies have more effective and advanced mechanisms of targeted financial sanctions in place compared to other FIs.

280. While some Indonesian banks indicated they would not provide financial services to an individual or entity listed on the DTTOT List, there is no legal requirement in Indonesia to do so. Other Indonesian FIs and DNFBPs were less clear about their obligations on the provision of funds or other financial services to designated individuals or entities, suggesting that banks were not doing this from fear of enforcement action by Indonesian authorities.

281. Non-bank money changers have systems to implement the DTTOT List. However, while they also receive the DTTOT List online from PPATK, the money changer met during the onsite visit indicated that it would not undertake freezing measures until they had received a hand-delivered, signed BI letter providing the latest DTTOT List.

282. Non-bank MVTS have sanction screening and parameters in place. They update their database using the DTTOT sanctions list from Indonesian police by email and in hard copy. In case of 70% or average match, they will freeze and report to the police.

283. For the other categories of FIs (post and cooperatives), Pos Indonesia has a system for screening of DTTOT sanctions list. If the transaction occurs, the regulation requires them to report to the INP and freeze without delay. Savings and loans cooperatives do the sanction screening manually based on DDTOT sanction lists provided by PPATK. It is not clear what systems, if any, savings and loans cooperative have for sanction screening.

(vi) Higher-risk countries identified by the FATF

284. The compliance level of FIs with respect to higher-risk countries identified by FATF is sound. FIs are generally aware of the risks in dealing with high-risk countries identified by FATF and undertake some counter-measures according to their AML/CFT policies and procedures. Some banks have their own country risk rating, take actions to terminate business relationship with customers from high-risk countries, and file STRs. Insurance companies also reject customers who come from the identified high-risk countries. Non-bank MVTS are aware that EDD should be applied to remittances to and from high-risk countries. If remittances are to or from a higher-risk region/country, based on their procedures, the MVTS will ask for more information from the head of a neighbourhood association.

b) DNFBPs

(i) PEPs

285. For DNFBPs, there does not appear to be an effective mechanism to identify PEPs, especially family members and associates, due to absence of any consolidated database for domestic PEPs, and many DNFBPs are relatively small with few staff. There are a few exceptions, particularly with international accountancy firms.

(ii) New technologies

286. The situation with new technologies for DNFBPs is not clear, although this requirement has only been recently introduced in the amended AML/CFT Regulations issued in 2017.

(iii) Targeted financial sanctions—TF

287. DNFBPs receive the DTTOT sanctions list from PPATK via the GRIPS system. Not all use real time or an automatic monitoring system and rely mainly on the DTTOT List. There is insufficient risk-based supervision of all DNFBPs to ascertain the level of overall compliance.

Core Issue 4.5: Suspicious-transaction-reporting obligations and tipping off

a) Banks, securities, insurance and other FIs

288. As noted in IO.6, the general compliance level with STR obligations is good for FIs. The FIU is receiving STRs, consistent with the make-up of Indonesia's financial sector, that are of good quality and submitted on time. There was an increase in STRs submitted by banks and the non-banking sector from 2013 to 2017. Although there was a decrease in the number of STRs submitted between 2015 and 2016 across all reporting groups, since 2014 there has been a year-on-year improvement in on-time reporting and quality of STR reporting, as evident from verbal reports by PPATK and an increase in the number of STRs scoring high on automated STR pre-analysis criteria. The banking sector submitted ~53% of all STRs made between 2013 and 2017, which is consistent with the make-up of

Indonesia's financial sector, given that the quality of STR reporting by banks is significantly better than from the non-banking sector. While it is not clear whether there is satisfactory reporting among all banks in the sector, STR reporting is somewhat consistent. Indonesia's key ML risks and improvements in STR reporting related to narcotics and environmental crimes are underway. STRs are being submitted consistent with TF risks (refer IO.6).

289. Banks have developed their own red flags, scenarios and alerts, drawing on inputs from risk assessments (NRA, SRA), competent authorities such as PPATK, supervisors, law enforcement agencies, and other external and internal sources. Large banks have relatively sophisticated IT systems for transaction monitoring and alerts.

290. In general, OJK-supervised FIs have proper policy and procedures for STRs and take follow-up actions to rectify concerns as per OJK's supervisory findings. Supervisory focus has been placed on the adequacy of the information system and its parameters as this is the main component for OJK assessment of STR compliance. Overall, OJK's findings are that generally there have been adequate management information systems, parameters and indicators relevant to address AML/CFT, and these are being continuously refined.

291. STRs from non-bank money changers and MVTS have been increasing. The number of STRs from money changers has increased from 22,122 in 2010 to 58,958 in 2016, and the number of STRs from MVTS has improved from 30 in 2010 to 9,483 in 2016. The general compliance rating of money changers and MVTS in STRs by BI is fair—there is still room for improvement.

292. BI has continued working with PPATK to increase awareness of non-bank MVTS and money changers through workshops, socialisation and focus-group discussions. This has improved their monitoring system. For example, money changers are now aware that real property businesses are high risk, based on typologies, although some MVTS have better transaction-monitoring mechanisms because of inputs and engagements with their partners of higher AML/CFT standards, such as banks or international remittance companies.

293. Futures traders use manual systems for STR identification and reporting instead of information systems. In terms of alerts for STRs, futures traders use PPATK's newsletters as one of their reference sources and have not yet taken NRA or SRA into consideration.

294. For the two other categories of FIs (post and cooperatives), savings and loans cooperatives are required to report since May 2017, but implementation is at the early stage. They have just started to receive training for how to submit STRs. Pos Indonesia is required to file STR through GRIPs. In 2017, the post office filed only two STRs.

b) DNFBPs

295. Since 2013, a total of 399 STRs has been submitted by DNFBPs (see Table 6.2). Until early 2017 DNFBPs were obliged to file CTRs with a threshold of 50 million IDR (~3,700 USD) and STRs when requested by PPATK, based on its analysis of reported CTRs or other reports. Post new regulation in early 2017, DNFBPs are required to submit proactive STRs with 80 proactive STRs submitted at the time of the onsite visit.

Core Issue 4.6: Internal AML/CFT controls

296. OJK-supervised FIs have sound internal controls and AML/CFT compliance cultures. All FIs have designated a senior AML/CFT compliance officer who reports directly to the board of directors and board of commissioners. FIs have provided various AML/CFT training and capacity building to employees to raise AML/CFT awareness and promote AML/CFT compliance.

297. To implement integrated risk management and group-wide AML/CFT mechanisms, some financial conglomerates, led by banks, have set up risk committees to discuss group-wide risk assessments, guidelines for all subsidiaries, ML/TF typologies, consolidated group profiles, compliance among all subsidiaries, and OJK reporting.

298. Non-bank MVTS and money changers have employee AML/CFT training programs, pre-employee screening and ongoing employee monitoring. The BI has stated that, based on its auditing, there has been no finding related to internal control weaknesses of MVTS and money changers. Some MVTS providers have benefited from their partnership with international remittance companies and banks through regular meetings to improve their AML/CFT mechanisms, such as red flags, understanding of typologies, and so forth. For MVTS and money changers under financial conglomerates, there are group-wide information-sharing mechanisms related to high-risk customers and suspicious transactions. To promote good internal control of MVTS and money changers, BI will continue conducting socialisation and training activities while pushing forward with seven certification programs for money changers and MVTS employees next year.

299. Based on PPATK's offsite supervision of Pos Indonesia, there are some internal controls in place. For other FIs and DNFBPs, the compliance level of internal AML/CFT controls for futures traders and cooperatives is not clear. DNFBPs have limited internal AML/CFT controls and procedures.

Overall conclusions on Immediate Outcome 4

300. The larger FIs in the most significant financial sectors (both risks and size) are implementing AML/CFT measures to a significant extent. DNFBPs and smaller FIs are implementing AML/CFT measures to some extent or to a negligible extent.

301. **Indonesia has a moderate level of effectiveness on IO.4.**

CHAPTER 6. SUPERVISION

Key findings and recommended actions

Key findings

- The major financial supervisors implement fit-and-proper test requirements commensurate with their sectoral risks, including for natural and legal persons. DNFBPs are only subject to police criminal background checks.
- Supervisors are in various stages of implementing risk-based supervision. OJK and BI, the two main financial supervisors, have a sound understanding of ML/TF risks in their supervised sectors and entities. Both are undertaking effective regulation and risk-based supervision of the most materially relevant and higher-risk sectors and undertaking a risk-sensitive approach for other FIs. PPATK, the main DNFBP supervisor, is undertaking a risk-based approach. The other supervisors are still in the process of implementing a risk-based approach.
- Supervisors have not applied dissuasive monetary sanctions, and while other measures have improved compliance, more dissuasive monetary sanctions, where appropriate, would achieve greater compliance. The most significant sanctions applied have been by the BI against unlicensed non-bank money changers and MVTS providers. BI, with the cooperation of INP, has identified and taken actions (closure or forced them to obtain a license) against 751 unlicensed money changers and around 55 unlicensed MVTS.
- OJK, BI and PPATK have provided evidence of ongoing improvements in compliant behaviour. But, as acknowledged by supervisors, moderate to major improvements are still needed among all their covered institutions.
- Most supervisors have undertaken effective outreach and supervisory feedback to promote an informed understanding of the ML/TF risks and AML/CFT obligations, the former including findings in the NRAs, updates to the NRAs and sectoral risk assessments. Reporting entities met during the onsite demonstrated a clear awareness of these results, although implementation of the risk-based approach by smaller FIs and DNFBPs requires more supervisory guidance.

Recommended actions

- Financial supervisors should implement the risk-based approach for all their FIs. However, supervisors (similar to Bappebti) should also select some lower-risk institutions for onsite AML/CFT inspection to test their RBA methodology.
- OJK should strengthen its AML/CFT supervision of conglomerates.
- DNFBP supervisors should apply a full risk-based approach to supervision, particularly for notaries, given the absence of any AML/CFT supervision.
- Supervisors should apply more dissuasive monetary sanctions where other measures have not improved compliance on a timely basis.
- Supervisors should provide further advice to reporting entities on implementing institutional risk assessments and the risk-based approach, and, where required, on enhancing their understanding of ML/TF risks and AML/CFT obligations.

302. The relevant immediate outcome considered and assessed in this chapter is IO3. The recommendations relevant for the assessment of effectiveness under this section are R26–28 and R.34–35.

Immediate Outcome 3 (Supervision)

Core Issue 3.1: Licensing, registration and controls preventing criminals and associates from entering the market

303. The description of the AML/CFT supervisory framework is summarised in Table 3 in Chapter 1.

a) Banks, securities, insurance, and other FIs

304. OJK's fit-and-proper test (FPT) requirements are sound in preventing criminal ownership and control. OJK's process involves administrative reviews and interviews, as well as verification. Internal checks include screening against an internal list (violations) and OJK's investigations unit conducts additional due-diligence checks. Other agencies (including from PPATK and KPK) participate in a panel to examine/vet the suitability of applicants, which covers senior management, board of directors, board of commissioners, significant shareholders (any natural or legal person owning more than 5%), sources of funds, and beneficial ownership. Externally, the police provide criminal record checks at OJK's request. OJK also seeks information from foreign counterparts as part of this vetting process (refer IO.2). OJK conducts interviews of all applicants including of potential and significant shareholders.

305. OJK has shown to a significant degree that it has been able to identify violations in licensing requirements. It has provided evidence of the application of FPT requirements from 2014 to 2017 for the banking, securities and other FIs, including for new entrants, and re-validation or re-licensing. OJK also conducts onsite monitoring to ensure that parties engaged in the financial services sector continue to meet the licensing requirements, including FPT requirements. OJK's statistics include rejections because of failure to meet FPT requirements. No new banking licence was issued during 2013–2017 as the sector was undergoing a period of consolidation. However, of the 733 FPT conducted for new entrants to the banking sector (i.e. board of directors, commissioners and senior management staff), 85 were rejected (2014–October 2017). Twenty-four securities licences were revoked from 2013–17, but six were because the licensees ceased operations. OJK established an Investment Alert Task Force in 2016 to respond to unlicensed investment fund providers. From 2016 to the first half of 2017, the task force conducted business suspension activities against 49 entities. OJK provided statistics of license revocation of other FIs.

306. OJK acknowledges that unpacking the complex ownership structure of 48 financial conglomerates has been challenging. OJK introduced new FPT requirements in 2017 that provide for integrated FPT tests to better address ownership issues. This is still in the implementation stage and replaced the previous sectoral-based process that aimed to identify beneficial ownership at the sectoral level, e.g. banking, securities and insurance. These sectoral findings were then combined in an attempt to better identify the beneficial ownership structure and to avoid supervisory arbitrage.

307. BI has well-established licensing requirements, including to prevent criminal ownership and/or control, and has rejected applications because of failure to meet licensing requirements. BI conducts background checks on the proposed management staff, which include police clearance and any prior administrative violations, and declaration from the applicant's owners/management of any adverse court decision. BI also checks with PPATK and OJK, the latter as required. BI visits the location of the applicant to verify the suitability and veracity of the application. Over five years (2013–

2017) BI received 849 and 221 licence applications for money changing and MVTS services, respectively, and of those 20 and 54, respectively, were rejected due to failure to comply with requirements. Since 2016, all non-bank money changers (1,064 in 2017) are required to be re-licensed every five years. According to BI, the criteria for relicensing include compliance rating with AML/CFT requirements. Compliance with licensing requirements is incorporated in BI's offsite and onsite supervision program. Only one provider has had its licence revoked as part of this renewal process.

308. BI has been proactive in sanctioning illegal non-bank MVTS providers and non-bank money changers. At the time of the onsite visit, BI, with the cooperation of INP, had identified and taken action against 751 unlicensed money changers and around 55 unlicensed MVTS (either closed them down or forced them to obtain a licence).

309. Bappebti conducts sound FPT vetting of applicants for futures trading licences, which includes checks with the tax authorities and police. Of the 613 licence applications received from potential future traders over the three years from 2015 to 2017, 23 were rejected (4% rejection rate) for a variety of reasons including failure to pass FPT and incomplete documentation. Bappebti reviews the licences of all existing 61 futures traders once every three years. There is one case of rejection of an existing license holder.

310. Savings and loans cooperatives licensed by the MCS are subject to FPT requirements including a police certificate of no criminal conviction and taxation registration number. Annually, around 125 savings and loans licences are issued. The MCS has never rejected a license application or revoked a license. Instead it has provided support to an applicant to meet licensing requirements either at the application stage or to maintain the licence.

b) DNFBPs

311. The FPT for DNFBPs is limited to basic police clearance and, for the professions, character and educational requirements. Systematic monitoring for compliance is absent. No detailed statistics on licensing or revocation were provided to the assessment team. There are no specific licensing requirements for real estate agents, precious stones and metals, auction houses and motor vehicles, beyond the basic requirement to obtain a business licence from the Ministry of Trade and other licences as required, and, if a legal person, the incorporation requirements from the MLHR. To obtain such a licence, there is the requirement to provide a police certificate. Lawyers and notaries are licensed by the Bar Association and MLHR, respectively, and they need to pass professional examinations. There are basic FPT requirements to qualify in the professions. Public accountants are licensed by the Ministry of Finance and are required to provide a police certificate. These processes seem to be implemented well at the initial licensing stage, but it is not clear whether there is any systematic monitoring to detect potential violations.

Core Issue 3.2: Supervisors' understanding and identification of ML/TF risks

a) Banks, securities, insurance, and other FIs

312. OJK has a sound understanding of the ML/TF risks among the sectors and entities under its supervision. Further to its input into national and sectoral risk assessments (NRAs and SRAs) on NPOs that identified TF risks to the banking sector and other financial sectors, OJK conducted separate SRAs of banking, securities and other FIs (including insurance). These SRAs used international risk-assessment methodologies aimed at identifying risk-mitigation priorities in those financial sectors, divided into ML risks by customers, banking products/services, regions, distribution channels and typologies. For example, in the banking sector, the SRA identified PEPs as high risk for ML and

electronic banking, internal funds transfer wealth management, funds transfer from and abroad and safe deposit box as the main high-risk products/services. Eight geographic regions were identified as high risk. Internet banking and mobile banking were identified as high-risk distribution channels because of the absence of face-to-face interaction. The most common ML typologies identified include the utilisation of accounts for corruption, false identities, use of foreign currency and use of accounts on behalf of a company. These conclusions appear reasonable and consistent with the NRA and other risk assessments, although more focused on ML, as the TF NRA and SRA on NPOs focused on TF risks.

313. The SRAs for the banking and securities reaffirmed the NRA's conclusion that both are high risk for ML. Given the materiality and risks associated with the banking and securities sectors, OJK has focused its efforts on these two sectors. It also has a systematic process of identifying relative risk among FIs subject to its supervision, and risk at the individual institution level. The information available on all sectors/FIs is consolidated on a biannual and annual basis to assess the relative strengths and weaknesses of the sectors and FIs. OJK has identified 15 banks as high risk, 73 as medium risk and 26 as low risk; 38 securities/investment management high to high-medium risk and 23 other FIs as high risk. Given financial conglomerates dominate the financial landscape and have customers, products/services, presence in regions, and distribution channels matching the high risk identified in the SRA, the focus on conglomerates is consistent with the identified risks.

314. BI has a sound understanding of its sectors and supervised entities. BI finalised its SRA on MVTS and money changers in May 2017. The sectoral risk assessment identifies threats, vulnerabilities and residual risks in Indonesia's 34 regions. The methodology used is very similar to OJK's and based on international best practice. BI implemented a full risk-based approach in 2017, which includes a risk-rating tool for non-bank money changers and non-bank MVTS providers. Similar to other supervisors, it also ranks each FI from 1 to 5 in terms of performance against AML/CFT obligations. The results were also informed to MVTS and money changers on 15 June 2017.

315. For other financial supervisors, Bappebti has reasonable understanding of its sector, and has undertaken a separate SRA of futures traders. Its risk rating of futures traders is based predominately on offsite supervision. The MCS has some understanding of AML/CFT but is constrained by lack of resources to supervise the large number of savings and loans cooperatives. It has not undertaken an SRA or identified the higher-risk cooperatives. PPATK has an understanding of postal providers based primarily on offsite monitoring information such as CTR reports.

b) DNFBPs

316. PPATK has further developed its sound understanding of the highest-risk DNFBPs through its own SRA results on the Goods and Services Providers, which confirmed the NRA's findings that the two highest-risk DNFBP sectors are motor vehicle traders and property agents. The methodology used is similar to that used by OJK and BI. BI adopted the Compliance Risk Exposure Scoring Tool (CREST) in 2013, which was further refined in 2015 to enable PPATK to monitor and maintain its understanding of ML/TF risks of its subject sectors and reporting entities. The Ministry of Finance, as the supervisor for auction house and accountants, has also completed an SRA for both sectors. Other DNFBP supervisors have neither implemented a sectoral-risk assessment nor developed an understanding of their subject entities. PPATK also shared its risk guidelines with other DNFBP supervisors.

Core Issue 3.3: Risk-based supervision of compliance with AML/CTF requirements

a) Banks, securities, insurance, and other FIs

317. OJK has implemented risk-based supervision of the banking and securities sector using a combination of the risk-based bank rating (RBBR) methodology created in 2011–2012, and its risk-based supervisory (RBS) tool established in 2017 to determine the frequency and intensity of supervision. The RBBR was developed primarily for prudential supervision, while the RBS tool is independent from the compliance risk under RBBR, with a focus on AML/CFT risks. Both are sound and based on accepted international methodologies. The RBS tool assesses inherent risk, structural factors, and internal control environments to derive and rate net ML/TF risk (high, medium, low), and thus determine the frequency and intensity of supervision (onsite or offsite supervision; full scope, focused examinations). Before the overall rating is derived, separate composite rating of inherent risk, structural risk, and internal control is calculated based on a set of criteria. Information for such assessment is drawn from NRA/sectoral-risk assessments, offsite and onsite inspection reports and information provided in response to questionnaires. It is not a mechanical process, with supervisors using their professional judgement based on available information. The five pillars of AML/CFT to assess the internal control environment of banks and securities companies include Board Oversight, Policies and Procedures, Management Information System, Internal Control, and Human Resources. Banks and securities are required to undertake annual self-assessment of ML/TF risks based on the RBS. These are provided to OJK prior to onsite inspections to form a risk assessment of the institution and used in the offsite monitoring program.

318. OJK undertakes AML/CFT integrated supervision on financial conglomerates through the main entity, whose Risk Management Committee (IRMC) has the authority and responsibility to provide recommendations to the Directors of the Main Entity, including AML/CFT implementation. Supervisors examine the implementation of the AML/CFT program at the financial-group level, including policies and procedures of information exchange for the purpose of CDD and ML/TF risk management; arrangement of the compliance function, audit function, as well as AML and CFT function at the group level; information security for the information exchange at the group level. It includes Know your Financial Conglomerate (KYFC), Integrated Risk Rating (IRR), and Integrated Supervisory Plans (ISP) for all 44 financial conglomerates in Indonesia. In furtherance of consolidated AML/CFT supervision, OJK holds integrated supervisory committee meetings attended by integrated supervisors along with individual supervisors of FIs under a financial conglomerate.

319. OJK-integrated supervision includes identifying the key ML/TF risks at the conglomerate level, but there are challenges given the complexity, size, and diversified activities of the 48 financial conglomerates. Integrated supervision, including the supervision of financial conglomerates, has been one of the priorities of the OJK since its inception. However, the complex ownership structures and diversified activities of conglomerates (i.e. vertical structure, horizontal, and mixed) make consolidated supervision challenging. Although a bank is usually the dominant owner in most cases, this is not always the case, and the dominant FI or holding company is not always clear. There is also a lack of implementation of AML/CFT group compliance among some conglomerates for this reason. OJK, in an attempt to address these challenges, integrated supervision in 2017 focused on conglomerates' integrated risk management and governance; and OJK has adopted and is implementing new procedures on integrated supervision in 2017.

320. Those banks, securities (including investment managers) identified as high ML/TF risk, namely 15 commercial banks, 6 securities/investment managers, and 23 other FIs including insurance, were subjected to AML/CFT onsite examination in 2017. For example, the duration, staffing, resourcing and sampling (including the number of branches visited) for the onsite inspection of high-risk banks are significantly higher for banks rated high risk. The total number of securities

companies rated high was low compared to the total number of companies (112 in 2016), which may reflect a too-cautious approach to applying the RBS—although the OJK undertook onsite visits to another 13 securities companies and 22 investment managers rated moderate to high risk. All banks and securities are still subject to annual offsite monitoring, but those rated medium or low are visited only once every two or three years, respectively. Onsite inspection takes 10 working days, on average, and two to four supervisors are involved, depending on size and complexity.

321. For other OJK-supervised FIs, OJK has been implementing a risk-sensitive approach based on four risk factors, i.e. customers, geographic areas, products/services, and delivery channels. It has recently commenced implementing the RBS tools for insurance companies with 18 insurance companies rated high subjected to onsite visits in 2017. OJK is developing the RBS tool for other FIs and it will be implemented in the near future.

322. As indicated, BI commenced a full RBA in 2017, and, similar to the OJK, had a risk-sensitive approach that covered both offsite and onsite supervision. The BI's risk assessment tool does give greater weight to transaction mechanisms, characteristics, and distribution channels, in addition to the assessment of customer profiles, structural factors, and quality of AML/CFT implementation to derive a net risk rating/conclusion for each factor, and an overall institutional net risk rating using a heat-map table. Similar to OJK, professional judgement is used in calibrating the results. All FIs rated high risk as subject to annual onsite inspection. In October 2017, BI conducted seven onsite inspections of money changers and seven MVTS providers using the new risk-based approach. BI has undertaken several thematic supervisions on both MVTS and money changers as part of the annual integrated onsite inspection program. The AML/CFT onsite component includes using a standardised set of questions. Normally two to four supervisors visit for up to one week; the number of personnel and duration of each visit is dependent on the size, complexity, and the risk rating of the institution. For high-risk non-bank MVTS and money changers, the onsite may involve six supervisors for one week including visits to all branches. For more complex inspections, IT experts are involved, and/or undertaken jointly with PPATK.

323. For other financial supervisors, Bappebti has recently adopted its own RBS risk-rating tool for future traders and commenced its first onsite inspections in late 2017 of four future traders rated high risk. The RBS tool is similar to the tool used by PPATK with inherent risks and residual risks examined and considered.

324. The MCS has not undertaken any AML/CFT onsite inspection. PPATK has conducted offsite supervision of Pos Indonesia as a provider of depository services, which confirmed that Pos Indonesia is a low-risk depository service provider. BI has conducted onsite supervision of Pos Indonesia's delivery of domestic money-remittance services.

b) DNFBPs

325. PPATK, which is the goods and services provider supervisor, is the only DNFBP supervisor that has implemented risk-based supervision, but only for the two highest-risk sectors—namely, real estate and motor vehicles, and also auction houses. In 2013, it adopted the Compliance Risk Exposure Scoring Tool (CREST), which was amended in 2015 and onsite inspections since 2015 have focused on the two highest-risk sectors. The tool examines inherent risk and internal controls to arrive at residual risk and impact to identify the focus of onsite inspection. It is a customised version of a foreign supervisor's RBA tool for AML/CFT supervision of DNFBPs. However, given the numbers and geographic spread of these reporting entities across 34 provinces, only those rated high risk or medium to high risk are subject to onsite inspection—82 and 52 onsite inspections were conducted in 2016 and 2017 (as of October), respectively of those sectors. Importantly, PPATK has focused its onsite inspections of reporting entities located in the three provinces rated the highest risk for ML

and TF. There appears, however, no risk-based supervision, and no onsite inspections since 2015 of precious stones and metals dealers—there were only six onsite visits in the two preceding years. PPATK has stated that these onsite visits focused on large gold and jewellery dealers that accounted for 90–95% of market share. Most dealers do not hold items meeting the FATF's threshold. Nevertheless, a greater focus is warranted, as precious stones and metal dealers are rated medium risk in the ML NRA and TF NRA.

326. Other DNFBP supervisors have not implemented risk-based supervision. They are still preparing onsite supervision procedures including developing risk-based supervision based on the methodologies applied by PPATK. There has been no AML/CFT onsite supervision of notaries by the MLHR.

Core Issue 3.4: Remedial actions and effective, proportionate, and dissuasive sanctions

a) Banking, securities, insurance, and other FIs

327. In general terms, OJK remedial actions methodology is as follows. Deficiencies found during onsite inspections are first communicated to the FI in the form of a supervisory letter with an order of corrective action by the FI within a specified time limit. If the FI is assessed, in two onsite inspections, as failing to implement corrective actions, OJK will then impose further sanctions. Under OJK's existing AML/CFT sanction regime, these further sanctions include fines when violations relate to late submission of reports. For all other types of violations, OJK has the discretion to impose fines and other sanctions such as warning letters (see Table 3.2 and R.35).

328. Overall, OJK's actions have been predominately in the form of supervisory letters to FIs for remedial action (see Tables 3.1 and 3.2 below) and administrative sanctions. These relate mainly to CDD violations and lack of internal procedures and systems. There have been very few monetary sanctions issued, and those issued have been for relatively low amounts. OJK has demonstrated to some extent that other measures, such as supervisory warning letters, have had an impact on improving AML/CFT compliant behaviour (refer to IO.4). However, more dissuasive and proportionate sanctions should have, or could have, been applied where improvements were not timely. Regarding the securities sector, there are significantly more effective and proportionate sanctions applied for market-entry breaches (50 licences revoked) than for other AML/CFT breaches. There have been 176 administrative sanctions issued from 2014 to 2017 (mid) for other OJK-supervised FIs, mostly related to CDD violations.

Table 3.1: OJK's Supervisory Actions

FI	2014	2015	2016	2017
Bank				
Conventional bank	104	157	125	15
Remedial action after inspection	99	101	100	15
OJK's supervisory letter related to PPATK's special audit	5	19	-	-
OJK's supervisory letter related to late CTR reporting	-	37	-	-
Letter concerning quality Improvement of bank's compliance for AML CFT requirements	-	-	25	-
Sharia bank	11	20	13	12
Remedial action after inspection	11	11	13	12
OJK Corrective letter related to special audit conducted by PPATK	-	2	-	-
OJK Corrective letter related to delay in submission of CTR	-	7	-	-
Rural bank	1549	1550	1624	1613
Sharia rural bank	155	153	164	166

Capital Market				
Securities company	19	11	29	7
Investment manager	12	20	12	22
Custodian bank	5	4	5	2
Non-Bank Financial Industry				
Insurance broker company	-	-	2	6
Insurance company	3	-	-	18
Sharia insurance company	-	-	-	1
Finance company	-	-	2	-
Sharia finance company	-	1	2	-
Venture capital company	-	-	-	-
Sharia venture capital company	-	-	1	-
Pension fund	-	-	4	6
Pawnshop	-	-	1	3

Table 3.2: OJK's Administrative Sanctions

Year	Financial institutions	Administrative Sanctions			
		Fines on Report Delay		Sanctions other than Report Delay	
		Number of Sanctions	Amount of Fines (IDR)	Number of Sanctions	Type of Sanctions
2014	Banking	-	-	-	-
	Capital market	-	-	4	1 revocation of license; 3 sanctions of fines payment in total of Rp 250,000,000 (USD18,505)
	Non-Bank financial institutions	-	-	30	Written warnings
2015	Banking	-	-	1	restrict the financial institution's licence
	Capital market	-	-	2	Written warnings; fines payment of Rp 50,000,000 (USD3701)
	Non-bank financial institutions	-	-	60	Written warnings
2016	Banking	1	105,000,000	-	-
	Capital market	-	-	-	-
	Non-bank financial institutions	-	-	93	Written warnings; 45 sanctions in the form of offsite supervisory (3 suspensions of the financial institution's licence)
2017	Banking	72	273,000,000	-	-
	Capital market	-	-	-	-
	Non-Bank financial institutions	2	400,000	44	Written warnings
	Capital market	-	-	-	-
	Non-Bank financial institutions	-	-	-	-

329. As noted above, BI has sanctioned a large number of unlicensed money changers and MVTS providers. Prior to the onsite visit, BI had, with the cooperation of INP, identified and taken action against 751 unlicensed money changers and around 55 unlicensed MVTS (closed them down or forced them to obtain a license).

Table 3.3: BI's Supervisory/Administrative Sanctions

Type of Reporting Entities	AML/CFT Supervision											
	Number of Supervisory Action						Number of Administrative Sanctions					
	2012	2013	2014	2015	2016	2017	2012	2013	2014	2015	2016	2017
Money Value Transfer Service	9	3	8	25	33	29	4	2	6	14	17	11
Money Changer	83	66	75	128	161	175	76	44	55	44	83	70

330. For other financial supervisors, Bappebti has not issued any AML/CFT-specific sanctions as onsite inspections for AML/CFT only commenced in late 2017. It has issued some warnings to future traders for violations involving both prudential and AML/CFT requirements. Administrative fines have been issued, but they are of very low monetary amounts (under a few thousand USD each). The MCS has not issued any sanctions for AML/CFT. It is not clear whether PPATK has issued any sanctions to postal providers beyond recommendations to improve compliance.

b) DNFBPs

331. PPATK has applied some limited sanctions in the form of warning letters for AML/CFT. PPATK's sanctions have been to name publicly in its website some real estate agents/property companies for violations. Other DNFBP supervisors have not applied any sanctions for AML/CFT violations because of a lack of onsite inspection.

Core Issue 3.5: Impact of supervisory actions on compliance

a) Banks, securities, insurance, and other FIs

332. As indicated above, OJK's sanctions have been predominately in the form of administrative sanctions. There have been very few monetary sanctions issued, and those issued have been of relatively low amounts. OJK has demonstrated, to some extent, that other measures, such as supervisory warning letters, have had a dissuasive effect on improving AML/CFT-compliant behaviour (refer IO.4). OJK advised that there were improvements, for example, in the Board of Directors' and the Board of Commissioners' support of AML/CFT in FIs, and in internal policies and procedures. OJK provided the assessment team with its compliance rating of banks over the last 10 years to demonstrate improved AML/CFT compliance. According to OJK, in 2014, 61 banks were rated 'moderate' and 37 banks were rated 'good'. In 2016, 46 banks were rated 'good' (an increase of nine banks from 2014), and two banks were rated 'very good'. Banks that were previously rated as 'moderate' decreased from 62 banks to 52 banks. OJK has reported similar improvements in other OJK-supervised financial sectors, as evidenced by its compliance rating, although major improvements are still needed.

333. BI demonstrated to the assessment team that overall compliance levels among non-bank MVTS and non-bank money changers is improving. Over the last five to six years, improvements have been most evident in STR reporting, policies and procedures reflecting a strong effort by BI and PPATK to create awareness and engage the FIs.

334. For other financial supervisors, there is little evidence of improving compliant behaviour, given risk-based supervision is at an early stage. Bappebti has only recently commenced AML/CFT

onsite supervision and no AML/CFT-related sanctions have been imposed. It is too early to judge the impact of PPATK's supervisory actions on compliance among postal providers and savings and loans cooperatives.

335. For STR reporting, which has been a focus of OJK's and PPATK's supervisory activities, as noted in IO.4 and IO.6, there has been a ~18% increase in quality of STR reporting since 2016 (refer to IO.6.). DNFBP reporting also started in 2017. To improve STR reporting in relation to narcotics and environmental crimes, PPATK recently issued guidance on STR reporting for narcotics crimes, and at the time of the onsite visit PPATK was developing guidance for environmental crimes. Previously, PPATK had issued guidance on STR reporting related to the securities sector, corruption cases, and recent ML court decisions (refer IO.4 and IO.6).

b) DNFBPs

336. PPATK-supervised reporting entities in the real estate and motor vehicles sectors demonstrated some improvements in compliant behaviour with AML/CFT obligations. PPATK noted that, based on its inspection programme to date, the average compliance rating for reporting entities have improved from a rating of 2 'decent' to 3 'adequate'. Nevertheless, as noted above, the results have been on those subjected to onsite inspection, which are rated higher risk. Supervisory impact is limited in other DNFBPs (non-PPATK covered entities) because there has been no supervision.

Core Issue 3.6: Promoting a clear understanding of AML/CTF obligations and ML/TF risks

a) Banks, securities, insurance and other FIs

337. Indonesian financial supervisors and PPATK have been proactive and effective to a large extent in raising awareness of AML/CFT risks (e.g. disseminating the 2015 NRA, SRAs and the recent white papers on taxation and TF and AML/CFT obligations (e.g. guidance on identifying suspicious transactions for the major financial sectors, suspension transactions related to ML/TF, termination of transactions for the major financial sectors, and risk-based approach implementation). In addition: (i) PPATK has established e-learning for all stakeholders (http://elearning.ppatk.go.id/) and holds an annual feedback event with its Reporting Entities (REs) and industry associations; and (ii) OJK has established the Communication Forum and Coordination of Financial Service Sector (FKKSJK). FKKSJK is assisting FIs with their understanding of, and compliance with, their AML/CFT obligations by conducting workshops and training—since November 2015, the OJK has conducted over 30 workshops around Indonesia.

338. As a result of the above actions, major reporting entities (e.g. banks, securities) are fully aware of the key findings of risk assessments and have taken action in response. Other reporting entities have an adequate awareness of the key findings. While major FIs have considered these findings in their own risk assessments, they have not necessarily amended their risk ratings.

b) DNFBPs

339. PPATK has also been proactive in conducting awareness raising/socialisation, and it works closely with the MLHR, the Ministry of Finance, and relevant associations for DNFBPs to raise AML/CFT awareness. Given the number of reporting entities, promoting a clear understanding of both ML/TF risks and AML/CFT obligations among all DNFBPs is an ongoing challenge. Nevertheless, PPATK continues to run a comprehensive socialisation program and has issued guidance (e.g. on STR reporting).

Overall conclusions on Immediate Outcome 3

340. The two major financial and one major DNFBP supervisor—namely, OJK, BI, and PPATK, respectively—are implementing FPTs and risk-based supervision to a significant degree, although more dissuasive sanctions should be imposed to progress AML/CFT compliance, where warranted. OJK continues to make progress to undertake consolidated supervision of financial conglomerates. Most supervisors have delivered effective programs to promote a clear understanding of ML/TF risks and AML/CFT obligations. For other supervisors, particularly DNFBP supervisors of notaries, accountants and lawyers, fundamental or major improvements are needed in risk-based supervision and awareness raising.

341. **Indonesia has a moderate level of effectiveness on IO.3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key findings and recommended actions

Key findings

- Indonesia recently identified and assessed its ML/TF risks and vulnerabilities of legal persons created in Indonesia. While the conclusions of the risk assessment are reasonable, competent authorities have a mixed understanding of identified ML risks related to legal persons.
- Indonesia permits the registration and formation of a number of types of legal persons including limited liability companies (LLCs). LLCs may be public and have foreign ownership. Information on the creation and operation of LLCs is publicly available from the company registrar (MLHR), as is information on the creation and operation of Indonesia's other forms legal persons (limited partnerships, cooperative, foundations, and associations).
- Indonesia's mitigating measures include bearer shares can no longer be issued, nominee share ownership is prohibited, and a record of all share transfers must be maintained by the LLC and the MLHR must be informed. However, besides the removal of bearer shares, Indonesia provided limited evidence that it is enforcing these mitigating measures.
- All Indonesian legal persons are required to be established by notaries and register with the relevant competent authority. LLCs are required to provide basic information including on share ownership to the MLHR and obtain approval for operation as an LLC. This information must also be maintained by the company. Similar requirements are in place for other legal persons.
- As bearer shares can no longer be issued and nominee share ownership arrangements are prohibited, legal ownership and BO information (to the extent that it is held) of LLCs can be ascertained through the information maintained by the MLHR and the company. This information is available to competent authorities and is generally timely; however, the information may not be accurate or current because the MLHR conducts limited analysis/monitoring and verification and has limited ability to impose sanctions.
- Notaries are gatekeepers in the creation and management of LLCs and other legal persons and are legally subject to AML/CFT CCD and BO preventive measures. However, notaries are not implementing CDD obligations and no AML/CFT supervision has been conducted. Notary supervisors did not demonstrate that their limited non-AML/CFT supervision activities are effective.
- Competent authorities have access to CCD and BO information on legal persons from FIs with major banks, securities and insurance taking reasonable measures to identify and verify the identity of BOs. Therefore, this BO information is more accurate and current.
- Express trusts cannot be formed under Indonesian law; however, there is nothing preventing trusts or trustees, created under the law of another country, from operating in Indonesia. Indonesia has no direct mitigating measures for these foreign trusts or trustees, but major banks are taking reasonable measures to collect BO information on foreign trusts as part of CDD requirements. Therefore, this BO information is more accurate and current.

Recommended actions

- In line with IO.3 and IO.4, Indonesia should conduct outreach to notaries on their AML/CFT CDD and BO obligations and ensure that, through effective risk-based AML/CFT supervision, notaries'

comply with AML/CFT preventive measures.

- Indonesia should implement the Presidential Regulation on BO information (enacted after the onsite visit).
- Indonesia should consider reviewing the role of the MLHR concerning the verification of information subject to registration and consider granting the MLHR a more proactive role in that verification process.
- MLHR should impose effective, proportionate and dissuasive sanctions for non-compliance with registration and reporting requirements.
- In line with IO.3 and IO.4, to further enhance all FI and DNFBP compliance with AML/CFT CDD and BO obligations for legal persons and arrangements, Indonesia should continue to undertake outreach, provide guidance, and conduct risk-based AML/CFT supervision.
- Indonesia should implement enforceable measures to ensure foreign trusts or trustees disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold.

342. The relevant immediate outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 and 25.

Immediate Outcome 5 (Legal Persons and Arrangements)

Overview of the legal persons and arrangements in Indonesia

343. Indonesia permits the registration and formation of a number of types of legal persons including:

- limited liability companies (LLCs): formed pursuant to the Company Law 2007. LLCs may be public with additional governance under the Capital Market Law of 1995 and have foreign ownership through share purchase or subscription at the time of establishment.
- limited partnerships: formed under Article 19 of the Commercial Code.
- cooperatives (*koperasi*): formed under the Cooperative Law.
- foundations (*yayasan*) and associations (*persumpulan*): both are not-for-profit legal persons.

344. Express trusts or other legal arrangements with similar structures or functions cannot be formed under Indonesian law (see R.25 for further discussion); however, there is nothing in Indonesian law that prevents foreign trusts or trustees from operating in Indonesia.

Table 5.1: Number and Type of Legal Entities in Indonesia

Type of Legal entity	Number
Total public LLC	*2,064*
Foreign investment public LLC	*567*
Total Non-listed LLCs	*144,896*
Foreign investment non-listed LLC	*53,896*
Total LLCs	**146,754**
LPs	36,988
Cooperative	212,135
Foundations	47,266
Association	81,836

Core Issue 5.1: Public availability of information on the creation and types of legal persons and arrangements

345. Information on the creation and operation of LLCs, associations and foundations is publicly available from the company registrar's (MLHR) website (www.ahu.go.id).

346. Information on the creation of limited partnerships is available from local governments including their websites. Information on the creation and operation of cooperatives is available from the MCS.

Core Issue 5.2: Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

347. Indonesia recently identified and assessed the ML/TF risks and vulnerabilities of legal persons in the Risk Assessment of Legal Persons facilitated by an external consultancy firm and managed by PPATK with input from key competent authorities, FIs, DNFBPs, and industry associations. The risk assessment was performed based on the FATF methodology, which examines threats, vulnerabilities and consequences across several points of concern (POC) for both ML and TF. POCs include type of legal person, type of business activity, delivery channel and associated reporting entity with incoming/outgoing international transactions. For ML, the risk assessment concludes that: (i) LLCs are the most common form of legal person used in ML with no specific type of business activity significantly more preferable for ML; (ii) ML normally occurs via transfers in the banking sector; and (iii) Indonesia's highest international risks are associated with Singapore. For TF, the risk assessment concludes that foundations with religious missions are the most common form of legal person used in TF and, like ML, TF normally occurs via transfers in the banking sector.

348. The conclusions of the risk assessment are generally reasonable, and the document includes useful ML typologies and case studies and coverage of international threats and vulnerabilities associated with legal persons. However, it lacks a detailed analysis of the risk posed by foreign ownership of Indonesian companies.

349. There is some coverage of legal persons in the 2015 ML and TF NRAs with the findings in relation to legal persons broadly consistent across all three risk assessments.

350. Overall, competent authorities have a variable understanding of ML risks and vulnerabilities of Indonesian legal persons, and a lower level of understanding of the potential risk of foreign-owned or controlled LLCs, as follows:

- LEAs, particularly KPK, NNB and Detachment 88 in regard to legal person NPOs, displayed some understanding of risks and vulnerabilities of legal persons. As discussed in IO.7 and IO.9, there has been limited prosecution of legal persons, but LEAs provided a number of case examples where ML and predicate crime investigations involved legal persons, with LEAs expressing awareness of the risks related to the use of companies and the vulnerabilities associated with business ownership and basic information collection in Indonesia.
- OJK and BI demonstrated a sounder understanding of the ML/TF risks and vulnerabilities of FI's customers that are legal persons based on their AML/CFT supervision activities. Other FI supervisors demonstrated a varied understanding of customer ML/TF risks and vulnerabilities, while DNFBP supervisors, except for PPATK to some extent (see below), have limited understanding.

- PPATK demonstrated a sounder understanding of ML/TF risks and vulnerabilities of legal persons due primarily to its involvement in the risk assessments and the provision of basic and business-owner information to foreign counterparts (see IO.2).
- Notaries understand their obligations for the creation and maintenance of legal persons as regulated by primary notary legislation but lack a sound awareness of ML/TF risks and vulnerabilities of legal persons.

Core Issue 5.3: Mitigating measures to prevent the misuse of legal persons and arrangements

351. Indonesia has some mitigating measures aimed at preventing the misuse of legal persons, which are discussed below along with an analysis of their effectiveness in practice.

352. *Company incorporation and registration:* All Indonesian legal persons are required to provide basic information including share ownership, via electronic application, to MLHR and obtain approval in the form of the Minister's Decree (Article 7 of the Company Law). For cooperatives, basic information registration and subsequent approval is from the MCSME. For LLCs, registration with the MLHR must occur within 60 days of signing of the Deed of Establishment, and while the company can trade in its name during this time, it operates as an unlimited liability company, with founders (shareholders) having unlimited personal liability (Articles 10 (1) and 14 (1) and (2) of Company Law). Similarly, when a cooperative, foundation or association operates before approval by the MCSME or MLHR, those acting under the entity's name shall be personally responsible (Article 7 and Article 9 of Cooperative Law).

353. While MLHR and MCSME can reject electronic applications and MLHR does not accept applications where fields in its electronic forms are not completed, the MLHR and MCSME operate as essentially passive filing registries with limited analysis/monitoring and very limited verification of details provided to them. Both MLHR and MCSME did not demonstrate that they were rejecting applications where registration requirements were not met—it is unclear if sanctions imposed by MHLR on LLCs (see Core Issue 5.6) were imposed for non-compliance with company incorporation and registration requirements.

354. In addition, under the Law of the Republic of Indonesia Number 3 Year 1982 concerning the Obligatory Registration of Company (Company Registration Law), all types of entities incorporated in Indonesia and engaged in business activities (defined as any action, behaviour or activity in the economic sector that is conducted by an entrepreneur for the purpose of earning revenue and/or profits under Article 1(d) of the Company Registration Law) are required to register (and obtain a Trading Business License, abbreviated to SUIP) basic information and deed of incorporation with the Ministry of Trade through regional offices at the principal location of the business (Articles 11(2) and 11(3) of the Company Registration Law). Like the MLHR and MCSME, the Ministry of Trade operates as an essentially passive filing registry with limited analysis/monitoring and no verification of details provided to them. LLCs and all other legal entities must also obtain a Certificate of Business Domicile (SKDKP), Taxpayer Identification Number (NPWP) and Company Registration Certificate (TDP) from the relevant competent authority.

355. Furthermore, LLCs, foundations, and associations are required to maintain up-to-date basic information including changes to the Articles of Association, which must be filed with MHLR. It is unclear if cooperatives and LPs must file changes with the relevant competent authority. However, Indonesia provided no evidence that relevant competent authorities are enforcing these requirements.

356. *Foreign investment in LLCs:* Indonesian legislation only allows for foreign investment in LLCs through share purchase or subscription at the time of establishment. There is no minimum threshold

to be considered a foreign-owned LLC with the maximum allowable foreign ownership dependent on the business section of operation pursuant to the Negative Investment List. Foreign investment is subject to the mitigating measures described above and additional obligations imposed by the Capital Investment Coordinating Board in its approval process and related to control of company activities (BMPK Regulation No. 17 of 2015, in particular Article 4). For the establishment of a foreign-owned LLC, the minimum paid-up capital is 2.5 billion IDR (~185,000 USD). No evidence was provided to the assessment team on measures undertaken by the Capital Investment Coordinating Board to verify the source of funds, foreign investors, or business owners, or any other measures to prevent the misuse of Indonesian LLCs by foreign investors.

357. Foreign companies may also establish different forms of representative offices, which in general terms cannot earn revenue, import products, or own land and property—where transactions can be undertaken, they must be under the parent company name. Representative offices must be registered with the Ministry of Trade, as outlined above.

358. *Registration by notaries:* Incorporation and registration are required to be accompanied by a notarial deed. As indicated in the TC Annex under Article 17 of the AML Law and paragraph 12 (Section 1. General) in the Elucidation to the CFT Law, notaries are reporting parties and are required to undertake customer due diligence on their customers with records required to be maintained for five years. Notaries are licensed by MLHR and have to pass professional examinations. There are basic FPT requirements to qualify in the profession (see IO.3).

359. Overall, notaries have very limited internal AML/CFT controls and procedures and are conducting very limited customer identification and verification where required under AML/CFT or primary notary legislation. No AML/CFT supervision has been undertaken, and the MLHR and the Notary Association did not demonstrate to the assessment team that their limited supervision activities, mainly triggered by public complaints, are effective in ensuring compliance with requirements relevant to IO.5.

360. *Prohibition on bearer shares:* Bearer shares cannot be issued pursuant to the Company Law 2007 articles 48(1) and 50(1)(a). Under the previous company law (Law Number 1 Year 1995), bearer shares were permitted, but it is unclear if all of those shares have been dematerialised. However, (i) bearer shares of public companies were removed from the market in the transition to electronic script, and (ii) the Company Law includes provisions that cover conversion of bearer shares when a company modifies its Deed of Establishment (see below) or shares are transferred (see below). MLHR indicated to the assessment team that bearer shares were not widely used under the previous law and, given that limited liability companies (LLCs) are required to provide updated information to the MLHR, DG Tax and other competent authorities, outstanding bearer shares would have been detected. MLHR and LEAs did not indicate to the assessment team that they have identified bearer shares in any activities associated with LLCs. Limited partnerships, cooperatives, and foundations do not issue shares.

361. *Prohibition on bearer share warrants:* While bearer share warrants are not explicitly prohibited, the Company Law articles 56(1)–(5) stipulate that any transfer of shares shall be conducted with a 'deed of transfer', which must be submitted to the company in writing. Directors are then obligated to administer the transfer of rights and notify the minister responsible for the Act. The minister has discretion to refuse if certain identification requirements are not met as outlined in the article. Article 57 also provides further conditions on the transfer of shares. The combined effect of this article is to nullify the nameless transfers of shares through the mechanism of a bearer share warrant (the purpose of which is to effect transfers through share warrant terms). As above, MHLR and LEAs did not indicate to the assessment team that they have identified bearer share warrants in t*heir activities.*

362. Prohibition on nominee shareholder by domestic and foreign investors in LLC are prohibited under Article 33 (1) and (2) of the Capital Investment Law. Moreover, express trusts cannot be formed in Indonesia and therefore nominee shareholders under a trust arrangement cannot be formed. Indonesia provided no data on the prevalence of nominee arrangement that exist despite this prohibition, or actions taken to enforce this prohibition including against companies that utilise other forms of arrangements to limit powers and enforce nominee agreements.

363. Nominee directors are not explicitly prohibited. Indonesia did not provide evidence of measures in place to prevent their misuse.

364. Legal arrangements: As discussed above, express trusts or other legal arrangements with similar structures or functions cannot be formed under Indonesian law. Foreign trusts or trustees are not prohibited from operating in Indonesia but are subject to CDD and BO requirements, see below.

Core Issues 5.4 and 5.5: Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons and legal arrangements

365. Relevant competent authorities have adequate access to business-owner (BO) information on legal persons and foreign legal arrangements to the extent that accurate information is held by FIs, primarily major banks, securities, and insurance. In addition, BO information of LLCs can be ascertained through the information maintained by the company, notaries, and MLHR, as discussed in detail below. However, deficiencies in notary supervision and the passive filing function of the MLHR may limit the accuracy of this information.

366. Supervisors, LEAs, and PPATK have adequate and timely access to BO information from FIs using powers discussed in R.27, R.31 and R.29. Major FIs (banks, securities, and insurance) are taking reasonable measures to identify and verify the identity of business owners. As discussed in IO.3, banks, securities, and insurance companies have sound CDD policies and procedures based on an RBA. Banks pay special attention to higher-risk customers to verify whether they are acting on behalf of another person(s), and adopt enhanced due diligence, if applicable. For BO of legal persons, banks undertake reasonable measures to identify the BO, including accessing the MLHR registry, their own AML/CFT system, commercial providers, declarations from the customers regarding, online searches, other available tools, and onsite interviews, if needed. While FIs consider it challenging to identify the ultimate BO in certain circumstances because of the layers of legal ownership, FIs have suspended transactions in the event of any doubts regarding BO identities. All persons during the on-boarding stage must sign and declare whether or not they are the business owner.

367. Supervisors, LEAs, and PPATK indicated to the assessment team that information from major FIs was consistently provided in a timely manner when requested, including for ML/TF and predicate crime investigations. While LEAs consider it challenging to identify the ultimate BO in circumstances where there are multiple layers of legal ownership, case examples provided to the assessment team demonstrate that information from major FIs is actively used and is facilitating the identification of BOs in ML/TF and predicate crime investigations and asset tracing, particularly in regard to corruption cases.

368. Supervisors, PPATK, and LEAs have timely (see above discussion) and adequate access to BO information obtained by FIs as part of CDD for foreign legal arrangements. While FIs rely on the accuracy of information provided by the customer (see below), major banks usually refuse (and submit an STR) to open an account or commence a business relationship with customers that do not provide relevant information. Banks met during the onsite visit advised that, as part of their on-boarding procedures, there is a requirement for the potential customer to declare whether the account is being opened and/or will be operated on behalf of another person, which is used to identify persons that may be trustees for foreign trusts.

369. Supervisors, PPATK, and LEAs have adequate access to basic information on LCCs, associations, and foundations maintained by the MLHR with key competent authorities having direct access to the MLHR database. As bearer shares and nominee share ownership arrangements are prohibited, legal ownership and BO information of LLCs can be ascertained through the information maintained by MLHR. For information on LLCs, there is timely access to post-2001 information as these records have been migrated to MLHR's online database (available from www.ahu.go.id)—pre-2001 physical records are available. For information on associations and foundations, there is timely access to post-2004 information as these records have been migrated to the MLHR's online database—physical records are available pre-2004. However, information maintained by the MLHR may not always be accurate or current because MLHR conducts limited analysis/monitoring or verification and has limited ability to impose sanctions (see Core Issue 5.6). Furthermore, there are deficiencies in notary supervision.

370. Notwithstanding the above, during the onsite visit LEAs did articulate to the assessment team that they use MLHR's information in their ML/TF and predicate crime investigations (see Table 5.2) and that this information facilitates their investigation processes.

Table 5.2: Number of Times LEAs and Competent Authorities Accessed MLHR Data

Agency	2013	2014	2015	2016	Oct 2017
KPK	0	0	751	987	1289
Commission for the Supervision of Business Competition	0	0	1	1	534
Ministry of Environment	0	0	0	0	145
INP[25]	0	0	164	234	0
PPATK	0	0	0	0	0
NNB	0	0	0	0	0

371. LEAs, using powers discussed under R.31, have access to other sources of basic information on legal persons, which is maintained by agencies that issue SKDKP, SIUP, and TDP, and information maintained on LPs in the local District Courts. While Indonesia did not demonstrate that relevant competent authorities had a mechanism to ensure this information was accurate and current, LEAs did not indicate that the time required to obtain this information was unreasonable and they also indicated the information, used as a secondary information source, did facilitate their ML/TF and predicate crime investigations to some extent.

372. LEAs have adequate access, using powers discussed under R.31, to basic information maintained by LLCs, cooperatives, associations, foundations, cooperatives, and LLPs. To the extent that it is held by LLCs, legal ownership and beneficial-ownership information of shares can be ascertained through the List of Shareholders, which must be kept at the company's registered headquarters. LEAs did not indicate the time required to obtain this information was unreasonable and they also indicated the information did facilitate their ML/TF and predicate crime investigations. LEAs and MLHR supervisors have adequate access, using powers discussed under R.31 and R.29, to basic information that is maintained as part of notaries' gatekeeper role in the creation and maintenance of LLC and other legal persons. To the extent that it is held, legal ownership and BO information of LLCs can be ascertained through the Deed on Transfer of Rights, if notarised. Basic information of legal persons is maintained by notaries. As discussed in IO.4, notaries have a reasonable understanding of the ML/TF risks and of their AML/CFT obligations but have not implemented an RBA, enhanced or specific measures and are not filing suspicious transaction reports. Furthermore, no AML/CFT supervision has been undertaken, and the MLHR and the Notary

[25] These are requests to MLHR and not online access.

Association did not demonstrate to the assessment team that their limited supervision activities, mainly triggered by public complaints, are effective in ensuring compliance with requirements related to IO.5. Because of this, notary information may not always be accurate, particularly customer verification information, where it is available.

373. Besides the DG Tax itself, it is unclear which other competent authorities have access to information maintained by the DG Tax, and for what purpose any information obtained can be used. As part of their annual income tax returns, LLCs must submit basic information about each shareholder and a tax file number.

Core Issue 5.6: Effectiveness, proportionality and dissuasive sanctions

374. Limited sanctions are available, as stated in R.24, to MLHR and notary supervisors (see also R.35), and Indonesia provided very limited evidence of their effective use, as detailed below.

375. Table 5.3 shows the sanctions imposed by MLHR; however, it is unclear which sanctions were imposed for non-compliance with company incorporation or registration requirements.

376. Notary supervisors have imposed some sanctions, mainly in the form of warnings; however, they were mainly imposed for non-compliance with notary legislation not directly relevant to IO.5.

Table 5.3: Sanctions Imposed by MLHR

Type of Sanction	2014	2015	2016
LLCs			
Warning	0	0	0
Limitation of business activities	0	0	0
Revocation	0	0	22
Fine	-0	0	0
Dissolution	777	1,466	2,330
Foundations			
Warning	0	0	0
Limitation of business activities	0	0	0
Revocation	0	0	4
Fine	0	0	0
Dissolution	0	0	16
Associations			
Warning	0	0	0
Limitation of business activities	0	0	0
Revocation	0	0	1
Fine	0	0	0
Dissolution	0	0	0

Overall conclusions on Immediate Outcome 1

377. Indonesia's recent risk assessment of legal persons is reasonable, but competent authorities demonstrated a mixed understanding of legal persons' ML risks. Bearer shares and nominee share-ownership arrangements are prohibited and there are established company formation and maintenance, including share transfer, and registration requirements with the MLHR. However, with the exception of bearer shares, Indonesia did not demonstrate effective enforcement of these mitigating measures, and Indonesia did not demonstrate that notaries, as gatekeepers in company formation and maintenance, are preventing the misuse of legal persons or ensuring accurate information is filed with the MHLR. Notwithstanding this, in line with the dominate role of banks in Indonesia's financial sector, the team has placed significant weight on supervisors', LEAs' and PPATK's

adequate and timely access and active use of more accurate and up-to-date BO information on legal persons maintained by major FIs. In addition, legal arrangements cannot be formed under Indonesian law, and major banks are collecting BO information on foreign trusts or trustees, which is available to supervisors, LEAs, and PPATK in a timely manner.

378. **Indonesia is rated a moderate level of effectiveness on IO.5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Key findings and recommended actions

Key Findings

- Between 2013 and 2017 Indonesia received 59 incoming MLA requests with approximately 58% completed including two completed requests related to ML and two completed requests related to terrorism. The MLHR, as the central authority for MLA, provides an initial response to incoming requests and is undertaking activities to facilitate and expedite the MLA process. However, the percentage of pending cases suggests Indonesia is not consistently providing constructive MLA, and Indonesia did not demonstrate that its responses in completed MLA cases were consistently provided in a timely manner.
- Since 2013, Indonesia has made a total of 92 outgoing MLA requests including 17 requests related to ML. Outgoing money-laundering MLA requests primarily relate to higher-risk predicate crimes of narcotics and, to a lesser extent, to corruption. The predicate crime outgoing requests are mostly for corruption, and requests are mainly to higher-risk jurisdictions. However, in the assessment team's view, LEAs do not extend their ML and predicate crime investigations outside of Indonesia in terms fully commensurate with Indonesia's ML risk. In general terms, Indonesia has the capability to execute outgoing MLA, and MLHR is undertaking activities to support timely and constructive MLA where LEAs cases do generate MLA requests. Indonesia has made four TF/terrorism MLA requests, which is consistent with Indonesia's TF risk, given the time-sensitive nature of its TF/terrorism activities and uses other forms of cooperation.
- Since 2012, Indonesia has made six extradition requests for a total of 14 individuals with one case, related to cybercrime, theft and ML, fulfilled. Indonesia has not made an extradition request related to TF.
- Indonesia has been substantially more effective in its use of other forms of cooperation for TF, which is in line with its TF risk profile. Detachment 88 uses the INP liaison network, which includes liaison officers in strategic TF jurisdictions, and counterpart-to-counterpart mechanisms to combat terrorism/TF. Furthermore, PPATK is actively cooperating on TF including responding to and making terrorism/TF-related requests and making proactive disseminations.
- For ML and other predicate crimes, competent authorities, with the exception of PPATK and KPK, are not pursuing other forms of cooperation. As above, the scope of ML and predicate crime investigations/prosecutions and asset confiscations tends to be restricted to Indonesia.
- Overall, supervisors', primarily OJK's, use of other forms of cooperation is consistent with Indonesia's ML/TF risks and context.
- PPATK is responding to 39 requests related to business-owner (BO) information and has made two proactive disseminations. OJK and BI have exchanged basic and BO information in relation to fit-and-proper tests.

Recommended actions

- Indonesia should enhance the capability of legal enforcement agencies to focus on money laundering and predicate offences with international elements and actively seek mutual legal assistance and use international cooperation in their money-laundering and predicate crime

investigations, where appropriate.

- Indonesia should enhance the MLHR's ability to consistently provide constructive and timely MLA through enhancement of procedures for prioritisation of requests, systems for detailed request monitoring, and additional resources to enhance the MLHR's capacity to undertake its activities throughout Indonesia.
- Competent authorities should continue to establish, strengthen and improve their agency-level cooperation mechanisms including MOUs and other bilateral mechanisms, and increase the use of informal international cooperation to support ML and predicate crime investigations and confiscation action, in line with Indonesia's ML risks to and from abroad.

379. The relevant immediate outcome considered and assessed in this chapter is IO2. The recommendations relevant for the assessment of effectiveness under this section are R.36–40.

Immediate Outcome 2 (International Cooperation)

General framework and ML/TF risks

380. Indonesia is providing and seeking MLA and extradition in accordance with the MLA Law 2006, Extradition Law 1979, its bilateral/multilateral agreements and international mechanisms including cooperation based on the principle of reciprocity. The MLHR is the central authority for MLA. MLA requests may come directly to the MLHR in the event of an MLAT (an MLA treaty) and non-coercive measures, or via diplomatic channels in the absence of an MLAT (on the basis of reciprocity)—in both cases the MLHR coordinates the MLA. MLA activities are conducted by the Directorate of Central Authority and International Law, which has 10 staff including five analysts.

381. As discussed in IO.1, since the 2015 ML national risk assessment, Indonesia has continued to develop its international ML understanding including through the recent publication of *Money laundering threat assessment from and to abroad*, which identifies that Indonesia's primary foreign predicate crime risks are corruption, fraud and narcotics crimes from Singapore, United States and Australia. In terms of laundering the proceeds of Indonesia's higher-risk predicate crimes off-shore, Indonesia has identified Singapore, China, and Hong Kong as the main destination jurisdictions. For TF, Indonesia has a sound understanding of its TF risks from abroad, primarily relating to Syria and the Philippines. In line with these risks, Indonesia has MLA treaties with Australia, China, and Hong Kong, and a multilateral MLAT with ASEAN jurisdictions including Singapore, and the INP has liaison officers in Australia, China, Philippines, Singapore, Turkey, and the United States.

Core Issue 2.1: Responding with constructive and timely mutual legal assistance (MLA) and extradition

382. Between 2013 and 2017, Indonesia received 59 MLA requests with approximately 58% completed at the time of the ME onsite visit, including two completed MLA requests related to ML (see Table 2.1) and two completed MLA requests related to terrorism (see Table 2.1). One MLA request was withdrawn. MLHR has high-level procedures and prioritisation criteria for responding to requests (which are available online to foreign jurisdictions), and a database to assist in basic monitoring of incoming MLA requests. As an example of the functionality of the database: (i) it does not prompt case officers on deadlines or outstanding requests from domestic LEAs; and (ii) while Indonesia was able to provide the assessment team with data on the timeliness of Indonesia's initial

response to an MLA request (see Table 2.2), it was unable to provide data on the timeliness of completed incoming MLA requests (see Table 2.1).

383. The combination of Tables 2.1 and 2.2 shows that MLHR provided an initial response to all incoming MLA requests. Depending on the nature of these incoming requests, the initial response may have included: (i) acknowledgement of the request; (ii) part fulfilment of the request where information is readily obtainable by competent authorities; and/or (iii) a request for further information to verify compliance with Indonesia's legal requirements. While Indonesia has not refused incoming MLA requests based on the principle of dual criminality,26 it has refused one incoming MLA request (the refused request did not relate to ML/TF or a profit-driven crime).

384. However, approximately 42% of incoming MLA requests remain pending (see Table 2.2) including nine requests from 2013. Most requests are pending because additional information from the requesting jurisdiction is needed, but some requests are pending due to challenges in obtaining the requested information from the regional level in Indonesia or locating individuals in Indonesia. The assessment team acknowledges that MLHR has limited control of pending cases where additional information has been requested; MLHR is undertaking activities—for example, case work meetings with foreign and regional competent authorities—to facilitate and expedite the MLA process; and in the majority of cases Indonesia's initial response to incoming MLA is timely (see Table 2.2). Notwithstanding this, the percentage of pending cases suggests Indonesia is not consistently providing constructive MLA.

385. Regarding completed MLA requests, Indonesia has competed requests related to ML and terrorism and other higher-risk foreign predicate crimes (see Case 2.2 and Table 2.1) and with higher-risk jurisdictions (see Case 2.1 and Case 2.2). However, critical to the assessment team's conclusion regarding effectiveness, Indonesia did not demonstrate that its assistance in completed MLA requests was consistently timely. The Global Network request for input on international cooperation with Indonesia did not include any negative feedback.

Table 2.1: Number of Completed Incoming MLA Requests between 2013 and 2017

Offence	2013	2014	2015	2016	2017	Total
Total number of requests	*13*	*20*	*11*	*6*	*9*	***59***
ML (all predicates)	1	1	0	0	0	**2**
TF	0	0	0	0	0	**0**
Terrorism	0	1	0	1	0	**2**
Corruption	0	1	0	0	0	**1**
Narcotics	0	1	0	0	0	**1**
Tax	0	1	0	0	0	**1**
Environmental crime	0	0	0	0	0	**0**
Fraud	1	8	3	1	2	**15**
All other predicate crimes	1	5	0	1	3	**10**
Total	**3**	**18**	**3**	**3**	**5**	**32**

Table 2.2: In Progress Incoming MLA

Year	Number of in-progress requests	Initial response within ~3months	Initial response within ~6 months	Initial response within ~1 year
2013	9	4	1	4
2014	2	2	0	0
2015	7	3	0	4
2016	3	2	1	0
2017	4	2	2	0

[26] The application of the principle of dual criminality is at the discretion of the MLHR and/or regulated by individual MLAT.

Total	**25**	**13**	**4**	**8**

Case 2.1: Incoming MLA with Singapore

In order to trace the funds transferred from the victim (in Singapore) to the suspect's account in Indonesia, MLHR and the Singaporean Central Authority engaged in informal cooperation and MLA. Informal communication was used to obtain initial data and information with bank-account information provided to the Singaporean Central Authority under MLA.

Case 2.2: Incoming MLAT in Relation to FTF

In order to establish that person X travelled from Australia to Syria via Indonesia, MLHR provided Australia with an affidavit confirming person X arrived in Denpasar Airport from Australia and departed on a flight to Turkey from Denpasar Airport.

386. Extradition: Since 2013, Indonesia has received a total of 27 extradition requests (see Table 2.3) with one case related to ML in 2017 (case still in progress). While the MLHR has high-level procedures for responding to extradition requests and a database for basic monitoring of incoming requests (see above discussion of deficiencies), only four cases have been completed (about 17%). These completed cases have been executed via treaties, or were based on the principle of reciprocity, and took, on average, one and a half years to complete. Similar to MLA, for most pending cases, Indonesia requires additional information from the requesting jurisdiction or the individual has not been located within Indonesia. The three refused cases from 2015 relate to capital crimes for which Indonesia does not extradite individuals.

Table 2.3: Incoming Extradition Cases between 2013 and 2017

Year	Number of requests	Number of completed cases	Number of in-progress cases	Number of withdrawn cases or voluntary return to requesting jurisdiction	Number of Refusals
2013	3	0	1[27]	2	0
2014	4	2	1	1	0
2015	6	2	1[2]	0	3
2016	4	0	3[28]	1	0
2017	10	0	8[29]	2	0
Total	**27**	**4**	**14**	**6**	**3**

Core Issue 2.2: seeking in a constructive and timely way MLA and extradition

387. As displayed in Table 2.4, since 2013 Indonesia has made a total of 92 outgoing MLA requests including 17 requests related to ML—28% of all Indonesia's outgoing MLA requests have been fulfilled. Outgoing ML MLA requests primarily relate to higher-risk predicate crimes of narcotics and, to a lesser extent, to corruption, and the predicate crime outgoing MLA requests are mostly for corruption (see Case 2.3), which is Indonesia's highest ML risk. In addition, MLA requests were primarily made to Indonesia's higher-risk jurisdictions, such as Australia, Singapore, Hong Kong, and Malaysia.

27 Case is outstanding due to outstanding information from the requesting jurisdiction.
28 Two cases are outstanding due to outstanding information from the requesting jurisdiction.
29 Four cases are outstanding due to outstanding information from the requesting jurisdiction.

388. Similarly, the MLHR is undertaking activities that support timely and constructive outgoing MLA, including follow-up emails, informal letters and counterpart-to-counterpart communication. Furthermore, the MHLR provided evidence that Indonesia is using casework meetings to assist in the timely and constructive completion of LEAs' outgoing MLA requests. Between March 2016 and November 2017, Indonesian competent authorities (MLHR and LEAs) held 12 casework meetings, with Australia, China, Hong Kong, China, Jersey, Malaysia, the Philippines, Singapore, Thailand, and Vietnam, related to Indonesia's outgoing MLA requests. In most cases Indonesian competent authorities travelled to the respective foreign jurisdiction.

389. Notwithstanding the above and that overall Indonesia has more outgoing MLA requests than incoming MLA requests (see comparison between Table 2.1 and Table 2.4), in the assessment team's view the level of outgoing MLA is not fully commensurate with Indonesia's ML risks, particularly in relation to narcotics, taxation and other medium risks such as forestry/environmental crimes. In the assessment team's view, the primary reason for this is LEAs that investigate these offences only extend their ML and predicate crime investigations outside of Indonesia (particularly in the use of foreign evidence) to a limited extent and not consistently.

390. Indonesia has made four TF/terrorism MLA requests, which is consistent with its TF risk, given the time-sensitive nature of Indonesia's TF/terrorism activities, and uses other forms of cooperation (see Core Issues 2.3 and 2.4). Indonesia has five cases where it has taken action in relation to property moved overseas. These cases are primarily related to corruption and narcotics, with Hungry, Australia, Singapore, and Jersey and one case involving freezing of ~189.5 million USD in 11 jurisdictions (see IO.8 Box 2 and Case 2.3). As discussed in IO.8, Indonesia is only extending its asset-recovery activities outside of Indonesia to a limited extent, as courts are not consistently issuing asset-confiscation orders for assets known or suspected to be located abroad.

Table 2.4: Outgoing MLA Cases between 2013 and 2017

Offence	2013	2014	2015	2016	2017	**Total**
Total outgoing MLA	**5**	**19**	**28**	**20**	**21**	**92**
Completed outgoing MLA						
ML (all predicates)	1	0	0	1	2	**4**
TF/terrorism	0	0	2	2	0	**4**
Corruption	4	3	0	3	1	**11**
Narcotics	0	0	0	0	0	**0**
Tax	0	0	0	0	0	**0**
Forestry/environmental crime	0	0	0	0	0	**0**
Fraud	0	0	1	0	0	**1**
All other predicate crimes	0	1	1	3	2	**7**
Sub-total	**5**	**4**	**4**	**9**	**5**	**27**
In progress outgoing MLA						
ML (all predicates)	0	1	0	3	9	***13***
TF/terrorism	0	0	0	0	0	***0***
Corruption	0	2	19	2	4	***27***
Narcotics	0	0	0	0	0	***0***
Tax	0	0	0	0	0	***0***
Forestry/environmental crime	0	0	0	0	0	***0***
Fraud	0	8	4	1	0	***13***
All other predicate crimes	0	4	1	4	3	***12***
Sub-total	**0**	**15**	**24**	**10**	**16**	**65**

391. *Extradition:* Since 2012, Indonesia has made a total of six extradition requests for 14 individuals with one case withdrawn, two cases declined, two cases in progress, and one case (related

to cybercrime, theft and ML) completed with Serbia. Indonesia has not made an extradition request related to TF. Similar to MLA, in the assessment team's view, the primary reason for the lower number of outgoing extradition cases is that LEAs only extend their ML and predicate crime investigations outside of Indonesia to a limited extent.

Case 2.3: MLA as Part of a Parallel Corruption Investigation (Innospec Case)

As part of a parallel investigation between KPK and the UK Serious Fraud Office (SFO) of Innospec, commenced in 2010, Indonesia received: (i) witness statements, authenticated copies of documents, electronic evidence including email correspondence from the UK between 2010 and 2015; (ii) witness statements and related correspondence from the Financial Investigation Agency, company ownership and control information documentation including Articles of Association and Share Ownership from British Virgin Islands between 2011 and 2013; and (iii) affidavit, copies of account opening forms and account statements, funds-transfer documentation, company ownership and control information, email and telephone communication from Singapore between 2011 and 2014. As a result of the investigation, three persons were found guilty of corruption and sentenced to three to seven years in prison and fined between 50 million IDR (~3,700 USD) and 200 million IDR (~14,800 USD) each.

Furthermore, Singapore has frozen a total of 198,134.66 USD upon request of the MLHR, and at the time of the onsite visit Indonesia and Singapore were in discussion regarding the repatriation of funds.

Core Issues 2.3 and 2.4: Seeking and providing in a constructive and timely way other forms of cooperation

Other forms of cooperation related to law enforcement and FIU activities

392. Indonesia is using other forms of cooperation to combat terrorism and TF, and to a lesser extent ML and predicate crimes, as discussed below in detail.

393. *Other forms of cooperation for TF:* In line with Indonesia's TF risk profile, its activities and the timeliness of other forms of cooperation, Indonesia actively engages in other forms of cooperation with foreign counterparts to combat terrorism/TF. INP (Detachment 88) has 15 liaison officers in 11 jurisdictions (including liaison officers in strategically important jurisdictions from a TF perspective such as the United States, Philippines, Malaysia, Singapore, and Turkey) and 54 MOUs with 34 jurisdictions. In general terms, liaison officers help and obtain help from foreign law enforcement counterparts in a rapid, constructive and effective manner to support the domestic and foreign terrorism/TF activities of Detachment 88.

394. Informal mechanisms such as counterpart-to-counterpart international cooperation are also often used by Detachment 88—for example, with the Philippines, Malaysia, Australia and the United States, to support their domestic and regional terrorism/TF activities. Detachment 88 also has an MOU with a major international MVTS covering Indonesia's higher-risk remittance channels, which is used to obtain remittance data to support domestic and foreign terrorism/TF activities.

395. PPATK has 52 MOUs with foreign FIUs in accordance with Egmont Group principles. Since 2014, PPATK has made 270 information exchanges related to terrorism/TF with foreign FIUs (see Table 2.5). In general terms, the team concludes that PPATK is seeking and providing timely and constructive other forms of international cooperation in relation to terrorism/TF.

Table 2.5: PPATK Terrorism/TF Information Exchange with Foreign FIUs

Type of exchange	2014	2015	2016	2017	Total
Incoming request	6	9	7	11	**33**
Outgoing request	-	-	4	-	**4**
Incoming dissemination	-	151[30]	50[31]	13	**214**
Outgoing dissemination	-	11	5	3	**19**
Total	**6**	**171**	**66**	**27**	**270**

396. In addition, as part of its analyst-exchange programs, PPATK has undertaken a number of joint analyses related to terrorism/TF with foreign jurisdictions, namely: (i) 2014 PPATK and Australian Transaction Reports and Analysis Centre (AUSTRAC) joint analysis of Child Sex Exploitation and Terrorist Financing; (ii) 2015 PPATK and AUSTRAC ISIS project; (iii) 2015 PPATK and AUSTRAC joint analysis of wildlife crime and terrorist financing; (iv) 2016 PPATK, AUSTRAC and Bank Negara Malaysia (BNM) joint analysis of tax crime and terrorist financing.

397. *Other forms of cooperation for ML and predicate crimes:* The use of other forms of cooperation for ML and predicate crimes is not at the same level as for terrorism and TF. As discussed in IO.7 and IO.8, in general terms the scope of ML and predicate crime investigations/prosecutions and confiscation activities tends to be restricted to Indonesia. Nonetheless, LEAs do have mechanisms that are used, to some extent, for international cooperation, as outlined below, and PPATK makes effective use of other forms of international cooperation, including requests made on behalf of LEAs. The Global Network request for input on international cooperation with Indonesia did not include any negative feedback.

398. PPATK, in accordance with its MOUs and membership in Egmont, since 2014 has made 65 outgoing spontaneous disseminations, 102 information requests, and received 257 incoming requests and 433 incoming spontaneous disseminations (see Table 2.6). In addition, PPATK has made a total of 54 outgoing requests on behalf of LEAs, as displayed in Table 2.7. In general terms, the team concludes that PPATK is seeking and providing timely and constructive other forms of international cooperation in relation to ML and predicate crimes in line with Indonesia's ML risks and higher-risk jurisdictions.

Table 2.6: PPATK ML and Predicate Crime Information Exchange with Foreign FIUs

Type of exchange	2013	2014	2015	2016	2017	Total
Incoming mutual request	52	46	71	84	56	**309**
Outgoing mutual request	36	15	18	31	38	**138**
Incoming dissemination	18	43	194	105	91	**451**
Outgoing dissemination	1	4	11	14	36	**66**
Total	**107**	**108**	**294**	**234**	**221**	**964**

Table 2.7: PPATK Outgoing MOU Requests on Behalf of LEAs

Agency	2014	2015	2016	2017	Total
DG Tax	3	1	7	1	**12**
KPK	2	4	1	17	**24**
NNB	2	0	1	1	**4**
INP	1	3	6	2	**12**
AGO	0	0	0	2	**2**
Total	**8**	**8**	**15**	**23**	**54**

30 136 of the 151 requests were sent to multiple FIUs.
31 35 of the 50 requests were sent to multiple FIUs.

399. *KPK* has 27 MOUs with foreign jurisdictions including the South East Asian Parties Against Corruption MOU with key regional partners. While information provided to the assessment team does not enable a conclusion on the timeliness of KPK's counterpart cooperation, it is noted that since 2013, KPK has completed 58 incoming requests and made 102 outgoing requests (see Table 2.8). Furthermore, KPK has conducted two corruption investigations in parallel with foreign competent authorities: one case was with the UK Serious Fraud Office (see Case 2.3) and one case was with the FBI (see Case 2.4).

Table 2.8: KPK ML and Corruption Information Exchange with Foreign Jurisdiction

Agency	2013	2014	2015	2016	2017	Total
Incoming requests	3	10	17	14	14	**58**
Completed Incoming requests	3	10	17	14	14	**58**
Outgoing requests	16	13	10	6	57	**102**
Completed outgoing requests	16	13	10	6	55	**100**

Case 2.4: Other Forms of Cooperation in a Corruption Case (Alstom case)

Between 2011 and 2014 KPK conducted a parallel investigation of an energy consortium (Alstom) with the FBI, which involved MLA and other forms of cooperation with Japan and the United States. As part of the investigation, KPK received bank and company documents from Japan and the United States, and provided bank documents, contract details and project documents and a PPATK analysis report to the United states.

400. *NNB:* While statistics were not provided to the assessment team, NNB has 18 MOUs with several jurisdictions and provided some case examples with international cooperation through participation in several international cooperation forums as well as in informal agency-to-agency cooperation.

401. *INP:* As discussed above, INP has 54 MOUs with 34 jurisdictions and 15 liaison officers in 11 foreign jurisdictions; however, details of the use of this liaison network for ML or predicate crimes was not provided to the assessment team. The INP has an International Cooperation Bureau with 16 staff and coordinates INP internal cooperation activities including via MLA and Interpol. Since 2013 Indonesia has completed 97 incoming requests and made 104 outgoing requests. However, the proportion of requests that relate to ML or higher-risk predicate crimes and to higher-risk jurisdictions is unclear, and INP did not demonstrate it is seeking or providing other forms of cooperation in a timely manner.

Table 2.9: INP ML and Predicate Offence Information Exchange with Foreign Jurisdictions

Agency	2013	2014	2015	2016	2017	Total
Incoming requests	25	16	17	26	18	**102**
Completed Incoming requests	25	16	17	26	13	**97**
Outgoing Requests	18	22	10	15	39	**104**
Completed outgoing requests	13	16	7	11	37	**84**

402. *AGO* has three liaison officers in three jurisdictions, 20 MOUs, is a member of ARIN-AP, and since 2013 AGO has completed 25 incoming requests and made three outgoing requests. However, it is unclear the proportion of requests that relate to ML or higher-risk predicate crimes and to higher-risk jurisdictions, and AGO did not demonstrate it is seeking or providing other forms of cooperation in a timely manner.

403. *DG Customs* has eight cooperation agreements with foreign jurisdictions. DG Customs provided some case examples of international cooperation related to narcotic seizures; and since 2015 it has completed 30 incoming requests and made nine outgoing requests. However, DG Customs did not demonstrate it is seeking and providing other forms of cooperation in a timely fashion.

404. *DG Tax* has established a directorate for information exchange for tax purposes and is taking steps to foster information exchange in line with OECD Standards (Organisation of Economic Co-operation and Development) including recently enacted legislation to foster financial information exchange for tax purposes, and it has 63 agreements to avoid double taxation and four Tax Information Exchange Agreements. Since 2014 DG Tax has completed one incoming request and made six outgoing requests related to tax offence investigations. However, DG Tax did not demonstrate it is seeking and providing other forms of cooperation in a timely fashion.

Other forms of cooperation related to supervision activities

405. Overall, use of other forms of international cooperation, such as MOUs, by supervisors, primarily OJK, is in line with usual supervisory activities and commensurate with the ML/TF risks and vulnerabilities in Indonesia's financial sectors, particularly given the dominance of domestic financial institutions, with limited offshore presence, and OJK's role as the main financial supervisor. There has been no international cooperation related to the AML/CFT supervision on DNFBPs.

406. OJK has been engaged in international cooperation through several mechanisms and has 18 cooperation agreements with foreign jurisdictions and international organisations, and 14 multilateral MOUs. It exchanges information with key counterparts in Malaysia and Singapore regularly. OJK has a designated international cooperation officer with internal policies and procedures. OJK's international cooperation is primarily with regional partners with the number of incoming and outgoing requests shown in Table 2.10, and a case example provided in Case 2.5.

Table 2.10: OJK International Cooperation

	2013	2014	2015	2016	2017	Total
Outgoing requests	45	54	48	40	55	**242**
Completed incoming requests	2	3	10	26	15	**56**
Total	**47**	**57**	**58**	**66**	**70**	**298**

Case 2.5: OJK Cooperation in case PT Royal Investium Sekuritas

PT Royal Investium Sekuritas, a securities company licensed by OJK as Underwriter and Securities Trading Broker, was majority-owned by IDS Forex HK Limited, a securities company domiciled in Hong Kong, and had secured an activity license from Securities and Futures Commission (SFC) Hong Kong, China IDS Forex HK Limited was entirely owned by Mr Kim Sunghun, who was domiciled in Korea and was a Korean citizen. Based on information obtained from SFC, it was known that Mr Kim Sunghun was convicted of illegal fundraising and fraud in South Korea and sentenced to 12 years in prison.

Considering that the Controlling Shareholder of PT Royal Investium Sekuritas was IDS Forex HK Limited, OJK sent request to SFC Hong Kong to confirm Mr Kim Sunghun was the controlling shareholder of IDS Forex HK and clarify SFC Hong Kong's actions on the matter. SFC responded to OJK's request for information confirming Mr Kim Sunghun as a shareholder of IDS Forex HK and that Hong Kong was still investigating the case.

Based on that information, OJK, pursuant to the Capital Market Law and OJK Law, prohibited PT Royal Investium Sekuritas from conducting any corporate actions and/or to disburse funds in any form, except for the payment of personnel expenses and routine operating expenses.

407. BI has a designated international cooperation department, and since 2013 it has exchanged information with foreign counterparts, primarily Malaysia, on 16 occasions, nine for AML/CFT purposes in the form of 11 face-to-face meetings, three outgoing requests and two incoming requests. As an example, in the licensing process, BI has sought assistance from competent authorities in Malaysia to ensure the legitimacy and reliability of foreign remittance partners with the remittance licensee in Indonesia.

408. While Bappebti has an MOU with the Australian Securities and Investments Commission, it is unclear if it has engaged in international cooperation under this agreement or engaged in international cooperation with any other foreign entities.

Core Issue 2.5: Identifying and exchanging basic and beneficial-ownership information

409. Since 2014 PPATK has responded to 39 requests related to BO information and made two proactive disseminations. OJK and BI have exchanged basic and BO information in relation to fit-and-proper tests. While MLHR seems to be able to exchange basic information and, to the extent it is available, BO information with foreign counterparts, it is unclear if information exchanges have taken place. While Indonesia informed the assessment team that DG Tax has responded to 36 BO information requests for taxation purposes, no further information was provided to the assessment team.

Overall conclusions on Immediate Outcome 2

410. Overall, and with the exception of corruption, Indonesia is not extending its ML and predicate crime investigations outside of Indonesia, for the use of foreign evidence and extradition of offenders, in a manner fully consistent with Indonesia's ML risks. Notwithstanding this, the MLHR generally has the capability to execute MLA and is undertaking activities to support timely and constructive MLA. The assessment team acknowledges Indonesia is not a destination jurisdiction for foreign proceeds; however, Indonesia is not consistently providing constructive and timely MLA. The assessment team has given significant weight to Indonesia's use of MLA in TF/terrorism cases, and also its active use of other forms of cooperation for TF/terrorism, which is in line with the time-sensitive nature of its TF/terrorism activities. Use of other forms of cooperation by supervisors is appropriate given the dominance of domestic financial institutions with limited offshore presence.

411. **Indonesia is rated substantial level of effectiveness on IO.2.**

TECHNICAL COMPLIANCE ANNEX

1. This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations of Indonesia in numerical order. It does not include descriptive text on the country situation or risks and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2008. This report is available from www.apgml.org.

Recommendation 1 – Assessing risks and applying a risk-based approach

3. Recommendation 1 is a new FATF Recommendation and has not been previously assessed.

4. *Criterion 1.1* – Indonesian authorities have completed a range of assessments to identify, assess and understand Indonesia's ML/TF risks. Indonesia completed separate national risk assessments (NRAs) of money laundering (ML) and terrorism financing (TF) in 2015. In addition, Indonesia has undertaken 13 separate sectoral or strategic risk assessments (SRAs) on NPOs, banking, securities, non-bank financial institutions, non-bank money changers and MVTS, futures traders, goods and services providers, accountants, auction houses, election funds, customs and excise, cross-border ML, and legal persons. Just prior to the onsite visit, Indonesia updated its NRA with white papers on ML and TF. The TF assessment focused on domestic terrorist networks affiliated with ISIS and the ML on taxation.

5. Indonesia used the World Bank methodology and the FATF Guidance on Assessing the Risk of Money Laundering and Terrorist Financing as the basis for its assessments. The methodology used is sound and consistent with the FATF Guidance, with the assessments examining inherent risks, mitigating measures and residual risks, and containing recommendations for further mitigation measures. All assessments used internationally accepted approaches to identifying *likelihood* and *consequences* to arrive at net risk, and presented visuals using 'heat maps'. There appears to be a broad understanding and application of what constitutes high/higher risk, medium risk and low risk, with high risk equated with the need for immediate action. The NRA and other risk assessments also classified risk on a geographic/provincial basis, with Jakarta, East Java, West Java, and Central Java identified as the higher-risk provinces. They also considered the interconnectedness of specific crimes, TF, and financial sectors.

6. The information sourced for the NRAs, sectoral and strategic risk assessments is fairly comprehensive. Available law enforcement statistics, STRs, information from reporting entities, supervisory reports, regulatory information, survey results, and intelligence have been used in an attempt to apply the methodologies mentioned above, involving both quantitative analyses and qualitative judgements. For sectoral or strategic risk assessments, information on customers, products, distribution channels and ML/TF typologies, size and geographic exposure, international nexus and other relevant information have been sourced and used, to the extent such information is available.

7. Sectoral or strategic risk assessments on NPOs, banking, securities, money changers, goods and services, and futures traders are generally sound and the findings reasonable. PPATK conducted a strategic assessment of NPOs in 2016, which is comprehensive and includes a broad range of recommendations to mitigate the TF risks identified, particularly for foundations, which are considered a high TF risk.

8. The conclusions of the risk assessment of legal persons appear to be generally reasonable, and the document includes useful ML typologies and case studies, as well as coverage of international threats and vulnerabilities associated with legal persons. However, the

assessment lacked a more comprehensive assessment of the risk posed by foreign-owned legal persons.

9. *Criterion 1.2* – Indonesia, under the Presidential Regulation No. 6 Year 2012 (amended through Presidential Regulation No. 117 Year 2016), has established a National Coordination Committee (NCC) on Prevention and Eradication of Money Laundering (see c.2.2). The NCC is designated with functions pursuant to directions, policies, and strategies for prevention and eradication of ML (see c.2.2 for detailed discussion) coordinated Indonesia's NRA, SRAs and recent white papers to update the NRA.

10. *Criterion 1.3* – Indonesia is keeping its risk assessments up-to-date. For TF, Indonesia updated its NRAs for TF and ML with separate white papers on ML and TF in October/November 2017. Indonesia has been updating its NRAs with separate assessments, including more comprehensive sectoral and strategic risk assessments, and gaps in the NRA on legal persons and cross-border ML flows have been addressed.

11. *Criterion 1.4* – At the time of its completion, Pusat Pelaporandan Analisis Transaksi Keuangan (PPATK) and relevant competent authorities (refer to R.2) shared the ML NRA with regulated entities (FIs and DNFBPs) and self-regulatory bodies and also shared the key outcomes of the NRA in different forms involving regulated entities. Furthermore, the ML NRA is available for download from PPATK's website and relevant competent authorities' websites. The sanitised version of Indonesia's TF NRA was shared with relevant entities. The SRAs and recent updates and findings are being shared with reporting entities.

12. *Criterion 1.5* – The National Strategy on the Prevention and Eradication of Money Laundering and Terrorist Financing (STRANAS) 2017–19 contains seven strategies[32] which reflect the risks identified in the 2015 TF and ML NRAs. Before this Indonesia had a STRANAS 2016–17. Two of the strategies in the STRANAS, namely No. 2 (mitigation on TF and ML) and No.3 (TF prevention and eradication), have been updated with additional action items to include greater focus on illegal remittances and social media, respectively.

13. *Criterion 1.6* – All FIs and DNFBPs under the FATF Standards are included in Indonesia's AML/CFT regime, except casinos as they are illegal. There are no exemptions provided in the AML/CFT regulations, although occasional transactions underneath the FATF threshold are not subject to CDD where there is no suspicion of ML/TF and where occasional transactions are permitted (occasional transactions are not allowed for futures trading).

14. *Criterion 1.7* – There are requirements for FIs supervised by BI, OJK, and Bappebti in their BI AML/CFT regulations either to take enhanced measures to manage and mitigate the risks, or to incorporate information from NRA or SRAs into their enterprise risk assessments. Enhanced measures are required when higher risks are identified such as PEPs, higher-risk jurisdictions, NPOs and certain categories of customers. In the regulations of those three financial supervisors, both are required. There are requirements for postal providers and cooperatives but not in response to NRA or SRAs, or to incorporate into their own risk assessment. There are similar requirements for some DNFBPs, including goods and services providers, financial planners, accountants, advocates and land title registers. However, while there are general requirements on risk mitigation, there are no specific requirements for enhanced measures or

[32] Strategy 1: Reduce the crime rate of corruption, narcotics trafficking, and taxation crime through the optimisation of money laundering law enforcement; Strategy 2: Implement effective risk mitigation in preventing money laundering and terrorist financing in Indonesia; Strategy 3: Optimisation of the efforts of prevention and eradication of terrorist financing; Strategy 4: Strengthen coordination and cooperation among government agencies and/or private institutions; Strategy 5: Increase the utilisation of international cooperation instruments in optimising asset recovery in foreign countries; Strategy 6: Increase the position of Indonesia in the international forum in the prevention and eradication of money laundering and terrorist financing; Strategy 7: Strengthen regulation and increase monitoring of cross-border carrying of cash and bearer negotiable instruments (BNI) as a means for terrorist financing.

inclusion in internal risk assessments in response to higher risks identified in the NRAs, SRAs, or other risk assessments for notaries.

15. *Criterion 1.8* – Indonesia does allow for simplified measures for some FATF recommendations based on a set of criteria that includes customers that may be lower risk, as identified from a ML/TF risk assessment (see c.10.18 and c.22.1). However, some FIs (cooperatives and postal providers) and DNFBPs are not explicitly required (only in guidance which is not enforceable) specifically to incorporate information from NRAs or SRAs into their own internal risk assessments (see c.1.7).

16. *Criterion 1.9* – Supervisors are responsible for ensuring that FIs and DNFBPs are implementing their obligations to assess risks and take risk mitigation in response to identified risks, as discussed below. As noted above, there are some gaps in the preventive requirements under R.1.

17. *Criterion 1.10* – For FIs, Article 2 (a) to (d) of Financial Services Authority (OJK) AML/CFT Regulation No.12 01/2017 (OJK AML/CFT Regulation for PJK) requires OJK-supervised FIs, which include all 13 categories of FIs with the exception of futures traders (supervised by Bappebti) to identify, assess, and understand their ML/TF risks, document their assessments, consider the risk factors, keep the assessments up to date, and have mechanisms to provide information. There are similar requirements in regulations for other FIs that provide services such as non-bank money changers and non-bank payment service providers (money remittance, card payment services, and e-wallet or e-money services) supervised by Bank Indonesia (BI); commodities futures trading companies supervised by the Bappebti; postal service providers supervised by PPATK; and cooperatives supervised by Ministry of Cooperatives. BI- and Bappebti-supervised FIs have requirements consistent with this criterion—namely, in Article 7 of BI AML/CFT Regulation No.19 10/2017 (BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers); and Article 2 of Bappebti KYC Regulation No. 8 Year 2017 (Bappebti KYC Regulation for Futures Traders). While the Ministry of Cooperatives has issued KYC Regulation No.6 Year 2017 (MCS KYC Regulation for Cooperatives), it does not include c.1.10 requirements. There are general risk-based CDD requirements but not as required under this criterion for postal providers (Pos Indonesia) in the PPATK Know Your Customer Regulation for Postal Providers No. 9 Year 2011 (PPATK KYC Regulation for Postal Providers).

18. For DNFBPs, Article 5 of PPATK KYC Regulation for Other Goods and Service Providers No.7 2017 (PPATK KYC Regulation for Other Goods and Services) meets this criterion. DNFBPs are defined under Article 2 of the Regulation to include real estate, motor vehicle, metal and precious stones, and art and antique dealers. For lawyers, Articles 5 and 6 of PPATK KYC Regulation for Advocates (Lawyers) No.10 2017 (PPATK KYC Regulation for Advocates) contains the requirements. Article 4 of Minister of Law and Human Rights KYC Regulation for Notaries No.9 2017 (MLHR KYC Regulation for Notaries) contains most of the requirements for notaries except on updating the assessment and mechanisms to inform competent authorities. There is a requirement for risk assessment in the Minister of Finance CDD Regulations No. 155 01/2017 for Accountants and Public Accountants (MoF CDD Regulations for Accountants). Notaries are also company service providers and the deficiencies highlighted apply to their role as company service providers. Financial planners can also provide company formation and real estate services and, as noted above, there are requirements in Article 5 of PPATK KYC Regulations for Financial Planners No. 6 2017 (PPATK KYC Regulation for Financial Planners).

19. Casinos are prohibited in Indonesia.

20. *Criterion 1.11* – FIs under the supervision of OJK are required to have policies, controls and procedures for risk mitigation, to monitor their implementation, and to take enhanced measures for identified higher risks, as set forth in Article 3 of OJK AML/CFT Regulation for PJK; Articles 4, 6 and 7 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers; and Article 3 of Bappebti KYC Regulation for Futures Traders; and

Articles 22–23 in PPATK KYC Regulation for Postal Providers. Articles 26–30 of MCS KYC Regulation for Cooperatives provide some general requirements on EDD, which cover c1.11 (c) but not necessarily (a)–(b), as required under this criterion.

21. For DNFBPs, Article 5 (2–4) of the PPATK KYC Regulation for Other Goods and Services include specific requirements for real estate, motor vehicle, metal and precious stones, art and antique dealers on risk mitigation policies, controls, procedures and implementation monitoring. There are similar requirements in Article 5 of PPATK KYC Regulation for Financial Planners, and Article 5 (2) in the PPATK KYC Regulation for Advocates; and Article 4 of the MLHR KYC Regulation for Notaries contains some requirements relating to c1.11 (a)–(c). Notaries are also company service providers and are covered under the MLHR Regulation. Article 2A (4) of MoF CDD Regulations for Accountants contains some measures but not the requirement for policies and controls to be approved by senior management.

22. *Criterion 1.12* – OJK AML/CFT Regulation for PJK, BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Bappebti KYC Regulation for Futures Traders, PPATK KYC Regulation for Postal Providers and Ministry of Cooperatives KYC Regulation for Cooperatives permit simplified measures to manage and mitigate risks if lower risks have been identified, except when there is suspicion of ML/TF.

23. For DNFBPs, Article 21 of the PPATK KYC Regulation for Other Goods and Services provides for simplified measures in case of customers identified as low risk-based on a risk assessment, and they are not allowed to adopt simplified measures whenever there is a suspicion of ML/TF. Financial planners in their role as company and real estate service providers are covered under Article 5, as noted above. There are similar provisions for simplified CDD in Articles 21 and 22 of PPATK KYC Regulation for financial planners, Article 21 of the PPATK KYC Regulation for Advocates, MLHR KYC Regulation for Notaries, and in Article 8A of the MoF CDD Regulations for Accountants.

Weighting and Conclusion

24. Indonesia has undertaken a range of comprehensive risk assessments to identify and assess its ML/TF risks, and the NRAs have been updated. Most reporting entities are subject to risk-based measures, including the more material and higher-risk sectors such as banking, securities, non-bank money changers and MVTS, real estate and motor vehicles. There are some gaps in relation to other, less significant sectors.

25. **Recommendation 1 is rated largely compliant.**

Recommendation 2 – National cooperation and coordination

26. In its 2008 MER, Indonesia was rated partially compliant with former R.31. Recommendation 2 of the revised standards contains new requirements that were not assessed under the 2004 methodology.

27. *Criterion 2.1* – Informed by the completed and adopted ML and TF NRAs in 2015, Indonesia's NCC issued a new national strategy, STRANAS Year of 2017–2019, to mitigate the highest risks identified in the NRAs, which are corruption, narcotics trafficking and taxation crimes for ML and NPOs (foundations) for TF. These are accorded the highest priority in the STRANAS with the top three ML risks listed in STRANAS action item No.1 and NPOs under action item No.3. The STRANAS 2017–2019 is an integrated national-level policy incorporating action plans to strengthen the AML/CFT regime of Indonesia, including directives to conduct sectoral risk assessments and decisions on policies regarding budget allocation, time and resources. It builds on the earlier STRANAS 2012–2016. As noted in c.1.3., Indonesia updated its STRANAS in late 2017 to reflect the updates to the NRA.

28. Implementation of the STRANAS 2017–2019 is monitored every three months with regular meetings to discuss progress on the action plans. PPATK has built an online, secured system named the Reporting and Monitoring of National Strategy of Prevention and Eradication of Money Laundering and Terrorist Financing Information Systems (SIPENAS) for reporting and monitoring.

29. *Criterion 2.2* – As indicated in R.1, the AML Law No. 8 2010 (AML law), Presidential Decree Number 6 Year 2012 and Presidential Decree Number 117 Year 2016 authorised the establishment of the NCC as a designated national authority to be responsible for the national AML/CFT policies of Indonesia. The NCC is a coordinating body made up of 16 government agencies led by the Coordinating Minister for Political, Legal and Security Affairs with the Head of PPATK as the secretary of NCC. Members include the Minister of Foreign Affairs, Minister of Home Affairs, Minister of Law and Human Right, Minister of Finance, Minister of Trade, Minister of Cooperative and SMEs, Governor of Bank Indonesia, Chairman of the Board of Commissioners of OJK, Attorney-General, Chief of Indonesian National Police, Head of State Intelligence Agency, Head of National Counter Terrorism Agency, and Head of National Narcotics Board.

30. The main functions of the NCC are: (1) formulation of directions, policies and strategies of ML; (2) coordination of the implementation of programs and activities according to the directions, policies and strategies of ML; (3) coordination of steps required to handle other matters related to ML/TF; and (4) monitoring and evaluation of the implementation of the programs and activities according to the directions, policies and strategies of ML. The NCC has established an NCC Executive Team and an NCC Working Team to assist in technical matters related to its functions. The NCC has held intensive meetings to discuss and coordinate various relevant strategic issues in relation to ML/TF. The National Strategy is one of the AML/CFT policies resulting from the NCC. From 2014 to April 2017, the NCC held 23 meetings at different levels.

31. Indonesia has also designated the PPATK as the lead agency to coordinate efforts to prevent ML; this is provided in Article 41 of the AML Law. While it appears in practice the NCC covers both ML and TF, the AML law, the two Presidential Decrees and part of NCC functions (functions (1), (2) and (4)) only refer to ML and not TF.

32. *Criterion 2.3* – There are generally two mechanisms in Indonesia to coordinate domestically at the policy-making level and operational level. The main mechanism is the NCC. The additional mechanisms comprise Memorandum of Understanding (MOU), Memorandum of Agreement (MOA), Joint Regulation, and Joint Task Forces.

33. Coordination at the national level is clear, with the mandates, organisations, functions and operation of NCC as stated above in c.2.2. Coordination by PPATK is also clear, as mandated under Article 41 of the AML Law. PPATK has been in close cooperation with relevant agencies, universities and mass media in implementing AML/CFT by signing domestic MOUs with 94 institutions and MOAs with six institutions as of May 2017. Under these MOUs and MOAs, PPATK has held 444 (2015 to 2 May 2017) coordination or assistance meetings with law enforcement agencies (LEAs), Corruption Eradication Commission, BI and various agencies.

34. There are also operational coordination mechanisms for agencies designated to investigate and prosecute ML and TF. The coordination mechanisms among DNFBP supervisors are not clear, with the exception of PPATK.

35. *Criterion 2.4* – On 3 October 2017, PPATK established the Task Force in Prevention and Eradication of Proliferation of WMD (WMD Task Force) that consists of PPATK, MoFA, INP, and NERA (Joint Regulation of the MoFA, PPTAK, INP and Nuclear Energy Regulatory Agency (NERA) (PF Joint Regulations 2017). The task force has held two meetings. Other WMD-related meetings were held in 2017 with five meetings held by the MoFA. The issues discussed in these coordination forums are, among others, the implementation of UNSCR 1540 and UNSCR 1718 and its successor, and requests for information from the UN, spontaneous information from

other countries etc. In the coordination forums, there is information exchange between ministries/institutions, and the output produced is a recommendation that must be implemented by the government in order to prevent and eradicate PF. The coordination forums coordinated with regulators and FI, among others, in order to discuss potential risk-mitigation issues related to PF incidence in the FI, as well as the de-risking policies that FIs need to take when, based on FI assessments of users, the services concerned can no longer be mitigated by the FIs.

Weighting and Conclusion

36. There is policy and operational coordination among LEAs and supervisors, and between supervisors and LEAs.

37. **Recommendation 2 is rated largely compliant.**

Recommendation 3 – Money laundering offence

38. In its 2008 MER, Indonesia was rated partially compliant with former R.1 and R.2. The main deficiencies were: (i) minor gaps with coverage of predicate offences; (ii) scope of coverage of 'assets' and 'proceeds' is not in keeping with the Vienna Convention; (iii) the ML offence has not yet been used to pursue the proceeds of a wide range of predicate offences; (iv) the ML offence is not effectively implemented due to the narrow scope of the offence, continuing use of alternative indictments, and capacity issues. Indonesia's 2012 progress report highlights that, through the enactment of the AML Law, Indonesia made progress with its level of compliance with former R.1—it was brought to a level equivalent to largely compliant.

39. *Criterion 3.1* – Indonesia has criminalised ML in the AML Law. Specifically, Article 3 covers the transfers: 'Any person that places, transfers, assigns, spends, pays, grants, entrusts, takes out of the country, changes form, exchanges with currencies or negotiable papers, or undertakes other actions in respect of 'Assets … originating from the proceeds of a criminal act …' with the purpose of hiding or concealing the origin of the Assets concerned, shall be subject to criminal sanction for committing the criminal act of [ML].' Article 4 covers concealment: 'Any person who hides or conceals the origin, source, location, allocation, assignment of rights, or the actual ownership of the Assets … originating from the proceeds of a criminal act … shall be subject to criminal sanction for committing the criminal act of [ML].' Article 5 covers use: 'Any person who receives or controls the placement, transfer, payment, grant, donation, depositing, exchange, or uses the Assets … to originate from the proceeds of a criminal act.' While these three articles do not strictly follow the Vienna and Palermo Conventions, the conduct is broad enough to cover their requirements.

40. *Criterion 3.2* – Under Article 2 of the AML Law, Indonesia applies a combined threshold and list approach to cover predicate offences, encompassing 25 categories of offences as well as criminal acts subject to imprisonment of four years or more. All designated categories of offences are included with the exception of counterfeiting and piracy of products (see c.3.3).

41. *Criterion 3.3* – As above, Indonesia applies a combined approach with a maximum threshold of imprisonment of four years or more. Under this threshold, some offences within the counterfeiting and piracy of products are not predicate offences as they do not reach the threshold. Offences within the counterfeiting and piracy of products category are criminalised in the Penal Code, the Trademark Law No. 15 of 2001 (Trade Mark Law, and Law No. 28 of 2014 (Copyright Act), but sanctions range from 4–9 months' imprisonment (in respect of Article 393 of the Penal Code), 12 months' imprisonment (in respect of Article 94 of the Trademark Law), and 2–7 years' imprisonment (in respect of various infringements under the Copyright Act).

42. *Criterion 3.4* – Indonesia's ML offence extends to 'assets', which are defined under Article 1(13) as moveable or immoveable assets, either tangible or intangible, acquired either directly

or indirectly. Under Article 511 of the Civil Code, the scope of moveable assets also includes legal documents or instruments evidencing title to, or interest in, such assets.

43. *Criterion 3.5* – It is not necessary that a person be convicted of a predicate offence. Indonesia has a few standalone ML cases and Article 69 of the AML Law states investigation, prosecution, and examination of a criminal act of ML before the court of law shall not require prior substantiation of the predicate offence. It seems that the prosecution must only prove that the assets were 'known or reasonably suspected … as originating from the proceeds of a criminal act' (Articles 3, 4, and 5 of the AML Law).

44. *Criterion 3.6* – Article 2(1)(a)–(z) of the AML Law provides that predicate offences include those committed within or outside Indonesia, and such criminal acts also constitute criminal acts according to Indonesian law.

45. *Criterion 3.7* – There is no fundamental principle of law that precludes the application of the ML offence against the person who commits the predicate crime, with the ML offence applying to 'Assets … originating from the proceeds of a criminal act' (Articles 3, 4 and 5 of the AML Law), which establishes criminal liability in both self-laundering and third-party laundering.

46. *Criterion 3.8* – According to Article 183 of the Criminal Code Procedures, 'A judge shall not impose a penalty upon a person except when with at least two legal means of proof [Under Article 184 of the Criminal Code, Legal Means of Proof include: (i) the testimony of a witness; (ii) the testimony of an expert; (iii) a document; (ii) an indication; (iii) the testimony of the accused] he has come to the conviction that an offence has truly occurred and that it is the accused who is guilty of committing it.' Under Article 188, an 'indication' is an act, event or circumstance that signifies an offence has occurred and who the perpetrator is, and the 'Evaluation by the judge of the evidentiary strength of an indication in any particular circumstance shall be wise and prudent, after he has accurately and carefully conducted an examination on the basis of his conscience.' Furthermore, under Article 3 of the AML Law the threshold for the ML offence is 'Assets known or reasonably suspected as originating … from the proceeds of a criminal act'. Therefore, the judge is free in the evaluation of evidence to meet the threshold of the ML offence, and the fault element of intention can be drawn from objective factual circumstances.

47. *Criterion 3.9* – Sanctions in the AML Law for natural persons appear to be proportionate and dissuasive. Under Articles 3 and 4, criminal sanctions are imprisonment for a maximum period of 20 years and a maximum pecuniary sanction of 10 million IDR (~740,200 USD) and five billion IDR (~370,000 USD), respectively. Under Article 5, the sanction is imprisonment for a maximum period of five years and a maximum pecuniary sanction of one billion (~74,000 USD).

48. *Criterion 3.10* – Indonesia imposes criminal liability and sanctions on legal persons under Article 6 of the AML Law and Elucidation. Indonesia has successfully prosecuted and convicted a legal person of ML (see Case 6.6). Under Article 6(1), criminal sanction shall be imposed on the relevant corporation and/or the corporation's controlling personnel, and under Article 7 there are proportionate and dissuasive sanctions including a principal pecuniary sanction of maximum amount of 100 billion IDR (~7.4 million USD) and addition sanctions that can be imposed include: (i) the freezing of a portion of or the entire business activities of the corporation concerned; (ii) the revocation of business license; (iii) the dissolution and/or banning of the corporation concerned; (iv) the forfeiture of the corporation's assets for the state; and/or (v) take-over of the corporation by the state. However, it is unclear if sanctions for legal persons prejudice criminal liability of natural persons.

49. *Criterion 3.11* – Indonesia's ML offence includes a range of ancillary offences, under Article 10, including participation in, attempt, assistance or conspiracy to commit. In addition,

ancillary offences under Articles 55 and 56 of the Criminal Code are broad enough to cover facilitating and counselling the commission of ML.

Weighting and Conclusion

50. Indonesia has some minor shortcomings including some offences within the counterfeiting and piracy of products which are not predicate offences and it is unclear if sanctions for legal persons prejudice criminal liability of natural persons.

51. **Recommendation 3 is rated largely compliant.**

Recommendation 4 – Confiscation and provisional measures

52. In its 2008 MER, Indonesia was rated partially compliant with former R.3. The main technical deficiencies were: (i) comprehensive measures to trace, freeze and seize the widest range of property that represents proceeds of crime are not yet in place; and (ii) statistics do not show effective implementation of the existing provisions for provisional measures and confiscation. Indonesia's 2012 progress report highlights that through the enactment of the 2010 AML Law, Indonesia had made progress with former R.3 to a level equivalent to largely compliant.

53. *Criterion 4.1* – Indonesia's legal framework for confiscation is established under the Criminal Code and Criminal Procedures Code, which applies to all criminal offences in Indonesia, and is reinforced by measures related to ML and terrorism/TF and other predicate crimes in specific laws, as outlined below.

54. The Criminal Code provides for confiscation of property as an additional punishment, under Article 10, for all crimes in Indonesia with property that may be confiscated being 'objects' belonging to the sentenced person, acquired by means of a crime or with which a crime has been committed (Article 39(1) of the Criminal Code), and objects seized and frozen (Article 39(3) of the Criminal Code) (also see c.4.2(b)). Objects are not explicitly defined in the Criminal Code or Criminal Procedures Code.

55. Seizure under the Criminal Procedures Code includes movable or immovable 'goods' whether tangible or intangible to be used for evidentiary purposes in investigation, persecution and adjudication (Article 1(16) of the Criminal Procedures Code), with Articles 38–46 of the Criminal Code Procedures identifying goods for seizure including: '(i) goods or claims of the suspect or the accused of which all or part are presumed to have been obtained from an offense or as the result of an offense; (ii) goods which have been directly used to commit an offense or in preparation therefore; (iii) goods used to obstruct the investigation of an offense; (iv) goods specially made and intended for the commission of an offense; (v) other goods which have a direct connection with the offense committed.' Article 42(1) allows the seizure of goods held by third parties. This property and additional seizures under the following laws can be confiscated upon conviction.

56. *Sub-criterion 4.1(a)–(b)* – In addition to the above measures in the Criminal Code and Criminal Code procedures that are applicable to c.4.1(a) and (b), additional measures are in place in relation to ML, corruption offences, and narcotics offences, as follows:

57. ML – under Article 81 of the AML Law, where there is sufficient evidence of assets that have not been seized the judge can instruct the public prosecutor to seize, and then the assets can be confiscated. Under Article 77 of the AML Law, the defendant must prove that his/her assets are not the proceeds from a criminal act.

58. *Corruption offences* – under Article 18 of the Anti-corruption Law, there are additional penalties including *confiscation of tangible or intangible movable assets or fixed assets used to commit or being the proceeds of criminal acts of corruption, including the guilty party's*

corporation where the criminal acts were perpetrated. Under Article 37 of the Anti-corruption Law, the defendant must prove that his/her and related third-parties' assets are not the proceeds from a criminal act.

59. *Narcotics offences* – Under Article 101(1) of the Narcotics Law, *Narcotics, Narcotic Precursors, and equipment or goods used in the criminal offences of* Narcotics *and Narcotic Precursors or related to Narcotics and Narcotic Precursors along with their proceeds* can be confiscated. Under Article 98 of the Narcotics Law, the defendant must prove that his/her and related third-parties' assets are not be the proceeds from a criminal act.

60. *Sub-criterion 4.1(c)* – The above Criminal Code and Criminal Procedures Code apply to Indonesia's TF offence (see c.5.1) and Indonesia's terrorism offences, including the offence of: (i) funding terrorism (*intentionally provides or collects funds with the objective that they be used or there is a reasonable likelihood will be used partly or wholly for criminal acts of terrorism* – Article 11 of the Terrorism Law); (ii) assisting and facilitating terrorism (*providing or lending money or goods or other assets to any perpetrator of criminal acts of terrorism* – Article 13 of the Terrorism Law); and (iii) Planning and attempting terrorism (*Any person who conducts any plot, attempts, or assists to commit any criminal act of terrorism* – Article 15 of the Terrorism Law).

61. *Sub-criterion 4.1(d)* – Indonesia can confiscate corresponding value in relation to corruption. Under Article 18(1)(b) payment of 'compensation' (state losses to the maximum value of assets obtained through the commission of the crime) is an additional penalty for corruption and under Article 18(2) prosecutors can seize and auction assets of the guilty party where payment of compensation is not made within one month.

62. Indonesia can also confiscate corresponding value in relation to tax debts including where such debts may be a result of a criminal offence. Under Article 14 of the Tax Law moveable and immoveable property found at the tax-bearer residence, business or other place, including those controlled by another party can be confiscated and actioned as payment of the tax debt.

63. *Criterion 4.2* – Indonesia has a range of measures to give effect to this criterion with the primary measures applicable to all criminal offences included in the Criminal Code, Criminal Code Procedures and, to a lesser extent, the AML Law, and other measures applicable to specific criminal offences in relevant laws, as follows:

64. *Sub-criterion 4.2(a)* – The Criminal Procedures Code provides a range of measures to identify, trace, and evaluate property for confiscation (see Articles 32–37, Articles 47–49). Additional measures include that ML/TF and terrorism investigators can obtain information from FIs and DNFBPs on assets of any persons reported by PPATK, a suspect or defendant under Article 72 of the AML Law; Article 37 of the CFT Law; and Article 30 of the Terrorism Law. There are similar measures for corruption, narcotics and tax offences (Article 12(1)(c) of the Amendment to the Anti-corruption Law; Article 80(c) of the NNB Law; and Article 44(2) of the Consolidation of Law of the Republic of Indonesia Number 6 1983 concerning General Provisions and Tax Procedure as Lastly Amended by the Law Number 28 of 2007).

65. *Sub-criterion 4.2(b)* – The above measures in the Criminal Code and Criminal Code procedures are applicable here and allow for the seizing of movable property *ex parte* (Article 38(2) of the Criminal Code Procedures). Under Article 65 of the AML Law, PPATK can freeze transactions by FI and DNFBPs that are known or suspected to be the proceeds from criminal acts for up to 20 days, without prior notice under Article 40 of President Regulation No. 50 2011.

66. ML/TF investigators, prosecutors or the judge can order an FI or DNFBP to freeze and suspend transactions of any persons reported by PPATK to the investigator, the suspect or the defendant (Articles 70 and 71 of the AML Law and Article 22 of the CFT Law). There are similar freeze provisions in Article 29 of the Terrorism Law, Article 29(4) of the Anti-Corruption Law, and Article 80(b) of the Law of the Republic of Indonesia Number 35 of the Year 2009 (Narcotic

Law). While there are no explicit provisions for these measures to be undertaken *ex-parte* or without prior notice, in practice they are undertaken without prior notice where applicable.

67. *Sub-criterion 4.2 (c)* – The Criminal Code (Article 221) criminalises the dealing with property after seizures, which applies to all crimes in Indonesia, and under Article 23 of the Tax Law the tax bearer is prohibited from transferring the right over confiscated property or transferring, leasing, lending, or damaging confiscated property. The Civil Code of Indonesia sets out requisite conditions for a contract to occur, and authorities argue that the contract may be deemed null and void pursuant to civil law in certain circumstances. The team sees that this may be applied in circumstances in which agreements are in place for the transfer of assets but note that this will not apply in a subset of circumstances that Recommendation 4 contemplates.

68. Under Article 26 of the AML Law, FIs and DNFBPs can suspend transactions for five days upon suspicion assets are the proceeds of crime.

69. *Sub-criterion 4.2(c)* – Indonesia's legal framework provides for investigative measures in support of the existing seizure powers in relation to INP, KPK, BNN, AGO, DG Customs, and DG Tax; however, special investigation techniques are not available to all investigators and in the investigation of all predicate crimes (see R.31).

70. *Criterion 4.3* – Indonesia has general provisions in the Civil Code that provide the right to property (Articles 570 and 529), and the Criminal Procedures Code provides general protection to bona fide third parties where goods are seized during a criminal investigation/prosecution (Article 46 (1)(2) of the Criminal Procedure Code) and the right to bring a civil suit for compensation with the criminal case (Article 98 of the Criminal Procedures Code). In addition: (i) with regard to suspension of transactions (see c.4.2(c)) and confiscation related to ML, the AML Law provides a mechanism for persons or third parties to file an objection with PPATK and the court (Article 67(1) and 79(6) of the AML Law)—these provisions have been clarified in Article 43 of President Regulation No. 50 2011 and Supreme Court Regulation Number 1 Year 2013; and (ii) there are mechanisms for persons or third parties to file an objection with the court in confiscation related to corruption (Articles 18 and 19 of the Anti-Corruption Law) and narcotics (Article 101 of the Narcotics Law). There are no additional protections for third parties under other laws, e.g. the Terrorism Law.

71. *Criterion 4.4* – Indonesia's mechanism for management of all phases of asset recovery including when necessarily disposing of property frozen, seized, or confiscated is regulated by Regulation of the Prosecutor of the Republic of Indonesia Number: Per 027/A/Ja/10/2014 Regarding Guideline for Asset Recovery (AGO Asset Recovery Regulation 2014), and Minister of Finance Republic of Indonesia Minister of Finance Regulation Number 03/Pmk.06/2011 concerning Management of State-Owned Goods Derived from State-Confiscated Goods and Gratification Goods. Physical evidence required for judicial proceedings is managed by Rupbasan, a sub-directorate under MLHR, in accordance with the Regulation of the Minister of Law and Human Rights the Republic of Indonesia Number 16 of 2014 on the Procedures for the Management of the State-Confiscated Objects and State-Confiscated Proceeds in Storage Home of State-Confiscated Objects (Rupbasan Regulation 2014). Other seized property is managed by case investigators or the prosecutor depending on the status of the case with the prospectors responsible for the execution of court judgements related to the confiscation of property (Article 30 Law of the Republic of Indonesia Number 16 Year 2004 concerning the Public Prosecution Service of the Republic of Indonesia). All confiscations in cases prosecuted by the AGO are coordinated by the AGO Asset Recovery Centre in accordance with the Regulation of the Prosecutor of the Republic of Indonesia Number: Per 027/A/Ja/10/2014 Regarding Guideline for Asset Recovery (AGO Asset Recovery Regulation 2014). All confiscations in cases investigated and prosecuted by the KPK are coordinated by KPK's Asset Tracking, Evidence Management, and Execution Unit in accordance with the mechanism for managing and when necessary disposing of property frozen, seized, or confiscated outline in Regulation Commission

of the Corruption of the Republic of Indonesia Number 01 Year 2015, and further guidance in Regulation Number Kep-562A/01–20/50/2016.

Weighting and Conclusion

72. Indonesia has minor shortcomings in relation to *ex parte* or without prior notice freezing measures, preventing or voiding actions that prejudice confiscation and protections for bona fide third parties. In addition, Indonesia can only confiscate property of corresponding value in corruption cases where there is a state loss.

73. **Recommendation 4 is rated largely compliant.**

Recommendation 5 – Terrorist financing offence

74. In its third round MER, Indonesia was rated partially compliant for former SR.II. The primary technical shortcomings were: (i) the scope of property covered was not consistent with the requirements of the TF Convention; (ii) indirect collection provision of funds were not covered; (iii) collecting or providing funds for a terrorist organisation was not comprehensively covered; (iv) there were challenges in holding corporations criminally liable; and (v) knowledge could not be proven in all cases by objective factual circumstances.

75. *Criterion 5.1* – Indonesia's primary TF offence is contained in Article 1(1) and Article 4 of the CFT Law. Article 4 prohibits the provision, collecting, granting, or lending of funds, directly or indirectly, with the intention, wholly or partly, to commit any one of the three crimes of: (i) terrorism; (ii) funding a terrorist organisation; or (iii) funding a terrorist. Article 1(1) defines 'terrorism financing' as *all acts to provide, raise, grant, or lend [funds] directly or indirectly, for used and/or known to be used to commit terrorism activities, terrorist organisation, or terrorist*. The terms 'terrorist' or 'terrorist organisation' are not defined in the CFT Law. The term 'funds' as defined in Article 1(7) of the CFT Law is consistent with the TF Convention and has been applied in cases involving non-financial economic resources. While Indonesia has ratified the TF Convention, it has not specifically criminalised the terrorist acts established as criminal offences in all the UN conventions identified in the annex to the TF convention.

76. *Criterion 5.2* – Article 4 of the CFT Law applies to any persons who are provided with, collect, transfer, or lend funds, directly or indirectly, with the intention that they be used, in part or in full, for a terrorism crime (which is defined to include the terrorist acts covered by c.5.1 as well as for a 'terrorist or terrorist organisation'.

77. *Criterion 5.2^{bis}* – While the financing of travel for the purpose of committing a terrorist act or providing or receiving terrorist training is not specifically covered by the CFT Law, the general TF offence in Article 4 is broad enough to cover this activity. Indonesia has successfully prosecuted and convicted individuals for financing the travel of FTFs under Article 4 of the CFT Law (see case of Aminudin Mude).

78. *Criterion 5.3* – The term 'funds' in Article 1(7) of the CFT Law applies to funds gained legitimately or illegitimately, as it includes *all assets or movable or immovable, goods, whether tangible or intangible, gained in any manners and in any terms*. See case of Jaka Mulyanta (funds from defendant's salary were provided to a terrorist organisation) and case of Sutriono (prosecuted for providing rice to a terrorist).

79. *Criterion 5.4* – Article 4 of the CFT Law does not link the TF offence to a specific terrorist act, as it applies to funds that are provided to a 'terrorist or terrorist organisation', even in the absence of a link to a specific terrorist act or acts.

80. *Criterion 5.5* – While the intent requirement of Article 1(1) of the CFT Law is 'intentionally … used and/or known to be used', Article 184 of the Criminal Procedure Code (which applies to the CFT Law) permits proof to be demonstrated by 'an indication' (which is

understood by judicial officials and prosecutors to be 'objective factual circumstances') and has been successfully applied in TF criminal prosecutions.

81. *Criterion 5.6* – Under Article 4 of the CFT Law, the maximum penalty for committing the crime of terrorism finance is 15 years in prison and a fine of up to one billion IDR (~74,000 USD). The prison sentence is consistent with criminal sanctions for terrorism (4 to 20 years) and ML (maximum period of 20 years) , as well as with the information on criminal sanctions for the TF offence in the FATF Guidance on Criminalising Terrorist Financing, and so appears to be effective, proportionate, and dissuasive.

82. *Criterion 5.7* – Criminal liability for the TF offence applies to legal and natural persons. Articles 1(3) and 1(4) of the CFT Law defines 'person' as 'individual or corporate', and 'corporate' includes groups of persons or assets, whether incorporated or not. Under Article 8 of the CFT Law, a corporation (and/or its controlling person) can be liable for the TF offence and fined 100 billion IDR (~7.4 million USD). Additional sanctions include freezing of part or the entire corporate entity's activities, revocation of business permits, declaration as a prohibited corporate entity.

83. *Criterion 5.8* – Article 5 of the CFT Law criminalises attempts to commit the TF offence and acting as an accomplice for the TF offence. Article 6 of the CFT Law criminalises 'intentionally planning, organising, or provoking' anyone to commit terrorism financing.

84. *Criterion 5.9* – While TF is not specified as an ML offence under the AML Law, Article 2(1)(z) of the AML Law applies a threshold approach that includes a criminal offence with sanctions of more than four years. As Article 4 of the CFT Law imposes penalties of up to 15 years, the TF offense is included as an ML predicate offence under this provision.

85. *Criterion 5.10* – Article 2(1)(a) of the CFT Law applies the CFT Law to anyone who commits terrorism finance within or outside Indonesia's jurisdiction.

Weighting and Conclusion

86. Indonesia has minor shortcomings in that it has not specifically criminalised the terrorist acts established as criminal offences in all the UN conventions identified in the annex to the TF convention.

87. **Recommendation 5 is rated largely compliant.**

Recommendation 6 – Targeted financial sanctions related to terrorism and terrorist financing

88. In its third round MER, Indonesia was rated non-compliant for former SR.III. There was no system to implement UNSCRs 1267 or 1373, despite the significant terrorism and terrorism financing risks in Indonesia, including that UN-designated individuals were living openly in Indonesia and UN-designated organisations had a presence in Indonesia. There was also no effective mechanism to confiscate property associated with existing TF offences in Indonesia.

89. *Criterion 6.1* – On 3 May 2017, PPATK issued Decree No. 122 of 2017 (PPATK Decree No. 122), which established *Satgas* (Task Force) for DTTOT to manage the listing and delisting process for designations made pursuant to UNSCRs 1267/1989/2253, UNSCR 1988 and UNSCR 1373. Key Indonesian departments and agencies involved in CFT, including the PPATK, INP, BNPT/NCTA, BIN/SIA, and MoFA, are represented on the *Satgas DTTOT*.

90. *Sub-criterion 6.1(a)* – The Satgas DTTOT is charged with identifying and recommending (to be transmitted through the MoFA and Indonesia's UN Mission) persons or entities for designation to the relevant UN sanctions committees (Decree No. 122 Dictum Four).

91. *Sub-criterion 6.1(b)* – Persons or entities to be proposed for designation at the UN are first listed on the domestic list (DTTOT List), which is issued by the INP (Article 27, CFT Law). PPATK, INP, BNPT, and BIN may identify individuals or entities for designation based on their respective duties and functions, such as: (i) PPATK identifying individuals or entities from STRs and other intelligence information (closed and open source information, including corporate registration information); (ii) BNPT and BIN from intelligence information (closed and open source information); and (iii) INP from intelligence information and law enforcement information, including the preliminary investigation report. PPATK, on behalf of Satgas DTTOT, will then compile the administrative record of classified and unclassified information to demonstrate how the person or entity meets the criteria for listing, as described in the relevant UNSCRs.

92. *Sub-criterion 6.1(c)* – While the relevant Indonesian legal instruments do not use a reasonable basis for listing, in practice the Satgas DTTOT appears to use a 'reasonable basis' standard that is distinct from criminal law. Proposed designations submitted to the DTTOT List are not conditional upon the existence of a criminal proceeding (see PPATK Decree No. 122 Dictum Nine).

93. *Sub-criterion 6.1(d)* – The MoFA is required to follow the procedures and standard forms for listing, as adopted by the relevant UN Sanctions Committees (Annex I.3 of Decree No. 122).

94. *Sub-criterion 6.1(e)* – Annex I.3 of Decree No. 122 requires the MoFA to follow the UN procedures and standard forms for listing, although the type of information to be provided is not specified in Annex I.3 of Decree No.122. MoFA will pass on the request to Satgas DTTOT, which will determine which agencies should provide the required information, have PPATK compile the information, then pass back to the MoFA for delivery to the relevant UN sanctions committees.

95. *Sub-criterion 6.2(a)* – The INP is designated as the competent authority for designating persons or entities that meet the criteria for designation under UNSCR 1373. This applies to both domestic designations and foreign requests. See Articles 27, 43–46 of the CFT Law and the Chief Justice of the Supreme Court, Minister for Foreign Affairs, Chief of INP and Head of PPATK Joint Regulations on Listing of Terrorists and Terrorist Organisations and Freezing of Funds 2015 (Joint TF Freezing Regulations of 2015).

96. *Sub-criterion 6.2(b)* – INP, PPATK, the BIN or BNPT can propose a person or entities to the Satgas DTTOT for domestic designation; foreign requests are passed from the MoFA to Satgas DTTOT. PPATK, on behalf of Satgas DTTOT, will compile the administrative record of classified and unclassified information to demonstrate how the person or entity meets the criteria for listing, as described in the relevant UNSCRs. If Satgas DTTOT recommends the person or entity for listing, the administrative record is then passed from the Satgas DTTOT to the INP (PPATK Decree No. 122 Dictum Four).

97. *Sub-criterion 6.2(c)* – Foreign requests for designation under UNSCR 1373 are passed from the MoFA to the Satgas DTTOT, which will then identify and review the information provided to determine if the criteria for designation outlined in Decree No. 122 are met. As noted above in *c.6.1(c)*, while the relevant laws and regulations do not state that the standard for listing is a reasonable basis, in practice, Indonesia appears to use a 'reasonable basis' standard that is distinct from criminal law.

98. *Sub-criterion 6.2(d)* – See response to c.6.1(c) above. Relevant Indonesian legal instruments do not use a reasonable basis for listing; in practice, the Satgas DTTOT appears to use a 'reasonable basis' standard that is distinct from criminal law. Proposed designations submitted to the DTTOT List are not conditional upon the existence of a criminal proceeding. See PPATK Decree No. 122 (Dictum Nine).

99. *Sub-criterion 6.2(e)* – Once Satgas DTTOT has prepared an administrative record and determined the person or entity meets the criteria for designation and the INP has approved the

designation, the INP, through the MoFA, will pass the request to the foreign government, along with additional 'data and information' to support the request for designation (PPATK Decree No. 122 Dictum Four and Annex I.4). Indonesia indicated this would include STRs, intelligence, or law enforcement information supporting the designation.

100. *Sub-criterion 6.3(a)* – Satgas DTTOT is authorised to collect information on individuals that potentially meet the criteria for designation, and the Directorate of Law for PPATK is charged with collecting and soliciting this information on behalf of Satgas DTTOT (Decree No. 122 Dictum Four and Dictum Five, and Article 41 of the CFT Law). This information can include intelligence (classified) information, information of competent authorities (including law enforcement information), both domestic and international, and/or other reliable information (Decree No. 122 Dictum Eight). This information can be collected and shared at regular monthly meetings of the Satgas DTTOT.

101. *Sub-criterion 6.3(b)* – Satgas DTTOT and the INP can review, make recommendations for designation, and designate ex parte against persons and entities (PPATK Decree No. 122 Dictum Four and Dictum Five).

102. Criterion 6.4 – For UN listings pursuant to UNSCR 1267/1989/2253 or 1988, Indonesia's UN mission transmits the name and identifying information to the MoFA, which then makes a recommendation (solely dependent on UN listing) to the INP for domestic listing to the DTTOT List. The MoFA then notifies PPATK, the NCTA and SIA, which review their databases for additional information and make a recommendation (also solely dependent on UN listing) to the INP. The INP will then submit an application to the Central Jakarta District Court, which, following review, will issue an order to add the UN-designated person or entity to the DTTOT List. The INP will then add the person or entity to the DTTOT List. While the asset freeze is immediate upon listing to the DTTOT List under Article 28 of the CFT Law, under Article 27(4) of the CFT Law, the Central Jakarta District Court has up to 30 days to consider the application from the INP. This can mean a delay of up to 30 days before UN-listed persons and entities are added to the DTTOT List. Additionally, while Annex I.2 to the Joint TF Freezing Regulations of 2015 note that this process should not take more than three working days, this is not 'without delay', which the FATF Glossary defines as being within a matter of hours of UN designation. On 16 November 2017, Indonesia issued Head of PPATK Regulation No. 18 of 2017, which authorises PPATK, pursuant to Article 44 of the AML Law, to issue circular letters to FIs requiring them to postpone transactions (and other account activity) for up to 20 days of individuals and entities being listed pursuant to UNSCR 1267/1989/2253 or 1988. While this regulation outlines a process by which UN listings would, in practice, be temporarily implemented at the time of UN listing (and could remain in effect until listings are added to the DTTOT List), the regulation itself does not require freezing the assets of UN-listed individuals and entities—that obligation would only arise from the issuance of a PPATK circular letter. Without knowing when each PPATK letter is issued and sent to FIs and DNFBPS, PPATK Regulation No. 18 does not by itself allow for Indonesia to implement UN listings 'without delay'. It is also unclear whether the postponement would apply to all the circumstances of ownership required to be covered by sub-criterion 6.5(b), or if it would only cover those funds that are directly owned by the designated person.

103. These DTTOT List designations must be renewed annually, and renewal must be initiated at least one month prior to the expiration of a court order for designation. In practice, renewal of UN listings is solely based on whether the individual or entity continues to be listed at the UN (See Annex I.4 to the Joint TF Freezing Regulations of 2015).

104. *Sub-criterion 6.5(a)* – The conclusions on other sub-criterion of c.6.5 are relevant to this criterion. FIs and other reporting entities, including DNFBPs, are required to freeze funds owned or controlled by persons and entities on the DTTOT List (Article 28(3) of the CFT Law). The freezing obligation does not appear to extend to all natural persons and legal persons other than FIs and DNFBPs. For FIs and DNFBPs, however, there are freezing requirements in

supervisors' AML/CFT regulations. Article 46 of OJK AML/CFT Regulation imposes a requirement to freeze, and a range of administrative/financial sanctions are available for non-compliance under Articles 65–66. Additional guidance is provided in OJK Guideline 38/2007 on Freezing without Delay. BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers also state that, if the reporting entity fails to meet the obligation to freeze funds or other assets as stipulated under Article 47(3), then BI can impose sanctions on the reporting entity and/or its Director, Commissioner, and/or shareholders (Article 57). Article 40 of Bappepti AML/CFT Regulation for Futures Brokers imposes a freezing without delay, while Article 50 imposes a range of administrative/financial sanctions. There is no freezing requirement in PPATK KYC Regulation for Postal Providers, only to submit an STR under Article 27. There is no sanction in the MCS KYC Regulation for Cooperatives, as the freezing requirement is absent. For postal service providers and DNFBPs, there are freezing provisions in PPATK TF Freezing Circular No. 5 of 2016. There is no penalty in the circular, but it does state that the asset-freezing provision, '… can be sanctioned based on law and regulations'. It is not clear in which law or regulation, or how this would be implemented.

105. *Sub-criterion 6.5(b)* – Articles 4(2) and 4(3) of the Joint TF Freezing Regulations of 2015 expand the definition of funds in Article 1(7) of the CFT Law to include: (i) all funds or other assets owned or controlled by the designated person or entity, not just those tied to a terrorist act; (ii) funds or other assets wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; (iii) funds or other assets derived or generated from funds or other assets owned or controlled, directly or indirectly, from designated persons or entities; and (iv) funds or other assets of persons or entities acting on behalf of, or at the direction of, designated persons or entities.

106. *Sub-criterion 6.5(c)* – While there is no general obligation that prohibits all natural and legal persons from providing funds or other assets to designated individuals and entities, all FIs are required to reject transactions or terminate business relationships with designated persons or individuals (Article 42(2)(c) of the OJK AML/CFT Regulation; Article 47(3) of the BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers; and Article 36(2) of the Bappepti AML/CFT Regulation for Futures Brokers). However, it is unclear if this prohibits the provision of financial services. There is no similar requirement for DNFBPs.

107. *Sub-criterion 6.5(d)* – Once a person or entity is added to the DDTOT list, PPTAK immediately uploads names and identifying information onto its website and shares with REss through the GRIPS system (a secure platform for information sharing). In addition, PPATK and supervisory agencies send the listing to FIs, DNFBPs, and to the public, and post the information on their websites. PPATK Circular No. 5 of 2016 provides postal companies that provide money-transfer services, pawnshops, and DNFBPs with specific guidance on their obligations to freeze the assets of designated persons or entities. PPATK has also held outreach sessions for financial services providers on these issues.

108. *Sub-criterion 6.5(e)* – FIs and DNFBPS must report to the INP on whether they have frozen any assets belonging to the designated person or entity (Article 28(4) of the CFT Law). PPATK Circular No. 5 of 2016 implements this requirement by requiring postal companies to provide money-transfer services, pawnshops, and DNFBPs to notify PPATK within one business day that they have received the addition to the domestic list and whether or not they have frozen any assets.

109. *Sub-criterion 6.5(f)* – Article 34(1)(j) of the CFT Law protects the bona fide rights of third parties, as it allows third parties that entered into agreements with designated persons prior to designation to petition the INP for access to funds owed to them.

110. *Criterion 6.6* – PPATK has published on its website information and procedures relating to judicial review of designations; de-listing at the UN and from the domestic list; and accessing frozen funds.

111. *Sub-criterion 6.6(a)* – For UNSCR 1267/1989/2253 or 1988, persons submitting a de-listing request are directed on the PPATK website to the relevant UN Sanctions Committee website for information on the de-listing procedure.

112. *Sub-criterion 6.6(b)* – Article 33 of the CFT Law and Article 7(6) of the Joint TF Freezing Regulations of 2015 authorise the INP to request an order to de-list from the Central Jakarta District Court. This can be because a court has found there are no longer reasonable grounds or basis for the INP to maintain the listing, as well as because the designated person or entity is deceased or, in the case of a corporate entity, dissolved, or there are judicial challenges by the designee.

113. *Sub-criterion 6.6(c)* – Article 32 of the CFT Law provides designated persons or entities the opportunity to appeal their designation to the Central Jakarta District Court. The procedure for this is described in Annex I.6 of the Joint TF Freezing Regulations of 2015.

114. *Sub-criterion 6.6(d) and (e)* – PPATK has published procedures on its website to: (i) facilitate review by the 1988 Committee in accordance with guidelines published by the 1988 Committee; (ii) to inform individuals or entities listed pursuant to UNSCR 1267/1989/2253 about Ombudsperson.

115. *Sub-criterion 6.6(f)* – PPATK Circular No. 5 of 2016 outlines how postal companies providing money-transfer services, pawnshops and DNFBPs should address false positives, although it is not clear how a person or entity would request unfreezing for a false-name match. There is a similar provision in Bappebti Guideline No. 4 of 2017.

116. *Sub-criterion 6.6(g)* – The mechanism for communicating de-listings and unfreezing to FIs and DNFBPs is described in Annex I.5, I.6, I.7, and I.8 of the Joint TF Freezing Regulations of 2015. Once the INP receives a court order from the Central Jakarta District Court to remove the name of a person or entity from the domestic list, it removes the name and provides notification to the appropriate supervisors, who then notify the regulated entities. The regulated entities are required to report to the supervisors certifying that they have unfrozen any funds of the previously designated person or entity.

117. *Criterion 6.7* – Article 34(1) of the CFT Law excludes basic expenses from the asset-freezing requirement of Article 28(3); however, it does not explicitly include extraordinary expenses. Article 34(1) directs designated persons or entities to submit requests for basic expenses to the INP. For UN-designated persons and entities, Article 6 of the Joint TF Freezing Regulations of 2015 requires that any requests for access to funds be submitted to the United Nations for its consideration.

Weighting and Conclusion

118. Indonesia's legal framework for TFS includes some required measures, such as identifying and designating, de-listing, unfreezing and providing access to frozen funds, but does not implement TFS pursuant to UNSCR 1267 without delay, does not apply TFS obligations to all natural and legal persons, and does not clearly prohibit the provision of funds or financial services to designated individuals and entities.

119. **Recommendation 6 is rated partially compliant.**

Recommendation 7 – Targeted financial sanctions related to proliferation

120. The financing of proliferation is a new Recommendation added in 2012.

121. *Criterion 7.1* – On 26 May 2017, Indonesia approved PF Joint Regulations 2017 to implement UN TFS related to WMD proliferation and its financing. The PF Joint Regulations 2017 and its Annex outline Indonesia's implementation process, as follows. Indonesia's UN mission transmits the name and identifying information of the UN-listed individual or entity to

the MoFA, which then notifies PPATK, the INP, the SIA, and NERA. Each of these agencies, based on intelligence or other information contained in their databases, will make a recommendation to PPTAK on listing (Article 5 of the PF Joint Regulations 2017; Annex I.I to PF Joint Regulations 2017). PPATK then reviews the recommendations of the relevant agencies, makes a decision to list domestically on the List of Funding Proliferation Weapons of Mass Destruction (WMD List), then transmits the list to the relevant supervisory agencies, as well as publishes it on the PPATK website. The PF Joint Regulations 2017 specifies that the process should be conducted within a matter of hours—at a maximum, one day (Annex I.I to PF Joint Regulations 2017).

122. However, Indonesia's framework for TFS related to proliferation contains major shortcomings: (i) while domestic listings related to DPRK individuals/entities in September 2017 were implemented within one business day, all other domestic listings related to DPRK individuals/entities were not implemented without delay—at the time of the onsite visit, Indonesia had listed all DPRK individuals/entities to the WMD List; (ii) Indonesia is not implementing TFS related to UNSCR 2231 as it has not domestically listed any Iranian individuals and entities, although there is no technical barrier to designation; and (iii) as discussed in detail in c.7.3, the PF Joint Regulations are not an enforceable means for banks, other major FIs supervised by OJK, or Bappebti and all DNFBPs—only non-bank payment and non-bank money changing service providers, supervised by BI, are required to comply with freezing obligations.

123. *Sub-criterion 7.2(a)* – There is no general obligation for all natural and legal persons to freeze funds or other assets of designated persons and entities. While Article 6(4) of the PF Joint Regulations 2017 requires FIs and DNFBPs to freeze without delay funds owned or controlled by persons and entities on the WMD List, without prior notice, it is only enforceable on entities supervised by BI (see c.7.3) and only for the UN DPRK listings.

124. *Sub-criterion 7.2(b)* – While the PF Joint Regulations (Articles 6(4) and 6(5)) extend the freezing obligation to all ownership circumstances covered by c.7.2(b), the Regulations are only enforceable on entities supervised by BI (see c.7.3) and only for the UN DPRK listings.

125. *Sub-criterion 7.2(c)* – Relevant supervisory agencies are required to 'conduct efforts' to prevent the provision, raising, granting, or lending of funds to individuals or entities on the domestic list (Article 16 of the PF Joint Regulations of 2017). This provision requires government agencies to take action but does not impose a legal prohibition on providing funds, other than economic resources, or financial services to designated individuals and entities.

126. *Sub-criterion 7.2(d)* – Under Article 14 of the PF Joint Regulations 2017, relevant supervisory agencies are required to communicate (both electronically and non-electronically) to their respective regulated entities regarding the listing, freezing, and de-listing determinations of listed individuals. In practice, this information is primarily transmitted by PPATK via email, GRIPS, and posted on PPATK's website. PPATK has also provided guidance on actions to be taken regarding the property of designated persons (via circular letters).

127. *Sub-criterion 7.2(e)* – FIs and DNFBPs must report to their relevant supervisors within three days on whether they have frozen any assets belonging to the designated person or entity (Article 6 (6) of the PF Joint Regulations 2017), although it is not clear if this extends to attempted transactions or other prohibited services by designated persons.

128. *Sub-criterion 7.2(f)* – Article 13(1)(j) of the PF Joint Regulations 2017 protects the bona fide rights of third parties, as it allows third parties that entered into agreements with designated persons prior to designation to petition PPATK for access to funds owed to them.

129. *Criterion 7.3* – Article 11 of the PF Joint Regulations authorises supervisors (see R.26 and R.28) to review implementation of the asset freeze, but does not cover supervision of, or sanctions for, non-compliance c.7.2(c). Furthermore, the assessment team has concluded that the freeze obligation, under Article 6(4) of the PF Joint Regulations 2017, is not an enforceable means for FIs supervised by OJK and BI and all DNFBPs, for the following reasons: (i) the PF

Joint Regulation 2017 does not contain sanctions and there is no clear link to available indirect/broader sanctions for non-compliance by FIs or DNFBPs; (ii) Bappebti's and OJK's AML/CFT regulations and regulations for DNFBPs do not contain requirements for implementation, or a clear link for use of available sanctions for non-compliance with the PF Joint Regulation 2017 (as is the case for FIs supervised by BI); and (iii) Indonesia provided no evidence that other, where available, indirect/broader sanctions could be applied to FI or DNFBPs or natural persons for non-compliance with the PF Joint Regulation 2017. The BI AML/CFT Regulations for non-bank payment and non-bank money changing service providers includes requirements for implementation, and related sanctions, of TFS related to proliferation (as discussed above, this is only applicable to DPRK-listed individuals/entities on the WMD List). Therefore, the assessment team has concluded that the freeze obligation, under Article 6(4) of the PF Joint Regulations 2017, is an enforceable means for only FIs supervised by BI.

130. *Criterion 7.4* – PPATK has published on its website regulations and documents that include information and procedures relating to judicial review of designations, de-listing, and accessing frozen funds; however, not all supervisors have issued applicable procedures and guidance, and extraordinary expenses are not covered.

131. *Sub-criterion 7.4(a)* – For UNSCRs 1718 and 2231, persons submitting a de-listing request are directed on the PPATK website to a link to UNSCR 1730 for information on the de-listing procedure. It is unclear if Indonesia has a link to the Focal Point for de-listing pursuant to UNSCR 1730.

132. *Sub-criterion 7.4(b)* – Article 8 of the PF Joint Regulations of 2017 requires regulated entities to unfreeze the assets of individuals or entities that are not designated but whose funds are frozen because of mistaken identifier information. This can be done following outreach to PPATK and verification that the person or entity is in fact not the designated person or entity. Some, but not all, supervisors have issued procedures and guidance on this (e.g. Bappebti Regulation No. 10 of 2017 and OJK Circular Letter No.38 of 2017).

133. *Sub-criterion 7.4(c)* – Article 13(1) of the Joint Regulations of 2017 includes a list of basic expenses that can be excluded from the asset freeze upon submission of a request to PPATK and/or the UN (Articles 13(1), (4) and (5) of the Joint Regulations of 2017). However, extraordinary expenses are not explicitly addressed.

134. *Sub-criterion 7.4(d)* – The mechanism for communicating de-listings and unfreezing to FIs and DNFBPs are described in Article 9 of the PF Joint Regulations of 2017 and Annex I.3. Once PPATK confirms that an individual or entity has been de-listed at the UN and removes that individual or entity from the domestic list, it notifies the appropriate supervisors, who then notify the regulated entities. This information is transmitted via email, GRIPS, and posted to PPATK's website. The regulated entities are required to report to the supervisors certifying that they have unfrozen any funds of the previously designated person or entity.

135. *Criterion 7.5* – Article 7(1) of the PF Joint Regulations of 2017 allows for interest or earnings on frozen accounts that relate to rights arising prior to the date of designation to be added to those accounts. Article 13 the PF Joint Regulations of 2017 allows for designated persons to have funds or other assets unfrozen and use these funds if: (i) the payment is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services related to WMD proliferation; (ii) the payment is not directly or indirectly received by a listed person or entity; and (iii) the request is approved by the UN.

Weighting and Conclusion

136. While Indonesia has sought to implement a framework to give effect to R.7, there are major shortcomings. Almost all of the DPRK UN-listed persons/entities have not been listed without delay; there is no domestic listing of Iranian UN-listed persons/entities; there is no

prohibition on providing funds or financial services to designated persons; and the freeze mechanism is only enforceable on non-bank payment and non-bank money changing service providers.

137. **Recommendation 7 is rated non-compliant.**

Recommendation 8 – Non-profit organisations

138. In its third round MER, Indonesia was rated non-compliant for former SR.VIII. Deficiencies included: no review of its domestic NPO sector; no strategy to identify and mitigate significant TF risks within the NPO sector; limited outreach to the NPO sector or focus on CFT risks; weak transparency and governance; limited implementation of the existing legal regime to require reporting of constitutional, programmatic or financial information; limited capacity to examine NPOs suspected of either being exploited by or actively supporting terrorist activity or terrorist organisations; and inadequate mechanisms for information exchange with foreign counterparts.

139. *Sub-criterion 8.1(a)* – Indonesia reviewed the TF risk to NPOs in the 2015 TF NRA, the 2016 NPO Strategic Assessment, and the 2017 TF white paper (Indonesia classifies all NPOs as civil society organisations (CSOs) or *ormas* under Article 1(1) of Law No.17 Year 2013 on Civil Society Organisations (CSO Law). Following this review, Presidential Regulation No.18 of the Year 2017 (NPO Regulation) was issued to address the risk of TF abuse in the CSO sector. Article 2 of the NPO Regulation applies to CSOs, legal or non-legal entity status, that: (i) receive and distribute funds from and/or send funds outside of Indonesia; or (ii) whose funds for both donations and operations are largely derived from cash.

140. *Sub-criterion 8.1(b)* – Indonesia has identified the nature of threats posed by terrorist entities to CSOs in the 2015 TF NRA, 2016 NPO Strategic Assessment and, to a lesser extent, the 2017 white paper on TF. The following types of CSOs are at risk of terrorist financing abuse: (i) CSOs operating in certain geographic locations (the highest threat was for organisations in Central Java, Jakarta, West Java, and East Java); (ii) unincorporated CSOs; and (iii) CSOs engaged in raising or disbursing funds for charitable, religious, cultural, educational, social or fraternal purposes that were then used to support terrorist organisations (see 2015 TF NRA, pp. 116–17).

141. *Sub-criterion 8.1(c)* – Based on the results of the 2015 TF NRA and 2016 NPO Strategic Assessment, Indonesia promulgated the NPO Regulation. The measures specified in the NPO Regulation address some, but not all, of the TF risks to CSOs, such as the risk the CSOs can be exploited by officers, directors, or employees who are affiliated with a terrorist organisation.

142. *Sub-criterion 8.1(d)* – A review of the TF risk to CSOs was included in the 2015 TF NRA, the 2016 NPO Strategic Assessment, and updated in the 2017 white paper on TF. PPATK plans to regularly conduct periodic reviews in the future, based on identified changes to the TF risk facing NPOs, but has not done so yet.

143. *Sub-criterion 8.2(a)* – For the civil society organisation sector, the CSO Law; Government Decree No. 58 on Implementation of Law No 17 Year 2013 (CSO Implementation Regulation), and Government Decree No. 59 on CSO Established by Foreign Citizen (CSO Foreign Citizen Regulation) provides for the transparency and accountability of the sector.

144. Indonesia classifies all NPOs as civil society organisations (CSOs) or *ormas* under Article 1(1) of the CSO Law. These CSOs are registered and/or incorporated (those in the formal economy) and non-registered and non-incorporated (those in the informal economy). Formal CSOs are incorporated as foundations or associations via notary deed and registered with the Ministry of Law and Human Rights (MLHR), and/or registered with the Ministry of Home Affairs (MoHA), then receive operating permits from other ministries depending on their activities (e.g. religious-focused CSOs must receive a permit from the Ministry of Religious Affairs), as

discussed below in detail. Indonesia also has a large number of informal CSOs, which are groups of individuals affiliating together without legal form or formal registration.

145. There is also a separate legal regime to collect, manage, and disburse funds provided through the Islamic Zakat (alms) obligation under the Law No. 38 Year 1999 concerning Zakat Management (Zakat/Alms Law) and Presidential Regulation No. 14 of 2014 (Zakat Regulation). These funds are collected by the local Amil Zakat Institution (LAZ) under Article 1 of Presidential Regulation No. 14 of 2014 (Zakat Regulation). There are 17 national LAZ entities, 11 provincial LAZ entities, and 7 local LAZ entities, all of which are government-run. The National Amil Zakat Agency (BANZAS), which reports to the Minister for Religious Affairs, is responsible for reporting and accountability of Zakat funds collected by various LAZ (Article 1 of the Zakat Regulation). Local LAZ must be licensed by the Ministry for Religious Affairs, must submit audited financial reports to the BAZNAS every six months and can be subject to administrative sanctions for failure to properly account for funds under their management under Articles 58, 73, 75, and 77 of the Zakat Regulation. Indonesia has identified the LAZs and the Zakat regime, which is focused on domestic fundraising and disbursement, as being lower risk for TF.

146. Indonesia imposes the following registration requirements on formal CSOs:

147. Legal entity CSOs are registered by virtue of their incorporation as an association or foundation with the MLHR. For foundations, establishment is based on notarial deed with incorporation occurring upon endorsement of deed of incorporation by the MLHR. Under Article 14 of the Law of the Republic of Indonesia Number 16 Year 2001 concerning Foundation (Foundation Law 2001), the deed of incorporation includes the Article of Association.[33] Associations are incorporated in the same way with incorporation occurring upon endorsement of deed of incorporation by the MLHR (Decree No.6 of 2014). For both associations and foundations, amendments to the Article of Association must be documented in a notarial minute with specific amendments requiring submission and approval by the MLHR. This information is available to the public from the MLHR (see R.24). In addition: (i) associations and foundations must obtain a Certificate of Business Domicile (SKDKP) and Taxpayer Identification Number (NPWP) from the relevant agency; and (ii) foundations require a license from the relevant ministry, and associations require a Certificate of Registered Community Organisation.

148. *Non-legal entity CSOs* must submit information to obtain a letter of registration from the MoHA, the provincial governor, or the mayor, depending on the scope of the organisation (Articles 15 and 16 of the CSO Law). Required information includes: (i) Article of Association[34] issued by a notary; (ii) work programme; (iii) structure of organisation; (iv) domicile certificate; (v) tax details; (vi) affidavit about unresolved legal disputes; and (vii) statement of commitment to report activities. Additional requirements apply to CSOs founded by foreign citizens (Articles 43–52 of the CSO Law and CSO Foreign Citizen Regulation). If a non-legal entity CSO does not register with the MoHA, then the government must go out and collect information on it, including its names and address and the name of its founder (see Article 18 of the CSO Law). Registration documents for CSOs are available on the MoHA website, although this would not include registered NPOs.

[33] Article of Association includes information on: (i) name and domicile; (ii) goals and objectives as well as activities to achieve the goals and objectives; (iii) period of establishment; (iv) the total of initial assets separated from personal assets of founders in the form of money or things; (v) method of acquisition and use of assets; (vi) procedures for the appointment, relief, and replacement of patrons, executives, and supervisors; (vii) rights and obligations of patrons, executives, and supervisors; (viii) procedures for organising meetings of foundation elements; (ix) provisions on the amendment to the article of association; (x) merger and dissolution of the foundation; (xi) the use of assets being the remainder of liquidation or distribution of assets of the foundation after the dissolution.

[34] Article of Association includes information on: (i) name and symbol; (ii) location of domicile; (iii) principal purpose and function; (iv) management; (v) rights and obligations of members; (vi) financial management; (vii) dispute settlement and internal monitoring mechanism; and (viii) dissolution of organisation.

149. Under Article 21 of the CSO Law, CSOs are required to implement activities in accordance with the purpose of the organisation (Article 21(a)) and manage their funds in a 'transparent and accountable manner' (Article 21(c) of the CSO Law). Financial management of legal entity CSOs is further clarified under Articles 37 and 38 of the CSO Law, which requires CSOs to produce public reports on their use of donations. Under Articles 53–56 of the CSO Law, in order to improve work performance and accountability, CSOs undergo internal monitoring by members and external supervision by a mandated government entity. However, it is unclear on what basis this supervision is undertaken. There are also additional requirements for CSOs founded by foreign citizens, but these are also not applied based on TF risk (Articles 43–52 of the CSO Law).

150. In addition to the above requirements, CSOs subject to the NPO Regulation (see c.8.1(a)) are required, under Article 3, to identify the benefactor for: (i) individual donations over 5 million IDR (~370 USD), or (ii) donations from or disbursements to jurisdictions that are deemed to have insufficient AML/CFT standards (as determined by PPATK and transmitted to the MoHA). Required benefactor information is outlined in Article 4 with a requirement to refuse donations if identification cannot be completed (Article 5) and keep records of this activity for five years (Article 6). Similar requirements are in place for identification and verification of donations that will be distributed to jurisdictions that are deemed to have insufficient AML/CFT standards (as determined by PPATK and transmitted to the MoHA) (Articles 7–9 of the NPO Regulation). However, it is unclear how often CSOs are required to verify donation recipients or any internal management approval process.

151. *Sub-criterion 8.2(b) and (c)* – Under Article 18 of the NPO Regulation, in the context of supervision, PPATK and other government agencies can engage and undertake outreach to CSOs to discuss the results of risk assessments. Following the enactment of the NPO Regulation, PPATK and other government agencies have engaged groups of at-risk NPOs four times on best practices to protect CSOs from TF, including typologies and information related to the implementation of the NPO Regulation.

152. *Sub-criterion 8.2(d)* – Under Article 37(3) of the CSO Law, all CSOs are required to use accounts at national banks for their financial activity.

153. *Criterion 8.3* – As discussed in c.8.2(a)–(b*)* Indonesia imposes registration and supervision requirements on all CSOs. As noted in c.8.2(a), at-risk CSOs subject to the NPO Regulation, must record the identity of donors/grantees and keep records for donations received and funds disbursed (Article 55 of the CSO Law and Article 15 of the NPO Regulation). The MoHA can request a report on these donations/disbursements from a CSO along with requests for clarification and additional information (Article 16 of the NPO Regulation). They are also prohibited from accepting funds from or making disbursements to individuals or entities that refuse to provide identifying information or are on the DTTOT List. The MoHA can also request additional information on donors and recipients of funds, as well as the NPOs' internal governance and control documents. However, there are no additional measures to address the activities of NPO managers, directors, and employees, who were identified in the 2015 TF NRA as being involved in the misuse of NPOs for terrorism or TF.

154. *Criterion 8.4* – The MoHA, in coordination with PPATK (and other agencies as necessary), monitors CSOs subject to the NPO Regulation by reviewing reports of donations received and funds disbursed, and can request additional information on funds received or disbursed, as well as information on employees or directors (Articles 15 and 16 of the NPO Regulation). Under Article 16 of the NPO Regulation, this is to be done on the basis of risks identified in the 2015 TF NRA. Article 19 of the NPO Regulation authorises sanctions for non-compliance with the NPO Regulation in accordance with Chapter 17 of the CSO Law, which are applicable to the NPO Regulation through Article 21 of the CSO Law.

155. Criminal and civil penalties against members or managers of CSOs that breach the CSO Law can also be imposed (Articles 80 and 81 of the CSO Law).

156. *Sub-criterion 8.5(a)* – Article 42 of the CSO Law requires the MoHA to coordinate with relevant ministries in the development of an information-sharing system on CSOs, which is being made available to relevant agencies involved in NPO management and supervision. This system includes consolidated information on registered NPOs, although Indonesia is continuing to work to make that information more accessible for government agencies. Under Article 17 of the NPO Regulation information sharing on CSOs occurs through a coordination forum led by PPATK, which is being implemented through the creation of an integrated supervision team. This team has a mandate to address terrorist abuse of NPOs and include Detachment 88 and other relevant agencies, but it is unclear whether the team is ensuring effective cooperation, coordination, and information sharing among the relevant agencies.

157. *Sub-criterion 8.5(b)* – Detachment 88 has the necessary expertise and capability to examine CSOs suspected of supporting terrorist activity or terrorist organisations. Detachment 88, in coordination with other agencies, has investigated several entities suspected of providing support to terrorist organisations, including: (i) Hilal Amar Indonesia, suspected of being involved in funding activities in Syria; (ii) Infakdakwah Centre; and (iii) Azam Dakwah Centre for its involvement in supporting the travel of individuals to Syria to serve as FTFs.

158. *Sub-criterion 8.5(c)* – In addition to LEAs powers discussed in R.31, Article 17 of the NPO Regulation authorises the exchange of information on NPOs to prevent TF abuse via PPATK and in accordance with R.37 and R.40 for international cooperation. This would include information exchanges with Detachment 88 and other relevant agencies involved in CFT.

159. *Sub-criterion 8.5(d)* – PPATK can share STRs on CSOs with law enforcement and other agencies can share relevant information through participation in the integrated team. However, given the large number of CSOs and regulating agencies it is unclear how well these agencies can promptly provide complete information on CSOs and their directors/officers to support investigations or preventive action.

160. *Criterion 8.6* – Under Article 17(3) of the NPO Regulation, foreign governments are required to submit requests for information through the MLHR, as the central authority for MLA (see R.36) or via established bilateral cooperation mechanisms as discussed in R.40.

Weighting and Conclusion

161. Indonesia has identified the nature of threats to the NPO sector and imposed measures that are somewhat consistent with the identified risks, but minor deficiencies remain. While the measures in the NPO Regulation impose reporting and recordkeeping requirements on donors and beneficiaries generally consistent with TF risk, there are no additional measures to address the activities of NPO managers and directors, who were identified in the 2015 TF NRA as being involved in the misuse of NPOs. There are clear policies for promoting accountability, integrity and public confidence in legal entity CSOs, less so for non-legal CSOs, and Indonesia has undertaken outreach to some parts of the NPO sector. The creation of the integrated team and improvements in information sharing are targeted measures based on risk, but it is unclear how well they can support action against NPOs associated with TF or terrorism.

162. **Recommendation 8 is rated largely compliant.**

Recommendation 9 – Financial institution secrecy laws

163. In its 2008 MER, Indonesia was rated largely compliant with former R.4 with cascade deficiencies from former R.7 and R.9.

164. *Criterion 9.1* – Articles 45 and 72 of the AML Law remove any confidentiality restrictions in any law or regulation for PPATK, investigators, prosecutors and judges. Article 37 of the CFT Law removes confidentiality restrictions in any law or regulation for investigators, prosecutors and judges. PPATK is also listed as a competent authority to receive any confidential

information requested. As noted above, the AML Law and CFT Law provide for information sharing among competent authorities listed. Indonesian laws do not inhibit information sharing between competent authorities, either domestically or internationally.

165. Indonesian laws do not prohibit the sharing of information between FIs where this is required by R.13, R.16 or R.17. Article 58 in OJK AML/CFT Regulation for PJK provides for group-wide confidentiality of shared information. There are similar provisions in Article 10, 2(a) in the BI AML/CFT Regulation for Non-Bank Payment and Money Changing Service Providers; and Article 43 of Bappebti KYC Regulation for Futures Traders. PPATK KYC Regulation for Postal Providers does not preclude sharing with other FIs as required by R.16, while R.16 is not applicable to savings and loan cooperatives as they do not provide international wire transfers. Both R.13 and R.17 are not applicable to postal providers and savings and loans cooperatives as they do not provide correspondent banking or have branches overseas.

Weighting and Conclusion

166. **Recommendation 9 is rated compliant.**

Recommendation 10 – Customer due diligence

167. Indonesia was rated partially compliant with former R.5. There were moderate shortcomings in the implementation of CDD measures, including inadequate requirements for the timing to perform CDD, lack of CDD requirements for a person acting on behalf a legal person, BO issues, insufficient scope of enhanced CDD requirements for high-risk customers and countries, among others. Since the 2008 MER, Indonesia has enacted the AML Law, which strengthens the KYC principles for FIs, and has issued sector-specific regulations.

168. *Criterion 10.1* – Under Article 18(1) of OJK Regulation for PJK, OJK-supervised FIs are prohibited from establishing or keeping anonymous accounts or accounts in obviously fictitious names. Article 18(1) of the Bappebti KYC Regulation for Commodity Futures Trading has similar requirements. Non-bank payment and non-bank money changing service providers (Article 36(1)(b) of BI AML/CFT Regulation for Non-Bank Payment Service and Non-Bank Money Changing Service Providers) are precluded from the provision of services to prospective customers who are reasonably suspected fictitious and/or anonymous names. For cooperatives, Article 18(d) of MCS KYC Regulation for Cooperatives states they shall not maintain business relationships with customers who are anonymous and/or fictitious. There is no explicit prohibition in the PPATK KYC Regulation for Postal Providers.

169. *Criterion 10.2* – Article 18 of the AML Law stipulates four of the five circumstances when CDD is required for all FIs (and DNFBPs) and includes both ML and TF. These key requirements are repeated and further articulated in the OJK, BI, Bappebti, Ministry of Cooperatives (MoC) and PPATK regulations, as described below.

170. *Sub-criterion 10.2(a)* – The requirement on undertaking CDD when establishing business relations is reinforced in the regulations of the four financial supervisors under Article 15(a) of OJK AML/CFT Regulation for PJK; Article 15(a) of BI AML/CFT Regulation for Non-Bank Payment Service and Non-Bank Money Changing Service Providers; Article 16(a) of Bappebti KYC Regulation for Futures Traders; Article 15(a) of MCS KYC Regulation for Cooperatives; and Articles 11 and 4 in PPATK KYC Regulation for Postal Providers.

171. *Sub-criterion 10.2(b)* – Article 15(b) of OJK AML/CFT Regulation for PJK and its Elucidation require OJK-supervised FIs to conduct CDD measures when conducting any financial transactions, including occasional, denominated in rupiah and/or foreign currency of 100 million IDR (~7,400 USD) or above, including transactions conducted in a single operation, or transactions suspected to be linked. There are similar requirements for other FIs under

Article 15(b) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers and its Elucidation; Article 16(b) of Bappebti KYC Regulation for Futures Traders; Article 15(d) of MCS KYC Regulation for Cooperatives, and Articles 14 and 17 of PPATK KYC Regulation for Postal Providers. This sub-criterion is not applicable to futures traders since occasional transactions are not allowed in futures trading. All customers must open an account and be subject to CDD. However, cooperatives are not explicitly required to conduct CDD measures on occasional transactions in several operations that appear to be linked.

172. *Sub-criterion 10.2(c)* – Pursuant to Article 15(c) of the OJK AML/CFT Regulation for PJK, OJK-supervised FIs are required to conduct CDD measures when carrying out occasional transactions that are wire transfers as set forth in the OJK Regulation. Non-bank payment service providers are required to conduct CDD measures in fund transfers under Articles 15(c) and 41(1) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers; and Article 14(b) of the PPATK KYC Regulation for Postal Providers. There are, however, circumstances regarding beneficiary banks in wire transfers and beneficiary postal service providers in fund transfers where CDD may not fully apply as per the findings in c.16.14.

173. *Sub-criterion 10.2(d)* – Pursuant to Article 15(d) of the OJK AML/CFT Regulation for PJK and its Elucidation, OJK-supervised FIs are required to conduct CDD measures when there are indications of suspicious transactions related to ML/TF. There are similar requirements for other FIs under Article 15(d) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers and its elucidation, Article 16(d) of Bappebti KYC Regulation for Futures Traders, and Article 16(d) of MCS KYC Regulation for Cooperatives. However, with the exception of the OJK regulation and BI regulation, none of the other regulations explicitly mentions the second part of *c.10.2(d)*—namely, 'regardless of any exemptions or thresholds'. There is no requirement in PPATK KYC Regulation for Postal Providers.

174. *Sub-criterion 10.2(c)* – CDD measures are required for all FIs, if an FI has doubts about the correctness or validity of any previously obtained customer information. These requirements are articulated in Article 15(c) of the OJK AML/CFT Regulation for PJK, Article 15(c) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 16(c) of Bappebti KYC Regulation for Futures Traders, Article 19 in PPATK KYC Regulation for Postal Providers, and Article 15(b) of MCS KYC Regulation for Cooperatives.

175. *Criterion 10.3* – Article 25(1) of the OJK AML/CFT Regulation requires OJK-supervised FIs to verify information and supporting documents of all customers, as set forth in Articles 12, 20–22, and 24 of the OJK Regulation based on documents and/or other source information that are reliable, independent and up-to-date. For other FIs, there are similar requirements under Articles 14–21 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Articles 20, 21, and 23 of Bappebti KYC Regulation for Futures Traders, Article 14 in PPATK KYC Regulation for Postal Providers, and Articles 20, 21, and 23 of MCS KYC Regulation for Cooperatives.

176. *Criterion 10.4* – Article 20 of the AML Law stipulates that the reporting party shall be obligated to know whether a customer is acting on its own behalf, or for or on behalf of another person. Under Article 25(2) of the OJK AML/CFT Regulation for PJK, FIs are required to verify that a party purporting to act for, and on behalf of, the customer has been authorised by the customer, and verify the identity of that party. For other FIs, there are similar requirements under Article 23 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Articles 22 and 23(2) of Bappebti KYC Regulation for Futures Traders, Article 21(2) in PPATK KYC Regulation for Postal Providers, and Articles 22 and 23 of MCS KYC Regulation for Cooperatives.

177. *Criterion 10.5* – Article 19 of the AML Law stipulates that any person conducting the transaction with the reporting party shall be obligated to provide information regarding the identity, the source of funds, and the purpose of the transaction of such other party. Article

25(1) of the OJK AML/CFT Regulation for PJK requires these FIs to verify information and supporting documents of the customer by obtaining documents and information that are reliable, independent and up-to-date. Articles 27 and 28 of the OJK AML/CFT Regulation for PJK further provide that OJK-supervised FIs should be required to identify and verify BOs (business owners). The definition of BO is consistent with the FATF standards.

178. This obligation is also imposed on other FIs under Articles 23 and 24 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers and the Elucidation of Article 23, Article 26 of Bappebti KYC Regulation for Futures Traders, Articles 19–22 in PPATK KYC Regulation for Postal Providers, and Articles 22 and 23 of MCS KYC Regulation for Cooperatives. However, the definition of BO is limited to 'owner' under Article 1.17 of MCS KYC Regulation for Cooperatives, which is not in line with the natural person(s) requirement of the FATF definition concerning BO.

179. *Criterion 10.6* – Article 26 of the OJK AML/CFT Regulation for PJK requires these FIs to understand the profile, aim, and intended purpose of the business relationship. There are similar requirements for other FIs in Article 14 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 21 of Bappebti KYC Regulation for Futures Traders, Article 15 in PPATK KYC Regulation for Postal Providers, and Article 21 of MCS KYC Regulation for Cooperatives.

180. *Sub-criterion 10.7(a)* – Under Article 44(1) of the OJK AML/CFT Regulation for PJK, these FIs are required to monitor the business relationship with a customer including transactions of the customer to ensure they are in line with their understanding of the customer, nature of the business, and risk profile of the customer, including source of funds. There are similar ongoing monitoring obligations for other FIs, including those covered in Articles 14(c) and 27 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 38(1) of Bappebti KYC Regulation for Futures Traders, Article 24 in PPATK KYC Regulation for Postal Providers, and Article 31 of MCS KYC Regulation for Cooperatives.

181. *Sub-criterion 10.7(b)* – Pursuant to Article 44(2–3) of the OJK AML/CFT Regulation for PJK, these FIs should keep CDD information updated. There are similar requirements for other FIs, including those covered by Article 28 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 38(2) and (3) of Bappebti KYC Regulation for Futures Traders, Article 26 in PPATK KYC Regulation for Postal Providers, and Article 33 of MCS KYC Regulation for Cooperatives.

182. *Criterion 10.8* – Articles 20(1)(b) and(c), 22(1)(b)(2) and (3), 23 and 26 of the OJK AML/CFT Regulation for PJK require these FIs to understand the nature of the customer's business and its ownership and control structure. Except for futures traders (Articles 21(1) (2) of Bappebti KYC Regulation for Futures Traders), there are no such specific requirements for cooperatives, non-bank payment service providers, and non-bank money changing service providers and postal providers.

183. *Sub-criterion 10.9(a)* – For customers that are legal persons and legal arrangements, OJK-supervised FIs are required to obtain the customer's name, licence number from competent authorities, deed in corporation/company article of association, address of the domicile, and identity document of the party authorised to represent legal persons or legal arrangements in conducting business relationship with FIs, and to identify and verify the customer under Articles 20, 22, and 23 of the OJK AML/CFT Regulation for PJK. For other FIs, there are similar requirements in Articles 16, 17, and 18 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 21(1) of Bappebti KYC Regulation for Futures Traders, Article 19(1)(b) and (c) in PPATK KYC Regulation for Postal Providers, and Article 21 of MCS KYC Regulation for Cooperatives. Due to the membership restrictions of cooperatives, legal arrangements are not applicable to them. However, requirements for legal arrangements are not explicitly provided for futures traders.

184. *Sub-criterion 10.9(b)* – The requirements for legal persons and legal arrangements are as stated in the referred articles and regulations in c.10.9(a) above.

185. *Sub-criterion 10.9(c)* – The requirements for legal persons and legal arrangements are as stated in the referred articles and regulations in c.10.9(a) above.

186. *Sub-criterion 10.10(a*) – Article 28 of OJK AML/CFT Regulation for PJK requires these FIs to identify and verify the BO of a prospective legal person customer. The requirements in Article 23(3) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Articles 25(1)(2) and 26(2) of Bappebti KYC Regulation for Futures Traders, and Article 15 in PPATK KYC Regulation for Postal are also consistent with this sub-criterion. There are some requirements in Article 22 of MCS KYC Regulation for Cooperatives. Nevertheless, BOs refer to 'owners' under Article 1.17 of MCS KYC Regulation for Cooperatives; therefore, it is not clear whether cooperatives are required to verify the identity of the 'natural person' who ultimately has a controlling ownership interest in a legal person.

187. *Sub-criterion 10.10(b)* – Article 28(2) of OJK AML/CFT Regulation for PJK requires FIs to identify and verify identity of natural person (if any) controlling corporation through other means, if there are doubts whether the controlling person is the BO. As defined in Article 1(21) of OJK AML/CFT Regulation for PJK, corporations refer to organised groups of people and/or wealth, either in the form of a legal entity or non-legal entity, including companies, foundations, cooperatives, religious associations, political parties, non-governmental organisations, non-profit organisations, or civil society organisations. For other FIs, there are similar requirements in Articles 24(1) and 1(11) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 26(3) of Bappebti KYC Regulation for Futures Traders, and Article 24(2) of PPATK Regulation for Postal Providers. There are no specific requirements for cooperatives to identify and verify the identity of BOs in the circumstance of c.10.10(b).

188. *Sub-criterion 10.10(c)* – Article 28(3) of OJK AML/CFT Regulation for PJK requires these FIs to identify and verify the identity of the relevant natural person who holds a position on the Board of Directors, or similar position, in the circumstance where there is no natural person identified as the BO. There are similar requirements in Article 24(2) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 26(4) of Bappebti KYC Regulation for Futures Traders, and Article 24(3) of PPATK Regulation for Postal Providers. The deficiencies in cooperatives stated in c.10.10(a) and (b) are applicable to this sub-criterion.

189. *Sub-criterion 10.11(a)* – Pursuant to Article 28(1.c) of OJK AML/CFT Regulation for PJK, FIs are required to identify and verify the identity of the BO of a legal arrangement in the form of a trust (including foreign trusts) through the following information: identity of settlor, identity of trustee, identity of protector (if any), identity of beneficiaries or class of beneficiaries, and natural person controlling the trust. Article 16(1.c.) and (2.c.) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, and Article 24 (1)(c) and (d) of PPATK Regulation for Postal Providers meet this sub-criterion. While this sub-criterion is not applicable to cooperatives due to its membership restrictions, there are no such specific requirements for future traders.

190. *Sub-criterion 10.11(b)* – The conclusions for c.10.11(a) are applicable for this sub-criterion.

191. *Criterion 10.12* – According to Article 37(1) of OJK AML/CFT Regulation for PJK , FIs (including insurance entities) are required to apply CDD measures to the beneficiary of life insurance and other investment-related insurance policies immediately after the beneficiary is identified or designated, including: (i) obtaining the name of natural person or corporation or legal arrangement that is the beneficiary for a beneficiary that is identified as a specifically named natural or non-natural person, and (ii) obtaining sufficient information concerning the

beneficiary to satisfy the FI that it will be able to establish the identity of the beneficiary at the time of claimed insurance for a beneficiary that is designated by characteristics, or by class, or by other means. Furthermore, Article 37(3) of the OJK AML/CFT Regulation for PJK requires FIs to verify the identity of the beneficiary at the time of insurance-claim payout.

192. *Criterion 10.13* – According to Article 38(1) of OJK AML/CFT Regulation for PJK, FIs are required to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether EDD measures are applicable. Article 38(2) further provides that such FIs should apply EDD, including to identify and verify the identity of the BO of the beneficiary at the time of an insurance-claim payout where FIs determine a beneficiary as high risk or PEP.

193. *Criterion 10.14* – Pursuant to Article 25(6) of OJK AML/CFT Regulation for PJK, these FIs should complete the verification process of a prospective customer and/or its BO before establishing a business relationship or conducting transactions with a walk-in customer. However, under Article 25(7) of OJK AML/CFT Regulation for PJK, FIs may establish a business relationship or conduct transactions prior to the completion of the verification process. Article 25(8) further provides that the verification process should be completed immediately after the business relationship is established, subject to the ML/TF risk being managed effectively and the process does not interrupt the normal conduct of business.

194. There are similar requirements in Article 22 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers as well as Article 21(6)(7) and (8) of PPATK KYC Regulation for Postal Providers 2017. Futures traders are prohibited from establishing a business relationship prior to identification and verification (Article 23(8) of Bappebti KYC Regulation for Futures Traders). Article 24(2) of MCS KYC Regulation for Cooperatives do not explicitly preclude commencement of a relationship prior to verification, and there are no explicit risk management requirements to manage such risks.

195. *Criterion 10.15* – As noted in c.10.14, of those FIs that are allowed to have or are not precluded from having delayed verification, OJK-supervised FIs, BI-supervised non-bank payment service providers and money changing service providers, as well as postal providers, are required to have risk-management procedures. There are no such explicit requirements for cooperatives.

196. *Criterion 10.16* – Pursuant to Article 62(1.a) of OJK AML/CFT Regulation for PJK and its Elucidation, FIs are only required to submit action plans of AML/CFT implementation programmes to address CDD on existing customers based on risk and materiality by May 2017. As stated in the Elucidation, an action plan is a measure to implement the AML/CFT program for a certain period with a target completion period. Article 28 of BI AML/CFT Regulation for Non-Bank Payments and Non-Bank Money Changing Service Providers and its elucidation require service providers to keep CDD information updated, including existing customers. As stated in Article 47 of Bappebti KYC Regulation for Futures Traders, futures traders are required to submit action plans of AML/CFT implementation of existing customers based on customer risk assessments and availability of adequate information previously obtained. There are similar requirements for cooperatives in Article 48 of MCS KYC Regulation for Cooperatives. There are some general requirements in Articles 24–26 of PPATK KYC Regulation for Postal Providers.

197. *Criterion 10.17* – FIs should apply EDD under Article 31(2) of OJK AML/CFT Regulation. Under Articles 2, 16 and 30, they are required to assess and categorise customers on the basis of risk. Criteria for determining whether a customer is higher risk are detailed in Article 30(2) with additional EDD measures stipulated in Article 34. There are similar requirements for other FIs under Articles 31–33 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 28(3) of Bappebti KYC Regulation for Futures Traders, Article 22 in PPATK KYC Regulation for Postal Providers, and Article 26 of Ministry of Cooperative KYC Regulation for Cooperatives.

198. *Criterion 10.18* – Pursuant to Article 40(1) and (4) of OJK AML/CFT Regulation for PJK, FIs may apply simplified CDD measures to a limited set of lower-risk customers (e.g. publicly listed company, government or government-owned agency, government programs) or based on the FI's risk assessment of ML/TF. Article 40(7) further provides that simplified CDD measures do not apply whenever there is a suspicion of ML/TF, or specific higher-risk scenarios apply. According to Article 40(2) and (3) of the OJK Regulation for PJK, simplified CDD measures include obtaining basic information on the customer, such as name, date and place of birth/establishing, address, ID number with supporting identity documents.

199. There are similar requirements for other FIs, as set forth in Articles 29 and 30 of BI AML/CFT Regulation for Non-Bank s and Non-Bank Money Changing Service Providers, Article 35 of Bappebti KYC Regulation for Future Traders, Article33(4) in PPATK KYC Regulation for Postal Providers, and Article 25 of MCS Regulation for Cooperatives. However, there is no prohibition for cooperatives on simplified CDD other than when there is suspicion or risk of ML/TF—i.e. other specific higher-risk scenarios apply.

200. *Criterion 10.19* – Articles 21 and 22 of the AML Law provides that FIs shall be obligated to reject a transaction or terminate a business relationship, respectively, with a customer in the following events: (a) the customer refuses to comply with the KYC principle; or (b) the FI doubts the correctness of information submitted by the customer, and FIs are obligated to report the said termination to the PPATK as a suspicious transaction. There are provisions under Article 42 of OJK AML/CFT Regulation for PJK, Article 36 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 36 of Bappebti KYC Regulation for Future Traders, Articles 23 and 29 in PPATK KYC Regulation for Postal Providers, and Article 36 of MCS KYC Regulation for Cooperatives.

201. *Criterion 10.20* – Article 42(4) OJK AML/CFT Regulation for PJK requires these FIs not to continue the CDD process, and to file a suspicious transaction report with PPATK where they form a suspicion of ML/TF and believe that the CDD process will tip-off the customer. There are similar requirements under Article 38 of BI AML/CFT Regulation for Non-Bank Payment Non-Bank Money Changing Service Providers, Article 36(4) of Bappebti KYC Regulation for Future Traders; Article 25 in PPATK KYC Regulation for Postal Providers, and Article 32(2)–(4) of Ministry of Cooperative KYC Regulation for Cooperatives.

Weighting and Conclusion

202. In the less materially significant sectors, there are some minor gaps in the timing of CDD requirements for futures traders, cooperatives, and beneficiary banks in wire transfers; definition of BO; timing of verification and risk-based approach for cooperatives; and CDD requirements of legal arrangements for future traders.

203. **Recommendation 10 is rated largely compliant.**

Recommendation 11 – Recordkeeping

204. Indonesia was rated largely compliant with former R.10. The 2008 MER noted that business correspondence is not clearly provided as a part of the records to be maintained under the Corporate Law.

205. *Criterion 11.1* – Article 21 of the AML Law obliges reporting parties to maintain records and documents concerning the identity of customers for a minimum period of five years. Article 56(2) of OJK AML/CFT Regulation for PJK requires OJK-supervised FIs to maintain customers' or walk-in customers' documents associated with financial transactions within the period stipulated. According to Articles 11 and 6 of the Companies Record Keeping Law No. 8 Year 1997, the duration of the recordkeeping should be 10 years as from the end of the book year of the company. There are similar requirements for other FIs under Article 51(1) and (2) of BI

AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 41(1) and (2) of Bappebti KYC Regulation for Future Traders, Article 28 in PPATK KYC Regulation for Postal Providers, and Article 35(1) of MCS KYC Regulation for Cooperatives.

206. *Criterion 11.2* – Article 21(2) of AML Law stipulates that the reporting party shall maintain records and documents concerning the identity of financial service users for five years from the end of the business relationship. Under Article 56(1) and (2) of the OJK AML/CFT Regulation for PJK, these FIs shall maintain documents associated with customers' or walk-in customers' data no less than five years as of the termination of the business relationship, including customer identity, correspondence, results of any analysis undertaken, transaction information etc. There are similar recordkeeping requirements for other FIs set forth in Article 51(1) and (2) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 41(1) and (2) of Bappebti KYC Regulation for Future Traders, Article 28 in PPATK KYC Regulation for Postal Providers; and Article 35(1) of MCS KYC Regulation for Cooperatives.

207. *Criterion 11.3* – Elucidation of Article 56(1) of OJK AML/CFT Regulation for PJK states that the purpose of the recordkeeping requirement for FIs is to allow transaction reconstruction when requested by competent authorities, and the document should be kept in the original form, copies, electronic form, microfilm or any other form that can be used as evidence under the law. There are also specific requirements in the Elucidation of Article 51 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, and Article 41 of Bappebti KYC Regulation for Future Traders. While there are no specific references to keeping transaction records to permit reconstruction of accounts in the regulations of Ministry of Cooperative and PPATK KYC Regulation for Postal Providers, the records may nevertheless be sufficient given the nature of the services provided.

208. *Criterion 11.4* – Article 72(1) of AML Law stipulates that in ML cases, investigators, public prosecutors, or judges shall be authorised to request the reporting party to provide written statements concerning assets of (i) any person reported by PPATK to the investigators; (ii) suspect; or (iii) defendant. It is not clear whether the assets incorporate all CDD information and transaction records, and whether they are available swiftly to domestic competent authorities. There are further requirements for FIs to provide data, information or documents to competent authorities upon request under Article 56(4) of OJK AML/CFT Regulation for PJK, Article 51(3) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers Article 40(6) and (7) of Bappebti KYC Regulation for Future Traders, and Article 21 in PPATK KYC Regulation for Postal Providers. There are no specific requirements for postal providers and cooperatives.

Weighting and Conclusion

209. There is a lack of clarity whether information can be provided swiftly by some reporting entities. There are no specific references to keeping transaction records to permit reconstruction of accounts for cooperatives.

210. **Recommendation 11 is rated largely compliant.**

Recommendation 12 – Politically exposed persons (PEPs)

211. Indonesia was rated non-compliant with former R.6 in the 2008 MER. There were only some requirements for the banking sector to perform EDD on foreign PEPs. Since then Indonesia has introduced relevant measures in their AML/CFT regulatory regime. The definition of PEPs in various regulations meets the FATF standards—namely, under Article 1(26) of OJK AML/CFT Regulation for PJK, Article 1(12) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 1(18) of Bappebti KYC

Regulation for Futures Traders, and Article 17(1)(2) of MSC KYC Regulation for Cooperatives. There are no PEP requirements for postal providers.

212. *Criterion 12.1*

213. *Sub-criterion 12.1(a)* – Article 32(1)(a) of OJK AML/CFT Regulation for PJK requires OJK supervised FIs to have risk-management systems to identify whether the customer or beneficial owner is a foreign PEP. For other FIs, there are similar requirements under Articles 34(1) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, and Article 30(1)(a) of Bappebti KYC Regulation for Futures Traders. It is not clear whether cooperatives are required to have such risk-management systems in place under Article 26(1) and (2) of MCS KYC Regulation for Cooperatives. There are no requirements for postal providers.

214. *Sub-criterion 12.1(b)* – Article 32(1)(b) of OJK AML/CFT Regulation for PJK requires these FIs to obtain approval from senior management responsible for business relationships with foreign PEPs. Articles 29 and 30 Bappebti KYC Regulation for Future Traders, Article 31(5) and (6) of BI AML/CFT Regulation for Non-Bank Payment Service Providers and Non-Bank Money Changing Service Providers, and Article 30(1)(b) of Bappebti KYC Regulation for Future Traders, and Article 30(1) and (2) of Ministry of Cooperative KYC Regulation for Cooperatives contain similar requirements. There are no requirements for postal providers.

215. *Sub-criterion 12.1(c)* – Article 32(1)(c) of OJK Regulation Number for PJK requires these FIs to regularly conduct EDD, at least an analysis of information concerning customer (or BO) source of funds and source of wealth for foreign PEPs. There are similar requirements for other FIs under Article 34(3) of BI AML/CFT Regulation Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 30(1)(c) of Bappebti KYC Regulation for Future Traders, and Article 27(1) of MCSKYC Regulation for Cooperatives. There are no requirements for postal providers.

216. *Sub-criterion 12.1(d)* – Article 32(1)(d) of OJK AML/CFT Regulation for PJK requires these FIs to conduct enhanced ongoing monitoring on the business relationship with foreign PEPs, such as increasing the frequency of monitoring and determining transaction patterns. There are similar requirements for other FIs under Article 34(3)(b)of BI AML/CFT Regulation Non-Bank Payment and Non-Bank Money Changing Service Providers, and Article 30(1)(d) of Bappebti KYC Regulation and Article 28 of MCS KYC Regulation for Cooperatives. There are no requirements for postal providers.

217. *Sub-criterion 12.2(a*) – Under Article 33(a) of OJK AML/CFT Regulation for PJK, FIs are required to have risk-management systems to identify whether the customer or beneficial owner is a domestic PEP, or a person who has been entrusted with a prominent function by an international organisation. There are similar requirements for other FIs under Articles 1(12)(b)(c) and 34 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, and Articles 28(1), (2)(c), (3) and 29 of Bappebti KYC Regulation for Future Traders. Article 17 in MCS KYC Regulation for Cooperatives provides a general obligation to identify whether a customer is a *domestic* or international organisation PEP. There are no requirements for postal providers.

218. *Sub-criterion 12.2(b)* – Article 33(b) of OJK AML/CFT Regulation for PJK and Articles 34(3) and 31(5)(6) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers meet this sub-criterion. It is not clear whether the measures applicable to foreign PEPs under Article 30(1)(b)–(d) of Bappebti KYC Regulation for Future Traders as stated in sub-criterion 12.1(b)–(d) extend to domestic PEPs and PEPs of international organisations. There are no requirements for postal providers.

219. *Criterion 12.3* – Article 34 of OJK AML/CFT Regulation for PJK includes family members and associates. Except for cooperatives and postal providers, there are similar requirements under Article 35 of BI AML/CFT Regulation for Non-Bank Payment Service Providers and Non-

Bank Money Changing Service Providers, and Article 31 of Bappebti KYC Regulation for Future Traders.

220. *Criterion 12.4* – Article 39 of OJK AML/CFT Regulation for PJK, which includes insurance, contains requirements to identify whether a life insurance beneficiary or the beneficial owner of a beneficiary is a PEP.

Weighting and Conclusion

221. Postal providers are not covered. There are also gaps in the requirement for a risk-management system for savings and loans cooperatives. These are minor given the size and risk of these FIs.

222. **Recommendation 12 is rated largely compliant.**

Recommendation 13 – Correspondent banking

223. Indonesia was rated non-compliant with former R.7 in the 2008 MER. There was no requirement for FIs to comply with R.7.

224. *Sub-criterion 13.1(a)* – Article 47(1) of OJK AML/CFT Regulation for PJK requires banks prior to providing cross-border correspondent banking services to gather information on the profile of the recipient bank and/or intermediary bank, reputation of the banks, level of AML/CFT programs in the country and other relevant information required.

225. *Sub-criterion 13.1(b)* – Article 47(4) of OJK AML/CFT Regulation for PJK requires banks to conduct an assessment of the AML/CFT programs of the recipient bank and/or intermediary bank.

226. *Sub-criterion 13.1(c)* – Article 47(3) of OJK AML/CFT Regulation for PJK requires banks to obtain approval from a senior officer responsible for the business relationship with the prospective recipient bank and/or intermediary bank.

227. *Sub-criterion 13.1(d)* – Article 47(5) of OJK AML/CFT Regulation for PJK requires banks to clearly understand the respective AML/CFT responsibilities of each institution.

228. *Criterion 13.2* – With respect to payable-through accounts, Article 49 of OJK AML/CFT Regulation for PJK requires banks to ensure that: (i) recipient banks and/or intermediary banks have implemented adequate CDD and monitoring processes that is at minimum similar with standards stipulated in this Regulation; and (ii) recipient banks and/or intermediary banks are willing to provide identification data of the customer concerned if requested by the transferring banks.

229. *Criterion 13.3* – Article 50(b) and (c) of OJK AML/CFT Regulation for PJK prohibits relationships with shell banks. The definition of shell banks under the Elucidation of Article 42 of OJK AML/CFT Regulation for PJK meets the FATF requirement.

Weighting and Conclusion

230. **Recommendation 13 is rated compliant.**

Recommendation 14 – Money or value transfer services (MVTS)

231. Indonesia was rated non-compliant with former SR.VI. The 2008 MER found that there was a large-scale unregulated informal remittance channels without any registration or licensing requirements for money remitters. After 2008 MER, non-bank MVTS providers were required to be licensed and regulated by BI.

232. *Criterion 14.1* – There are two types of MVTS providers—banks and non-bank legal entities—conducting funds-transfer activities. Banks are required to be licensed under Article 1 of the Act of the Republic of Indonesia Number 7 Tahun 1992, as amended by the Act of the Republic of Indonesia No. 10 Tahun 1998, and non-bank legal entities are required to be licensed under Article 69 of the Act of the Republic of Indonesia Number 3 2011 concerning Funds Transfers.

233. *Criterion 14.2* – There are sanctions under Article 79 of the Republic of Indonesia Number 3 of 2011 that provides a penal sanction of imprisonment not exceeding three years and a fine not exceeding three billion IDR (~222,000 USD) for any person conducing fund-transfer activities without a licence. They are also required to cease all activities in provision of fund transfer. Before the ME onsite visit, Indonesia had taken action against 751 unlicensed money changers and 55 unlicensed MVTS providers. BI has reached out to money changers and MVTs and requested the perpetrators to cease unlicensed business. BI cooperates with the INP to take regulatory enforcement actions to crack down on unlicensed activities. As of the end of August 2017, 698 illegal money changers, which accounts for 89% of the total identified unlicensed money changers, have been closed.

234. *Criterion 14.3* – MVTS providers are subject to AML/CFT as a reporting party under Article 17 of the AML Law and Article 11 of the CFT Law. Furthermore, BI AML/CFT Regulation includes non-bank payment system service providers, and BI oversees their implementation pursuant to Article 35 of the Regulation. Banks providing such services are subject to supervision by OJK under OJK AML/CFT Regulation for PJK.

235. *Criterion 14.4* – Pursuant to Article 69 of Act of the Republic of Indonesia Number 3 of 2011, both the MVTS providers and their agents must be Indonesian legal entities and obtain a licence from BI.

236. *Criterion 14.5* – Article 12 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers requires service providers cooperating with a third party to ensure the implementation of their AML/CFT programs by the third parties. Under the Elucidation of the said BI Regulation, a third party includes an agent.

Weighting and Conclusion

237. **Recommendation 14 is rated compliant.**

Recommendation 15 – New technologies

238. Indonesia was rated largely compliant with former R.8. The 2008 MER found no requirement for the securities sector to have measures in place to mitigate risks related to new technologies.

239. *Criterion 15.1* – This criterion is provided in Article 14 of OJK AML/CFT Regulation for PJK, and Article 15(1) of Bappebti KYC Regulation for Future Traders and Article 45(2) of MCS KYC Regulation for Cooperatives. Article 50 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers covers new technologies and new products but there are no obligations covering existing products. There are some basic requirements in Article 8(2) of PPATK KYC Regulation for Postal Providers. Indonesia identifies and assesses ML/TF risks posed by new technology, such as FinTech. After the ML/TF risk assessment, OJK issued P2P lending regulations in 2016 and brought P2P lending service providers into the AML/CFT regime.

240. *Criterion 15.2* – This criterion for FIs supervised by OJK is provided under Article 14 of OJK AML/CFT Regulation for PJK. There are similar requirements in Article 50 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers and Article 15(2) and (3) of Bappebti KYC Regulation for Future Traders. There are similar requirements

for cooperatives under Article 45(2) of MCS KYC Regulation for Cooperatives, but it is not clear about the timing of any risk assessment. There are some basic requirements in Article 8 (2) of PPATK KYC Regulation for Postal Providers.

Weighting and Conclusion

241. There are minor shortcomings in non-bank payment service providers, non-bank money changing service providers, cooperatives, and postal providers regarding the obligation on existing products, timing of risk assessment, and comprehensiveness of the requirements.

242. **Recommendation 15 is rated largely compliant.**

Recommendation 16 – Wire transfers

243. Indonesia was rated non-compliant with former SR VII. The 2008 MER stated that Indonesia has not established wire-transfer obligations over its FIs and no measures are in place. The FATF requirements for R.16 have been updated compared to SR.VII.

244. *Criterion 16.1* – Article 8 of the Act of the Republic of Indonesia No.3 2011 on Funds Transfers (Funds Transfer Act) states that a funds transfer order must include both originator and beneficiary information. Articles 51 and 52 of OJK AML/CFT Regulation for PJK further obligate banks to obtain and verify originator and beneficiary information for both domestic and cross-border wire transfers.

245. *Criterion 16.2* – Articles 51 and 52 of OJK AML/CFT Regulation for PJK set forth requirements for banks to include in the batch file accurate originator information and full beneficiary information on several individual cross-border wire transfers from a single originator. The required information includes account number or transaction reference number.

246. *Criterion 16.3 is not applicable* – OJK Regulation for PJK does not have any threshold requirement for fund transfer transactions of banks.

247. *Criterion 16.4 is not applicable* – There is no regulatory threshold as stated above.

248. *Criterion 16.5* – The conclusion in c.16.1 applies to domestic wire transfers.

249. *Criterion 16.6* – Articles 14, 15, 41–44, and 51 of BI AML/CFT Regulation and for Non-Bank Payment Service Providers and Non-Bank Money Changing Service Providers and the Elucidation set out AML/CFT obligations for fund transfers conducted by non-bank payment service providers. There are limited requirements in the PPATK KYC Regulation for Postal Providers. There are some requirements in the Funds Transfer Act limited to c.16.1, c.16.5 and c.16.9.

250. *Criterion 16.7* – Article 51(1.a) of OJK AML/CFT Regulation for PJK requires banks to obtain originator and beneficiary information. Article 56 on recordkeeping requires them to keep such information.

251. *Criterion 16.*8 – Article 54(1) of OJK AML/CFT Regulation for PJK requires the transferring bank to refuse to execute the fund transfer where the required originator and beneficiary information referred to in Article 51 (1.a.1) is not obtained.

252. *Criterion 16.9* – Article 51(1.b) of OJK AML/CFT Regulation for PJK provides that for all wire transfers, intermediary banks shall forward messages and instructions of fund transfer, as well as administer information received from transferring banks.

253. *Criterion 16.10* – Article 51 (1)(b) of OJK AML/CFT Regulation for PJK requires intermediary banks to document all information received from transferring banks; it doesn't specify the minimum five-year recordkeeping time. Although Article 56(1.a) of OJK AML/CFT Regulation for PJK provides for general recordkeeping rules related to banks' customers, it does

not fully meet this criterion since the originator of the wire transfer may not be a customer of the (intermediary) bank.

254. *Criterion 16.11* – There are no specific requirements for intermediary financial institutions to take reasonable measures to identify cross-border wire transfers that lack required originator information or required beneficiary information.

255. *Criterion 16.12* – Pursuant to Article 54(2) and (3) of OJK AML/CFT Regulation for PJK, intermediary banks are required to have policies and procedure based on risk in determining measures: (i) when to execute the fund transfer; (ii) refuse to execute the fund transfer or delay the fund transfer that is lacking required originator or beneficiary information; and (ii) adequate follow-up for these circumstances.

256. *Criterion 16.13* – As stated in the above c.16.11, Article 54(2) of OJK AML/CFT Regulation for PJK and its Elucidation provide some measures along with adequate follow-up required for recipient banks to take measures based on risk, including tighter/enhanced monitoring. It is not explicit whether adequate follow-up includes post-event monitoring, or real-time monitoring to identify cross-border transfers lacking required information.

257. *Criterion 16.14* – Article 51(1.c) of OJK AML/CFT Regulation for PJK provides that recipient banks shall ensure completeness of information of sending customers/walk-in customers obtained by transferring banks for all wire transfers. It does not require recipient banks to verify the identity of the beneficiary, if the identity has not been previously verified, and maintain the information thereof.

258. *Criterion 16.15* – Article 54(2) and (3) OJK AML/CFT Regulation for PJK provides the requirements of risk-based policies and procedures for recipient banks as stated in c.16.12.

259. *Criterion 16.16* – Articles 41–44 and 51 of BI AML/CFT Regulation and for Non-Bank Payment Service Providers and Non-Bank Money Changing Service Providers and the Elucidation set out AML/CFT obligations for fund transfer conducted by non-bank payment service providers. However, it is not clear whether the service providers are required to verify the information pertaining to its customers where there is a suspicion of ML/TF as required for c.16.4. There are limited requirements in the PPATK KYC Regulation for Postal Providers. There are some requirements in the Funds Transfer Act limited to c.16.1, c.16.5 and c.16.9.

260. *Criterion 16.17* – Article 45 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers and its Elucidation require non-bank payment service providers acting as transferring and beneficiary institutions to take into account and analyse all information regarding the originator and beneficiary in determining whether to file an STR and submit the STR both to PPATK and the country concerned. There are no specific requirements in the PPATK KYC Regulation for Postal Providers, although the STR requirement covers all transactions.

261. *Criterion 16.18* – Pursuant to Article 28(3) of CFT Law, FIs are required to take freezing action without delay for all funds owned or controlled, directly or indirectly, by natural persons or corporations based on the list of suspected terrorist and terrorist organisation issued by Head of INP as per Jakarta District Court's decision. Further, there are parallel freezing requirements in supervisors' AML/CFT regulations. Article 46 of OJK AML/CFT Regulation imposes a requirement freeze and a range of administrative/financial sanctions are available for non-compliance under Articles 65–66, including suspension. Additional guidance is provided in OJK Guideline 38/2007 on Freezing without Delay. BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers also states if the reporting entity fails to meet the obligation to 'freeze without delay' as stipulated under Article 47 (3), then BI can have imposed sanction to the reporting entity and/or its Director, Commissioner, and/or shareholder (Article 57). For postal service providers, there are freezing provisions in Section Monitoring 2 PPATK TF Freezing Circular No. 5 of 2016. There is no sanction in the circular, but

it does state that the freezing without delay provision, '… can be sanctioned based on law and regulations'. It is not clear in which law or regulation, or how this would be implemented.

Weighting and Conclusion

262. There are minor gaps with recordkeeping for intermediary banks for walk-in customers and recipient banks. There are also some shortcomings in the wire transfer and targeted financial sanction regime governing postal providers, but the sector is insignificant.

263. **Recommendation 16 is rated largely compliant.**

Recommendation 17 – Reliance on third parties

264. Indonesia was rated non-compliant with former R.9. The 2008 MER stated that Indonesia has no explicit legal requirements for banks or non-bank FIs to have procedures with respect to use of third parties.

265. *Criterion 17.1* – FIs that are permitted to rely on third-party CDD measures are banks, capital market institutions, non-bank FIs, and non-bank payment and money changing service providers—essentially, those FIs supervised by OJK and BI. Commodity future traders, postal providers, and cooperatives are not allowed to rely on third-party CDD measures.

266. Article 41 in OJK AML/CFT Regulation for PJK provides for FIs to rely on third-party CDD measures consistent with this criterion—namely, the CDD responsibility remains with the FI, the FI is required to obtain the CDD information, and to satisfy itself that the third party will immediately provide copies of CDD supporting documents, if required, and that the third party is supervised or monitored for AML/CFT compliance.

267. For non-bank payment and money changing service providers, Article 40 in the BI AML/CFT Regulation for Non-Bank Payment and Money Changing Service Providers includes requirements under (a) to (c) of this criterion.

268. *Criterion 17.2* – Article 41 (4) OJK AML/CFT Regulation for PJK mirrors the criterion—namely, countries in which the third party may be located should be based on the level of country risk. According to Article 40(2) of BI Bank AML/CFT for Non-Bank Payment and Money Changing Service Providers, third-party-provided CDD can be used if the third party is domiciled in a country that has implemented the FATF recommendations. However, no account is taken on the level of a third party's country risk.

269. *Criterion 17.3* – Article 41 (6) OJK AML/CFT Regulation for PJK and Article 40(2) BI Bank AML/CFT for Non-Bank Payment and Money Changing Service Providers meet this criterion on financial group.

Weighting and Conclusion

270. There are minor gaps in determining the level of the country risk of the third party for non-bank payment and money changing service providers.

271. **Recommendation 17 is rated largely compliant.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

272. Indonesia was rated non-compliant and partly compliant with former R.22 and former R.15, respectively. The 2008 MER stated that: for former R.15, deficiencies mainly relate to implementation, and for former R.22, there were not requirements for FIs to comply with former R.22.

273. *Criterion 18.1* – Articles 57–61 of OJK AML/CFT Regulation for PJK require these FIs to have internal procedures, including screening of new employees, training program and group-level compliance and audit. In Articles 8–9 there is a requirement to establish a special unit or appoint an officer(s), with the head of the unit at executive level. For other FIs, the requirements are contained in Articles 8–10 of BI AML/CFT Regulation for Non-Bank Payment and Money Changing Service Providers, Articles 42–46 of Bappebti KYC Regulation for Futures Traders, Articles 30–33 of PPATK KYC Regulation for Postal Providers, and Articles in 39–42 in MCS KYC Regulation for Cooperatives.

274. *Criterion 18.2* – Article 58 in OJK AML/CFT Regulation for PJK provides for group-wide AML/CFT compliance and confidentiality of shared information. For other relevant FIs, Article 10 in the BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, and Article 43(1) of Bappebti KYC Regulation for Futures Traders apply. Postal providers and cooperatives do not have financial groups.

275. *Criterion 18.3* – Article 58(3) and (5) in OJK AML/CFT Regulation for PJK provide for: (i) the higher AML/CFT requirements to be applied, if the host's requirements are less than the home requirements; and (ii) that in the event that the host country does not permit proper implementation of AML/CFT measures consistent with the home-country requirements, financial groups should be required to apply appropriate additional measures to manage the ML/TF risks, and inform their home supervisors. There are similar compliant requirements in Article 11 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers and Articles 43(3)–(5) in Bappebti KYC Regulation for Futures Traders. Postal service providers and cooperatives do not have foreign branches.

Weighting and Conclusion

276. **Recommendation 18 is rated compliant.**

Recommendation 19 – Higher-risk countries

277. Indonesia was rated partly compliant with former R.21. The 2008 MER stated that while Indonesia has some requirements to give effect to former R.21, implementation and guidance to the sector was not clear.

278. *Criterion 19.1* – Article 30 of the OJK AML/CFT Regulation for PJK and its Elucidation include higher-risk countries listed by the FATF, and OJK-supervised FIs have to apply EDD to this category of customers. For other FIs, the requirements are met in Article 33(1)–(2) of Bappebti KYC Regulation for Futures Traders and Elucidation of Articles 30 (2) and 31(2) in BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers. There are no requirements in the regulations for postal providers and cooperatives.

279. *Criterion 19.2* – The conclusions for c.19.1 are also applicable to this criterion. Article 36 of the OJK AML/CFT Regulation for PJK regulates the form of countermeasures by applying EDD and requests confirmation to competent authorities such as PPATK. Article 32 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers explicitly stipulates that FIs must perform EDD when entering into business relations or transactions with customers from high-risk countries called upon by FATF. It is not clear, however, what other countermeasures beyond EDD may be available, or independently of any call by the FATF to do so. OJK is currently finalising amendments to Article 36 of OJK AML/CFT Regulation to include more detailed countermeasures.

280. *Criterion 19.3* – PPATK has mechanisms, including an online system to inform, on a timely basis, all FIs of concern about weaknesses in the AML/CFT systems of other countries as identified by the FATF. PPATK publishes the latest FATF public statement on its website.

Weighting and Conclusion

281. There are minor gaps with postal providers and cooperatives.

282. **Recommendation 19 is rated largely compliant.**

Recommendation 20 – Reporting of suspicious transactions

283. Indonesia was rated partly compliant with former R.13 and former SR.IV. The 2008 MER stated that the scope of proceeds of crime is not consistent with the FATF standards and does not cover funds for a terrorist organisation or individual terrorist.

284. *Criterion 20.1* – Article 25(1) of the AML Law and Article 13(1) of the CFT Law require FIs to report suspicious transactions related to ML and TF, respectively, as defined in Article 1(5)(a) of the AML Law and Article 1(6)(a) of the CFT Law, as soon as possible, but no later than three business days.

285. *Criterion 20.*2 – FIs are required to report all types of suspicious transactions defined in Article 1(5) (a) of the AML Law and Article 1(6) (a) of the CFT Law, and there is no threshold for reporting.

286. Article 1(5)(c) of the AML Law also require FIs to report conducted or cancelled transactions. A cancelled transaction is interpreted to include attempted transactions. The elements of attempted transaction are missing in the CFT Law. PPATK has issued STR-specific regulations that cover both AML and CFT. These include the PPATK Regulation No.7 of 2014 for STR for FIs and PPATK Regulation No.11 of 2016 for STR for Professions (notaries, lawyers, accountants, financial planners, land deed officials). Article 3 of PPATK Regulation No 09 of 2012 on Procedures for STR and CTR Reporting clearly covers cancelled or attempted transactions for FIs. Sectoral supervisory AML/CFT regulations also add some clarity. OJK AML/CFT Regulation for PJK, Article 42(6), states that FIs should report prospective customers or walk-in customers if their transactions are considered suspicious. This does not cover the circumstances of an existing customer who cancelled or did not complete a transaction because of its suspicious nature. For BI, Article 1 BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, 'suspicious transaction' are defined as per the AML Law and are required to submit an STR under Article 55.

Weighting and Conclusion

287. **Recommendation 20 is rated compliant.**

Recommendation 21 – Tipping-off and confidentiality

288. Indonesia was rated compliant with former R.14.

289. *Criterion 21.1* – Article 29 of the AML Law protects the reporting parties, officials, and their employees from civil or criminal liability for implementation of reporting obligations. Article 17 of CFT Law provides for civil or criminal liability for abuse of authority for the implementation of reporting obligations, but there is no provision for protection of the reporting party, its directors, officials or employees for breach of any restrictions on disclosure of the fact that an STR is being filed with the FIU.

290. *Criterion 21.2* – Article 12 of the AML Law prohibits the board of directors, commissioners, management, or employees of the reporting parties to disclose the contents of an STR or any other information that is reported to the PPATK. Article 10(1) of the CFT Law also prohibits the board of directors, commissioners, management, and officers of the FI from disclosing any STR or any other information to anyone other than the regulatory or supervisory

authorities. Any breach of disclosure requirement is punishable under Article 12(5) of the AML Law and Article 10(4) of the CFT Law.

Weighting and Conclusion

291. Under the CFT Law, there is no provision for protection of the reporting parties, its directors, officials, or employees for breach of any restrictions on disclosure of the fact that an STR is being filed with the FIU.

292. **Recommendation 21 is rated largely compliant.**

Recommendation 22 – DNFBPs: Customer due diligence

293. Indonesia was rated non-compliant with former R.12 in the 2008 MER because DNFBPs were not included in Indonesia's AML/CFT regime.

294. Criterion 22.1

295. *Sub-criterion 22.1(a)* is not applicable. Gambling, including casinos, is prohibited under Article 303 of the Penal Code.

296. *Sub-criterion 22.1 (b)–(d)* Article 18 of the AML Law and Article 4 of Government AML Regulation Number 43 Year 2015 (Government AML Regulation Year 43 of 2015) outline the key CDD principles including when CDD is required. Article 18 of the AML Law, however, only covers real estate/property company or agent, diamond and jewellery/gold traders. Government AML Regulation of 43 of 2015 covers all DNFBPs. In Indonesia, motor vehicle dealers, art and antique dealers, auction houses, land deed officials, and financial planners are also included in the DNFBP sector and are subject to CDD requirements.

297. Neither the AML Law nor the Government AML Regulation Year 43 of 2015 extends to CFT or articulates the other requirements in R.10. These requirements to a certain degree are articulated in AML/CFT regulations: (i) PPATK KYC Regulation for Other Goods and Services, which covers real estate, motor vehicle, jewellery, metal and precious stones (only diamond and gold), and art and antique dealers; (ii) PPATK KYC Regulation for Advocates; (iii) MLHR KYC Regulation for Notaries; (iv) MoF CDD Regulation for Accountants; and (vi) PPATK KYC Regulation for Financial Planners. They include when CDD is required, CDD identification and verification including for legal persons and arrangements, general BO requirements, ongoing monitoring, and termination of customer business relationship for failure of CDD for existing customers. The requirements for BO in the MoF CDD Regulation for Accountants are very brief and there is no definition of 'beneficial owner'.

298. Company service providers are not formalised separately in Indonesian law or regulation, and trusts cannot be formed under Indonesian law, but foreign trusts or trustees may operate in Indonesia. As recognised in the abovementioned regulations, lawyers, notaries, and accountants may provide company-formation services or may act as a professional trustee of a trust created under the law of another country.

299. *Criterion 22.2* – The AML Law (Article 21(2)), PPATK KYC Regulation for Other Goods and Services (Article 33), PPATK KYC Regulation for Advocates (Article 33), MLHR KYC Regulation for Notaries (Article 23), MoF CDD Regulation for Accountants (Article 10), and PPATK KYC Regulation for Financial Planners (Article 33) require DNFBPs to comply with the recordkeeping requirements in line with Recommendation 11. These requirements ensure all obligatory records on CDD measures and transactions are maintained for at least five years after completion of transaction or relationship termination.

300. *Criterion 22.3* – DNFBPs are required to comply with the PEPs requirements in line with R.12 as set out in PPATK KYC Regulation for Other Goods and Services (Articles 23–24), PPATK KYC Regulation for Advocates (Article 23), MLHR KYC Regulation for Notaries (Article 17),

PPATK KYC Regulation for Financial Planners (Article 23) and MoF CDD Regulations for Accountants (Article 8b). However, there are very limited details in the MoF regulation beyond the need to undertake EDD—and no definition of 'PEPs'.

301. *Criterion 22.4* – PPATK KYC Regulation for Other Goods and Services (Article 39), PPATK KYC Regulation for Advocates (Article 39), MLHR KYC Regulation for Notaries (Article 31), PPATK KYC Regulation for Financial Planners (Article 39) and MoF CDD Regulation for Accountants (Article 2b) contain the requirements for DNFBPs to comply with R.15 on new technologies.

302. *Criterion 22.5* – DNFBPs are allowed to rely on third parties to perform CDD requirements, subject to the conditions in this criterion, as detailed in PPATK KYC Regulation for Other Goods and Services (Article 30.3), PPATK KYC Regulation for Advocates (Article 33.3), MLHR KYC Regulation for Notaries (Article 25), PPATK KYC Regulation for Financial Planners (Articles 30–31) and MoF CDD Regulations for Accountants (Article 7A).

Weighting and Conclusion

303. There are some gaps in relation to BO and PEPs for accountants.

304. **Recommendation 22 is rated largely compliant.**

Recommendation 23 – DNFBPs: Other measures

305. Indonesia was rated non-compliant with former R.16 in the 2008 MER because DNFBPs were not included in Indonesia's AML/CFT regime.

306. *Criterion 23.1* – The conclusions of R.20 are applicable here as the relevant articles of the AML Law (Article 25(1)) and TF Law (Article 13.1)) also include DNFBPs, except lawyers, notaries, accountants, and financial planners. The latter are captured in Articles 7(2) and 8 of the Government AML Regulation Year 43 of 2015, which require all DNFBPs, including notaries, lawyers, accountants, and financial planners to report suspicious transactions to PPATK. 'Suspicious financial transaction' is defined in Article 1(8) of the Government Regulation. Attempted transactions are covered under Article 1(5)(c) of the AML Law. The TF Law does not cover attempted transactions, but the definition of 'suspicious transactions' includes attempted transactions in Article 1(8) of the PPATK KYC Regulation for Other Goods and Services, Article 1(6) of the MLHR KYC Regulation for Notaries, Article 9(c) of the PPATK KYC Regulation for Advocates and Article 9(c) PPATK KYC Regulation for Financial Planners. There is, however, a gap in the definition in the MoF CDD Regulation for Accountants—there is only reference to 'performed' or 'void' and the latter cannot be interpreted as attempted.

307. As mentioned, casinos are prohibited in Indonesia, and trusts cannot be formed under Indonesian law. Notaries, lawyers, accountants, and financial planners also provide company-formation services and may act as professional trustee of a trust created under the law of another country and are subject to the abovementioned regulations when providing such services.

308. *Criterion 23.2* – PPATK KYC Regulation for Other Goods and Services (Articles 36–37), PPATK KYC Regulation for Advocates (Articles 36–37), MLHR KYC Regulation for Notaries (Articles 27–29) and PPATK KYC Regulation for Financial Planners (Articles 36–37) require DNFBPs to have procedures to comply with the internal-control requirements set out in R.18. They also address group-wide implementation, foreign branches, and subsidiaries. MoF CDD Regulation for Accountants does not contain such provisions.

309. *Criterion 23.3* – DNFBPs are required to apply enhanced due diligence to business relationships and transactions with natural and legal persons from high-risk countries and apply countermeasures when called on to do so by the FATF under PPATK KYC Regulation for

Other Goods and Services (Articles 23–25), PPATK KYC Regulation for Advocates (Articles 23–25), MLHR KYC Regulation for Notaries (Article 17) and PPATK KYC Regulation for Financial Planners (Articles 23–25). MoF CDD Regulation for Accountants does not contain such provisions.

310. *Criterion 23.4* – The conclusions and identified deficiencies on CFT in R.21 are applicable here. As well, there are additional deficiencies for lawyers, notaries, and accountants as the CFT Law does not include these DNFBPs and there are no other legal instruments covering the tipping off and disclosure requirements. For AML, Article 3 of Government AML Regulation No.43 of 2015 expanded the coverage of reporting entities to include lawyers, notaries, and accountants.

Weighting and Conclusion

311. There are some minor shortcomings mainly related to accountants and cascade deficiencies from R.21.

312. **Recommendation 23 is rated largely compliant.**

Recommendation 24 – Transparency and beneficial ownership of legal persons

313. Former R.33 was rated non-compliant. Major deficiencies identified in the 2008 MER included: the lack of BO records of legal persons or whether shareholdings of companies were beneficial; the lack of a publicly available central registry for legal persons; the lack of implementing regulations for legal requirements regarding the duty to notify the registry about changes to directors and shareholders; and there was no evidence that bearer shares were no longer used in practice despite the legal change introduced in 2007.

314. *Criterion 24.1* – Indonesia has mechanisms to identify and describe the different types of legal persons formed or registered under Indonesian law. Procedures for their formation and information about companies are publicly available.

315. Under the Company Law a number of different types of legal persons (or limited liability companies – 'LLCs') may be established including (a) private companies; (b) public companies; (3) foreign companies; and (4) limited liability partnerships. Under Indonesian law cooperatives may also be established (but under a different statute), as detailed below:

316. LLCs must be established by notaries pursuant to the Company Law, and subject to registration and approval procedures with the MLHR (Article 7(4) of the Company Law and Article 11 of MLHR Regulation 2014). Public LLCs have additional regulation under the Capital Market Law of 1995. Procedures for formation, and information on LLCs, are publicly available from MLHR, including via its website (www.ahu.go.id).

317. Cooperatives (Koperasi) can be used for business purposes pursuant to Law No. 25 1992 (Cooperative Law). They are established by notaries and subject to registration and approval procedures with MoC (Chapter IV of the MCSME Regulation Number 1/PER/M.KUKM/1/2006). Information on the creation and operation of cooperatives is available from the MoC.

318. Under PT Law No. 25/2007 regarding investment (New Investment Law), a foreign investment in Indonesia is defined as an investing activity conducted by a foreign investor for the purpose of running a business within the territory of Indonesia. The legal entity through which a foreign person, foreign company, or foreign government body can conduct business in Indonesia is the Perseroan Terbatas Penanaman Modal Asing (PT PMA). The establishment of a PT PMA is regulated by the Company Law. Foreign citizens, corporations and/or governments can only invest in Indonesia in the form of LLC. Such a company can be either 100% foreign-owned or partially foreign-owned. Indonesian legislation only allows for foreign investment in LLCs through share purchase or subscription at the time of establishment.

319. Limited partnerships (LPs) must be established by a notary and required to register basic information with the company registrar (Article 14 of CCR Law, for Firms, and Article 13 of CCR for LLPs), which seems to be their local District Court (the CCR Law does not specify who is the company registrar or the timeline for registration). Information on the creation of LPs is available in Indonesia from local governments including on their websites.

320. Not-for-profit legal persons in Indonesia include *Yayasan* (foundations), and *Persumpulan* (associations). Both are established by notaries pursuant to Law 16/2001, as amended by Law 28/2004 (Foundation Law) and MLHR Decree No.6 of 2014, respectively, and subject to registration and approval procedures with MLHR. Procedures for formation and information on associations and foundations are publicly available from MLHR, including via its website (www.ahu.go.id).

321. In addition to the above, LLCs, LPs, and cooperatives are required to obtain a Certificate of Business Domicile (SKDKP), Taxpayer Identification Number (NPWP), Trading Business Licence (SIUP) and a Company Registration Certificate (TDP) from the relevant competent authority. The procedures are available from the relevant competent authority.

322. *Criterion 24.2* – Indonesia has identified and assessed the ML/TF risks and vulnerabilities of all types of legal persons35 formed in Indonesia in the Risk Assessment of Legal Persons facilitated by an external consultancy firm and managed by PPATK with input from key competent authorities, FIs, DNFBPs, and industry associations. This risk assessment is comprehensive (breaking down the various forms of legal persons and non-legal business entities) and thoroughly examines the threats, vulnerabilities, and consequences across several points of concern for both ML and TF. It identified and examined the risk posed by higher-risk foreign jurisdictions.

Basic information

323. *Criterion 24.3* – LLCs are established by notaries and under Article 7(4) of the Company Law and Article 11 of MLHR Regulation 2014, are required to register (via an online system) with MLHR within 60 days after establishment of Articles of Association by the notary in order to obtain legal entity status. Pursuant to Article 8 of the Company Law and Article 13 of MLHR Regulation 2014, information required to be registered are LLC Articles of Association as well as other information related to the company's incorporation, including name, address and other personal details and participation in the share capital of founders, as well as the name, address and personal details of the first members of the Board of Directors and the Board of Commissioners. Under Article 15 of the Company Law and MLHR Regulation 2014, the Articles of Association must at a minimum include: (i) name and domicile of corporation; (ii) goals and objective and business activity of corporation; (iii) period of establishment of corporation; (iv) total amount of authorised capital, subscribed capital and paid-up capital; (v) total shares, classification of shares, if any, including total shares for any classification, rights attached in any share and nominal value of any share; (vi) name of officials and total members of directors and boards of commissioners; (vii) determination on place procedure for organising shareholder meetings (RUPS); (viii) procedure for appointing replacement, dismissal of members of directors and boards of commissioners; and (ix) procedure for utilising profits and dividend sharing. Under Article 7 of the MLHR Regulation Number M.HH-03.AH.01.01 Year 2009, this information is publicly available, for a small fee, upon request, and via the MLHR website (www.ahu.go.id).

324. Similar requirements apply to cooperatives established by notaries, which must register with the MoC with the necessary elements required under Articles 8 and 9 of the Cooperatives

35 In addition to the legal persons discussed in c.24.1, the risk assessment included *firma* (firms) and *perusahaan dagang/usaha dagang* (sole proprietorships) established pursuant to the Commercial Code, and *ormas tidak berbadan hokum* (civil society organisations without legal entity) provided for under the Principle of Freedom of Association in the Constitution of Indonesia.

Law—Indonesia stated that this registered basic information is publicly available, under Article 14(2) of the MCSME Regulation Number 10 2016, but it was not provided to the assessment team. LPs are required to be established by notaries and register basic information, including basic information on active and passive partners/associates, with the company registrar (Article 13 of CCR), which seems to be their local District Court (the CCR Law does not specify who is the company registrar or the timeline for registration). Indonesia stated that this registered basic information is publicly available, but the legal basis is unclear.

325. Foundations and associations are established by notaries and are required to be registered with the MLHR to obtain status as a legal entity. Registered information on the basic elements regarding ownership and governance features—such as name of founding members, proof of establishment or constitution, the address of a registered office, legal form and status, and basic regulating powers—is maintained by the MLHR (for foundations, pursuant to Articles 11(2), 14(2) Foundation Law Article 14 (2) and Article 13(4) MLHR 2/2016; for associations, pursuant to Staatsblad 1870 Number 64 Article 9(1) and Article 12(1) MLHR 3/2016) (see also R.8). This basic information is publicly available, for a small fee, upon request and via the MLHR website (www.ahu.go.id).

326. *Criterion 24.4* – Under the Law concerning Corporate Documents 8/1997(Company Registration Law), all types of entities incorporated in Indonesia and engaging in business (defined as any action, behaviour or activity in the economic sector that is conducted by an entrepreneur for the purpose of earning revenue and/or profits under Article 1(d) of the Company Registration Law) are required to maintain financial and other documents. It is unclear if cooperatives, associations and foundations are required to comply with Law 8/1997. The combination of these two documents covers the elements of c24.3 and is required to be maintained for 10 years. In addition, under Article 50 of the Company Law, directors of LLCs are required to organise and maintain a List of Shareholders, at the company domicile in Indonesia (Article 17 of the Company Law), that at a minimum includes: (i) name and address of shareholders; (ii) total amount, number, date of acquiring shares by shareholders, and its classification. As above, the company domicile must be registered with the MLHR (see Article 15 of the Company Law and MLHR Regulation 2014).

327. *Criterion 24.5* – Indonesia has the following mechanisms to ensure information referred to in c.24.3 and c.24.4 is accurate and updated on a timely basis:

328. Notaries are involved in the establishment and validation of any changes to LLCs. Under Article 21 of the Company Law, amendments to the Articles of Association must be included and mentioned in a notarial deed and/or notary meeting minutes deed within 30 days of changes and registered or informed to the MLHR, for approval, within 30 days of the notarial deed (total of 60 days). Under Article 18 of the MLHR Regulation Number 4 of 2014, required approval to amendments of the Articles of Association include: (i) name and domicile of the company; (ii) period of establishment of the company; (ii) the goals, objectives, and business activity; (iii) the amount of authorised capital; (iv) deduction of subscribed or deposited capital; (v) other data stated in the Articles of Association. In addition, under Article 27 MLHR Regulation Number 4 of 2014, amendments to the following must be registered with the MLHR: company address; changes to board of director structure and/or the board of commissioners; changes in share ownership; and company merger, consolidation, accusation, separation and dissolution. Notification by directors of share transfer to MLHR is also included in Article 56(3) of the Company Law, with Article 56(4) suggesting the MLHR can prohibit the transfer of shares.

329. Under Article 25(1) Company Registration Law, LLPs and firms must report amendments to information referred to in c.24.3 to the company registrar within three months. For foundations, amendments to the Articles of Association must be submitted for approval to the MLHR no later than 10 days as of the date of such notarial deed (Article 11(2) of MLHR Regulation 2/2016). Firms and LLPs shall report the updating information to the 'registration of company office' not later than three months as of the date of the amendments (Article 25(1) of

Company Registration Law). There is no deadline for submission of updated information for associations.

330. The aforementioned periods between amendment and registration are not timely, and there is no deadline in the case of associations. Moreover, it is unclear how Indonesia ensures information is accurate and up-to-date as legal persons seem to be able to operate and perform activity after making amendments, by notaries, and before amendments are approved or registered with the MLHR. In particular, companies can operate after a change of directors without registration with the MLHR.

Beneficial ownership (BO) information

331. *Criterion 24.6* – Indonesia does not have a legal provision requiring the provision of BO information pursuant to c.24.6(a) or (b). It uses a combination of mechanisms, pursuant to c.24.6(c), to obtain some BO information, as detailed below:

332. Information on BO can be obtained from FIs and DNFBPs, subject to AML/CFT obligations, as discussed under R.10 and R.22. For FIs, Article 28 of OJK AML/CFT Regulation for PJKs requires these FIs to identify and verify the BO of a prospective legal-person customer. There are similar requirements in Article 23(3) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Articles 25(1)(2) and 26(2) of Bappebti KYC Regulation for Futures Traders, and Article 15 in PPATK KYC Regulation for Postal Providers. There are some requirements in Article 22 of MCS KYC Regulation for Cooperatives, but BOs refer to 'owner'; therefore, it is not clear whether cooperatives are required to verify the identity of the 'natural person(s)' who ultimately has a controlling ownership interest in a legal person, and no specific requirements for cooperatives to identify and verify the identity of BOs in the circumstance of c.10.10(b) or (c).

333. For DNFBPs, and as discussed in R.23, there are CDD obligations that cover general BOs requirements. The requirements for BO in the MoF CDD Regulation for Accountants are very brief and there is no definition of 'beneficial owner'.

334. *Information held by competent authorities:* For LLCs, since only registered shares are permitted, BO information, to the extent it is available, can be identified through the shareholder information maintained by MLHR under Article 7(4) of the Company Law and Article 11 of the MLHR Regulation 2014. This may not be the case with companies owned by foreign legal persons. For cooperatives, LPs, foundations, and associations, BO information, to the extent it is available, can be identified through the relevant registrar, as discussed in c.24.3.

335. *Information held by the legal entity:* For LLCs, since only registered shares are permitted, BO information, to the extent it is available, can be identified through the shareholder information maintained at the company domicile (Article 50 of the Company Law). For other legal persons, BO information, to the extent it is available, can be identified through the Article of Association maintained by the entity, as discussed in c.24.4.

336. *Information held by notaries:* LLCs are established and maintained by notaries, which are required to maintain company-formation documents and amendments (see c.24.3 and c.24.5), since only registered shares are permitted, BO information, to the extent it is available, can be identified through this information. For other legal persons, BO information can be identified through the same mechanism.

337. *Disclosure requirements related to public companies:* Any person who owns, directly or indirectly, 5% or more of shares in a company must report this fact to OJK within five working days from the acquisition or change of share ownership. Members of boards of directors or boards of commissioners of FIs must also report changes in the company's share ownership, although the exact provisions within the relevant legislation are unclear.

338. *Criterion 24.7* – The conclusions against c.24.5 on ensuring accurate and updated basic information are applicable. There is a general requirement in Article 18(5) of the AML Law for FIs and DNFBPs to ensure that the documents, data, and information they hold on customers are kept up to date, as well as verification mechanisms.

339. *Criterion 24.8* – Indonesia has no specific measures to give effect to this criterion. However, under Article 98 of the Company Law, directors are required to represent the LLC inside and outside of court. In addition, Article 138 of the Company Law provides for the examination of LLCs, upon approval of a request by the district court with jurisdiction over the company domicile, for the purpose of obtaining data or information on criminal activity. Directors, boards of commissioners, and all employees must provide all information in the examination (Article 136(6) of the Company Law). Similar requirements for other legal persons are unclear.

340. *Criterion 24.9* – Under Article 11 of the Law Concerning Corporate Documents, companies are required to maintain the information under c.24.3 for 10 years from the end of the book year. Notaries are required to keep records forever with few exceptions (Article 62 of the Notary Law). FI and DNFBPs under the AML Law are required to maintain records and documents concerning the identity of financial service users for a minimum of five years (Article 21 of the AML Law), and in particular five years from the end of the business relationship with the customer (Article 21(2) of the AML Law); also, FIs shall maintain documents related to customers for no less than five years as of the termination of the business relationship, including customer identity, correspondence, results of any analysis undertaken, transaction information etc. (Article 56(1) and (2) of the OJK AML/CFT Regulation for PJK). However, this requirement does not extend to other persons, authorities, or entities, nor the company administrators, liquidators, or other persons involved in the dissolution of the company as required under this criterion.

Other requirements

341. *Criterion 24.10* – Competent authorities have timely access to basic information and, to the extent it is available, BO information, on LLCs, associations, and foundations held by the MLHR as this information is publicly available including via the MLHR website (see c.24.3). Some competent authorities have direct access to the MLHR database. It is unclear if competent authorities have access to basic information and BO information (to the extent it is available) held on other legal persons, as discussed in c.24.3. Information regarding public companies' issuers and shareholders is available on the Indonesian Stock Exchange website (http://www.idx.co.id).

342. LEAs can access basic information and, to the extent it is available, BO information held by legal persons, notaries and FIs, and DNFBPs using their powers as discussed in R.31 with ML (Article 72 of the AML Law) and TF (Article 37 of the CFT Law). Investigators, prosecutors, or judges are able to request FIs and DNFBPs to provide written statements concerning the assets of: (i) any person reported by PPATK; and (ii) a suspect and/or a defendant. Furthermore, Article 64 of POJK 12/2017 obliges FIs to cooperate with law enforcement and authorised authorities in order to combat money laundering and/or criminal acts of terrorism financing.

343. *Criterion 24.11* – Bearer shares cannot be issued pursuant to Company Law 2007, Articles 48(1) and 50(1)(a). Under the previous company law (Law Number 1 Year 1995), bearer shares were permitted, but it is unclear if all of those shares have dematerialised: (i) bearer shares of public companies were removed from the market in the transition to electronic script; and (ii) the Company Law includes provisions that cover conversion of bearer shares when a company modifies its Deed of Establishment (see below) or shares are transferred (see below).

344. While bearer share warrants are not explicitly prohibited, Article 56(1)–(5) of the Company Law stipulates that any transfer of shares shall be conducted with a 'deed of transfer', which must be submitted to the company in writing. Directors are then obligated to administer

the transfer of rights and notify the minister responsible for the Act. The minister has discretion to refuse if certain identification requirements are not met, as outlined in the article. Article 57 also provides further conditions on the transfer of shares. The combined effect of this article is to nullify the nameless transfers of shares through the mechanism of a bearer share warrant (the purpose of which is to effect transfers through share warrant terms).

345. *Criterion 24.12* – Nominee shareholder by domestic and foreign investors in limited liability companies are prohibited under Article 33(1) and (2) of the Capital Investment Law. Moreover, under Article 85 of the Company Law shareholders must be represented at the General Annual Meeting and for voting purposes based on issuing of power of attorney.

346. Nominee directors are not explicitly prohibited with no measures provided to give effect to c.24.12.

347. *Criterion 24.13* – It is unclear if there are sanctions for non-compliance with the Company Law and related regulations. There are limited criminal sanctions under Article 32 *et seq.* of the CCR Law. As discussed in R.35, there are proportionate and dissuasive criminal and administrative sanctions for FIs and DNFBPs that do not comply with AML/CFT requirements including CDD and BO obligations. Non-compliance with these disclosure requirements related to public companies (see c.24.6) is subject to administrative sanctions (Article 87 of the Capital Market Law and OJK Reg. 11/POJK.04/2017).

348. *Criterion 24.14* – The conclusions on R.37 (MLA) and R.40 are applicable here. Foreign authorities can obtain basic information on LLCs, associations, and foundations, in Indonesian for a small fee, from the MLHR website. Power available to PPATK and supervisors allow for the exchange of information on basic and BO information obtained by FIs and DNFBPs. There does not seem to be any prohibition on the use of LEA powers to obtain information on shareholders from LLC in response to an MLA request; however, it is unclear if this mechanism allows for rapid international cooperation on BO information.

349. *Criterion 24.15* – Pursuant to the AML Law, under Section D of PPATK Circular Letter Number 4 Year 2017, PPATK staff are required to provide feedback to foreign parties on BO information exchanges—information and statistics on international cooperation concerning BO information was included in IO.5. It is unclear if the MLHR is required to monitor BO information exchange with foreign parties.

Weighting and Conclusion

350. Indonesia has mechanisms to describe the different types of legal persons able to be formed under the law through establishment by a notary, and the process for their formation and the basic information maintained by the MLHR, as the company registrar, is publicly available. Indonesian law prohibits bearer shares and nominee shareholders, but nominee directors are not explicitly prohibited with no measures to mitigate their risk. To the extent that it is held, legal ownership and BO information can be ascertained through the MLHR, the List of Shareholders maintained by companies, and notaries. FIs and DNFBPs are required to collect BO information as part of their CDD process, but there are gaps in these requirements. There is similar registration and basic information required for Indonesia's other legal persons.

351. **Recommendation 24 is rated partially compliant.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

352. In its 2008 MER, former R.34 was rated not applicable, as a domestic trust cannot be established in Indonesia. The FATF standards have substantially changed since the last assessment.

353. Express trusts or other legal arrangement with a similar structure or function cannot be formed under Indonesian law.36 However, there is nothing preventing a trust or trustees created under the law of another country from operating in Indonesia.

354. *Sub-criterion 25.1(a) and (b)* are **not applicable.** Indonesian law does not provide for express trusts or other types of legal arrangements with similar structures or functions to be formed or otherwise governed.

355. *Sub-criterion 25.1(c)* – According to Article 17 of the AML Law and paragraph 12 (Section 1. General) in the Elucidation to the CFT Law, lawyers, notaries, accountants, financial planners, and custodians are reporting parties for the purpose of those two laws and are required to undertake CDD on their customers with records required to be maintained for five years. Should these reporting parities act as a professional trustee of a trust created under the law of another country (referred to as professional trustee reporting parties for this recommendation, abbreviated to RPPT), and prepare for, or carry out, transactions, in accordance with 22.1(d), on behalf of the settlor, the protector (if any), or the beneficiaries' CDD information must be collected and maintained, as noted in R.10, R.11 and R.22.

356. *Criterion 25.2* – RPPTs, FIs, and DNBFBPs are required to keep CDD information accurate and up-to-date, as noted in R.10 and R.22. However, there is no obligation to maintain information and keep it accurate and updated pursuant to this recommendation if a person acts solely as a trustee of a trust created under the law of another country and is not a customer of an FI or DNFBP.

357. *Criterion 25.3* – There is a general requirement (Article 19(1) of the AML Law) for any person conducting a transaction on behalf of another party to provide information on the identity of the other party, the source of funds and the purpose of the transaction. However, there is no requirement to ensure trustees of a trust created under the law of another country, disclose their status to FIs or DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold.

358. *Criterion 25.4* – There are no laws or other enforceable means that would prevent trustees of a foreign trust, or RPPTs from providing competent authorities or FIs and DNFBPs with information relating to trusts, or for providing information on BO and the assets of the trust.

359. *Criterion 25.5* – LEAs can access CDD information, in accordance with R.10 and R.22 (to the extent it is available), held by RPPTs and other FIs and DNFBPs using their powers, as discussed in R.31.

360. *Criterion 25.6* – Powers available to PPATK and OJK allow the exchange of information on basic and CDD beneficial owners obtained by FIs and DNFBPs. LEA powers are available to obtain information from RPPT that are not supervised by OJK or PPATK. There is no prohibition of the use of these powers to obtain beneficial-ownership information in response to an MLA request.

[36] The assessment team is aware of OJK Regulation Number 27/POJK.03/2015 (last amendment with OJK Regulation Number 25 /POJK.03/2016) issued under the Banking Law and Sharia Banking Law, which appears to establish a form of trust in Indonesia. The regulation uses the terms t*rust*, *trustee*, *settlor* and *beneficiary*. The assessment team considered this regulation closely and discussed the issue at length and came to the conclusion that the Regulation does not refer to trusts in the common law sense or other forms of legal arrangement for the purposes of R.25. There are a number of reasons for this (the nature of the Indonesian civil legal system, other expert reports, and the opinions of Indonesia lawyers), but the primary reason is that the Regulation itself was issued under banking laws that do not themselves establish a trust or legal arrangement system. The Regulation was designed to provide structure around banks' 'custodial' services established in Article 6(i) of the Banking Law and Article 19(l) of the Sharia Banking Law.

361. *Criterion 25.7* – With the exception of sanctions under R.35, which would apply to RPPTs that fail to comply with the CDD obligation, Indonesia has no measures including sanctions to ensure trustees of a trust created under the law of another country, meet their obligations.

362. *Criterion 25.8* – Indonesia has some proportionate and dissuasive criminal and administrative sanctions for RPPTs, FIs, and DNFBPs that do not comply with AML/CFT obligations, as discussed in R.35.

Weighting and Conclusion

363. Express trusts or other legal arrangements with similar structures or functions cannot be formed under Indonesian law. However, nothing prevents foreign trusts or trustees from operating in Indonesia. FIs, DNFBPs, and reporting parties acting as a professional trustee of a foreign trust, are required to collect and maintain CDD information on the relevant parties of the trust, in accordance with R.10, R.11 and R.22. However, there is no requirement to ensure trustees of a foreign trust, disclose their status to FIs or DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold.

364. **Recommendation 25 is rated partially compliant.**

Recommendation 26 – Regulation and supervision of financial institutions

365. In the 2008 MER, Indonesia was rated partially compliant with former R.23 because of gaps in the supervision of some FIs, particularly for money changers and MVTS.

366. *Criterion 26.1* – Article 18(1) and (4) of the AML Law obligates supervisory and regulatory agencies to supervise compliance of reporting parties. There is a more general reference in Article 1(12) in the CFT law empowering supervisory and regulatory agencies to have the authority to supervise, regulate, and/or impose sanctions. Further, Article 9(h) of the OJK Law authorises the OJK to license or register FIs under its regulatory purview. Articles 1(17) and 6 of OJK AML/CFT Regulation for PJK assigns AML/CFT-compliance responsibilities to the OJK. There are similar obligations in BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers (Article 52), PPATK KYC Regulation for Postal Providers (Article 34), and MCS KYC Regulation for Cooperatives (Article 46). There is no specific reference to the role of the supervisor in the Bappebti AML/CFT Regulation for Futures Brokers. There is a provision, however, in Article 4 of the Law No.32 1997 on Commodities Futures Trading (Law on Commodities Futures Trading) to regulate and supervise the activities of such institutions. This provision is broad enough to capture AML/CFT given Bappebti has issued an AML/CFT-specific regulation. All supervisors have conducted AML/CFT supervision and some have issued supervisory letters, or have sanctioned violations of AML, and for OJK and BI, violations of CFT, e.g. TFS.

367. *Banking* – There are general licensing requirements in Article 16 of the Law No 10 Year 1998 on Banking (Banking Law). Chapter 2 of the BI Regulation on Commercial Banks No.9 of 2009 (Regulation on Banking License) is the applicable regulation for licensing commercial banks in Indonesia. Article 4 states that an entity can only provide banking services, and Article 13 states that it can only use the term 'bank' after it has been licensed. Under Article 7(1) of the Law No.21 of 2011 on Financial Services Authority (OJK Law), the OJK took over responsibility from BI for licensing banks and the implementation of the licensing provisions in the Banking Law and associated regulations (Article 55 of the OJK Law). The licensing requirements preclude the establishment of a shell bank, as a physical presence is required.

368. There are also requirements for the board of commissioners, board of directors or executive officers (i.e. the meaningful mind and management) to be based in Indonesia in Article 4(2) of OJK No. 55/ POJK.03/2016 concerning Commercial Bank Administration, which requires all members of the board of directors to be domiciled in Indonesia. Furthermore, Article 23(2)

of OJK Regulation No.55/POJK.03/2016, regarding Good Corporate Governance for Commercial Banks, states that members of the board of commissioners must have at least one person domiciled in Indonesia.

369. *Securities* – Under Article 30(1) of Law No.8 of 1995 on Capital Market (Capital Market Law), a securities company must be licensed. The law refers to BAPEPAM, which has been renamed 'Bappebti'. Government Regulation No.45 of 1995 on Capital Market Organisation (Regulation on Capital Market Organisation) provides further details of the licensing requirements and process under Articles 2–60. Similar to the banking sector, OJK is now responsible for licensing securities per Article 9(h) of the OJK Law. OJK has issued Regulation No.20/04 2015 for Companies Conducting Business Activities as Investment Managers.

370. *Insurance* – Article 8 of Law on Insurance 2014 (Insurance Law) requires all insurance service providers to be licensed by the OJK. The actual licensing requirements are detailed in Articles 7–9. There are further requirements in Minister of Finance Decree No. 426 06/2003 on Business Licensing and Institutional Aspects of Insurance Companies and Reinsurance Companies (MoF Decree on Insurance Licensing).

371. *Other FIs* – The licensing requirements for other FIs are summarised below:

- *Non–bank MVTS:* Article 69(2) of Funds Transfer Law requires all non-bank MVTS providers to be licensed. Further details of licensing requirements are articulated in Articles 3–7 in BI Regulations No.14/23/2012 on Fund Transfer and BI Circular Letter to All Banks and Indonesia Incorporated Non-Bank Enterprises of June 2013. Article 1 of the BI Regulation on Funds Transfers includes clear FPT requirements such as no prior court conviction or BI's 'blacklist' of individuals. These include interviews with boards of directors, boards of commissioners, and/or controlling shareholders.
- *Non-bank money changers:* BI Regulation No.18/20 of 2016 on Non-bank Foreign Business (BI Regulation on Non-bank MVTS and Money Changing Providers) requires such service providers to be licenced under Article 11. The detailed licensing requirements are provided under Articles 12–18.
- *Finance companies:* Finance companies are licensed by OJK under the OJK Law.
- *Futures traders:* Articles 6(b) and 11–12 in the Commodities Futures Trading Law provide for a licensing or registration process depending on the nature of the provider.
- *Pension funds:* There are licensing requirements for pension funds in the Pension Fund Law. Article 6 requires ministerial approval of any proposal to establish a pension fund.
- *Micro-finance:* Law No. 1 of 2013 concerning Micro Finance institutions and OJK Regulation Number 12/POJK.05/2014 concerning Business Licensing and Institutional Licensing of Micro Finance Institutions subject these institutions' licensing requirements.
- *Cooperatives:* Chapter IV on Establishment in Cooperatives Law and Regulation of Minister of Cooperatives and Small and Medium Enterprises No.10 of 2015 about Institutional Cooperatives includes licensing requirements.
- *Guarantee institutions:* Law of No.1 of 2016 concerning Guarantee and OJK Regulation Number 5/POJK.05/2014 concerning Business Licensing in Guarantee Corporations, the Guarantee Institution provides a licensing framework for these institutions.
- *Postal providers:* Pos Indonesia is a government-owned statutory corporation.

372. *Criterion 26.3* – OJK Regulation No.27/03 of 2016 concerning Fit and Proper Test for Main Parties of Financial Services Institutions includes most of the requirements as per this criterion for all FIs under its supervision—namely, all FIs except non-bank MVTS providers and money changers, commodity future brokers, cooperatives, and postal offices. Articles 2 and 3

cover the beneficial ownership of main parties, including those owning, controlling or having significant influence on the FI, irrespective of whether local or foreign, or natural or legal persons. There are specific references to ultimate shareholders owning and controlling, but this is not defined. Articles 4–5 of the Regulation list the fit-and-proper test requirements, which include having no criminal record for a certain period before candidature as a member of the Board of Commissioners, Board of Directors, Sharia Supervisory Board or equivalent, and controlling shareholders (those that have the ability to control the FI). There are some slight variations for different types of FIs, with the requirement on controlling shareholders for employer pension funds not required due to the nature of those institutions. Article 6 includes exclusion due to bankruptcy or involvement in a senior management capacity in a company declared bankrupt within the last five years. Subsequent Articles 9–28 cover how the fit-and-proper tests for different types of FIs are to be implemented. Changes to any of the fit-and-proper test requirements must be notified to the OJK for approval.

373. Section 1. B.1. (a) (4) (a)–(d) of Bank Indonesia Regulation No. 15/23 on Funds Transfer Providers include no prior criminal convictions, bad debts, and national blacklist for payment fraud. However, there are no explicit requirements pertaining to BO. There are some fit-and-proper requirements for owners of non-banking money changers under BI Regulation on Non-bank MVTS and Money Changing Providers. Article 19 includes a list of exclusions for members of boards of commissioners and boards of directors including conviction of a crime within the last two years, national blacklist of blank cheques, bad debtors, bankruptcy, controlling, or management function in a company that has had its licence revoked. The same list of exclusions applies to shareholders. There is a requirement in Article 53 of the BI Regulation on Non-bank MVTS and Money Changing Providers for the service provider to identify and provide BI with BO information.

374. There are also fit-and-proper test (FPT) requirements in Articles 6(b) and 11–12 in the Law on Commodities Futures Trading, but they only provide for a licensing or registration process depending on the nature of the provider. There are FPT requirements in Article 52 of Government Regulation No. 49 of 2017 on the Implementation of Commodity Futures Trading.

375. The MoC has no FPT for cooperatives—although, in order to obtain a trade licence from the Department of Trade, the management officer must obtain and provide a police certificate of no criminal conviction. However, in the MCS AML/CFT Regulation for Cooperatives, cooperatives are required to undertake CDD including BO before providing a financial service to any member, which would cover new members, but not the founding members.

376. *Sub-criterion 26.4(a)* – OJK has implemented a full risk-based supervisory framework for banking and capital markets, and a risk-sensitive framework for the NBFI including the insurance sector. OJK also established a Committee for Integrated Supervision in 2014 where the three heads of banking, capital markets, and the NBFI meet on a regular basis to discuss AML/CFT compliance at a financial conglomerate level; and adopted and implemented new procedures on integrated supervision in 2017. It has also developed a Strategy Map of the Strengthening of AML and CFT Programs in the Financial Services Sector. To implement this strategy, the OJK has focused on the banking and capital market sectors as they are the two most material and higher-risk sectors. The OJK issued: (i) Circular Letter of OJK Commissioner Board No.5/SEDK.03/2017 Regarding Risk Assessment of AML CFT Risk for Banking Sector as of July 2017; (ii) Circular Letter of OJK Commissioner Board No.1/SEDK.04/2017 regarding Risk Assessment of AML CFT Risk for Securities Company (Capital Market Sector) as of June 2017. The risk-based approach to supervision, as detailed in both documents, came into force and effect upon their issuance. The circulars include detailed analytical tools to implement the risk-based approach including working papers to undertake inherent risk assessment, structural factors, internal control environment, and net risk. Indonesia also provided summaries of its sectoral risk assessment process to underpin this risk-based approach.

377. *Sub-criterion 26.4(b)* – For other FIs supervised by OJK that are less materially significant in terms of size and risk, implementation of the risk-based approach will be staggered and introduced in the future after the onsite visit, noting that it has been implementing a risk-sensitive approach to inform decisions on the frequency and scope of supervision.

378. For non-bank MVTS and money changing providers supervised by BI, BI commenced an RBA in 2017 to supervise non-bank MVTS providers and money changers for compliance with AML/CFT requirements informed by sectoral risk assessments. Article 52 of the BI Regulation on Non-bank MVTS and Money Changing Providers requires the BI to undertake a risk-based approach to supervision. BI AML/CFT Risk-based Approach Supervisory Guideline details how this is to be conducted. PPATK 2017 SOP for Off-Site and Onsite Audit includes attached templates for risk-based supervision which covers postal providers.

379. For future traders supervised by Bappebti, Bappebti Procedure No.9 of 2017 on Implementation of Compliance Supervision and Monitoring of Anti Money Laundering and Counter Terrorism Financing Program on Futures Broker (Bappebti Procedure on Supervision and Monitoring) details how the risk-based approach will be implemented.

380. The MoC have not issued detailed procedures for risk-based supervision for cooperatives and PPATK has not adopted a full risk-based approach for Pos Indonesia, although PPATK does have risk-based policies and procedures for higher-risk reporting entities under its supervision.

381. *Criterion 26.5* – For OJK-supervised banks and securities institutions, the frequency and intensity of onsite and offsite AML/CFT supervision of FIs and groups is informed by an understanding and assessment of institutional risks and ML/TF risk in Indonesia. These include the NRAs, separate risk assessments of the banking, capital markets, and NFBFIs; and the application of the risk-based supervisory tool (RBS) established in 2017 to determine the frequency and intensity of supervision. The OJK has risk-rated banks and securities/capital market FIs as High, Medium, and Low risk, and subjected these FIs to onsite inspections. The RBS tool includes ML/TF risks at institutional, sectoral and country levels; structural factors/inherent risks; and institutional controls to mitigate risks. OJK has not introduced such a requirement for other FIs under its supervision but has used a risk-sensitive approach to determine the frequency and intensity of offsite and onsite supervision. BI and PPATK have similar requirements in the procedures mentioned in c.26.4. The MoC has not issued detailed procedures for risk-based supervision for savings and loans cooperatives, but they are servicing the rural or urban poor with very low deposit or loan amounts.

382. *Criterion 26.6* – The two OJK guidelines for banking and securities on risk-based supervision include measures to update/review risk assessments periodically or when significant changes have occurred and/or there are other reasons (refer Chapter V(a) Assessment Period). As noted above, full risk-based supervision has not been extended to other OJK-supervised FIs, although there has been a risk-sensitive approach. The findings of onsite and offsite supervision of the NBFI including the insurance sector are included in OJK's consideration of the consolidated risks of conglomerates. These are discussed as part of the Committee for Integrated Supervision. BI's, Bappebti's and PPATK's procedures include similar requirements. The MoC has not issued detailed procedures for risk-based supervision for cooperatives.

Weighting and Conclusion

383. Measures relating to OJK-supervised and BI-supervised FIs account for the majority of the financial sector and are largely compliant. All financial supervisors, with the exception of the MoC, have had a risk-sensitive approach and in 2017 introduced a full risk-based approach, although OJK has not yet extended this to the NBFI. Because of the lower risk and very small size of the savings and loans cooperatives, less weight has been given to deficiencies in this sector.

384. **Recommendation 26 is rated largely compliant.**

Recommendation 27 – Powers of supervisors

385. In the 2008 MER, Indonesia was rated partially compliant with former R.29 because money remitters were not regulated or supervised, PPATK lacked powers to apply administrative sanctions, and the former BAPEPAM (renamed 'Bappebti') lacked supervisory powers on STR reporting.

386. *Criterion 27.1* – Articles 6 and 7 in the OJK Law provide broad powers for the OJK to supervise PJK institutions (OJK-supervised FIs). For other FIs, there are broad powers in BI AML/CFT Regulation for Non-Bank Payment Service Providers (Article 35), BI AML/CFT Regulation for Non-Bank Foreign Exchange Traders (Article 19(2)), PPATK KYC Regulation for Postal Providers (Article 34), Article 4 of the Law on Commodities Futures Trading, and Article 1 (20) of the MCS KYC Regulation for Cooperatives.

387. *Criterion 27.2* – Article 9 of the OJK Law empowers the OJK to conduct inspections and examinations of PJK institutions. Article 52(3) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers and Article 4 of the Commodities Futures Trading Law provide broad powers to conduct offsite and onsite inspections of non-bank MVTS and non-bank money changers, and commodities trading institutions, respectively. PPATK has powers to conduct inspections for postal offices under Article 1(9) of the Government AML Regulation Number 43 of 2015, which stipulates PPATK has oversight of reporting entities. Article 1(20) of MCS AML/CFT Regulation provides for general powers of supervision of savings and loans cooperatives.

388. *Criterion 27.3* – Supervisors are empowered to issue orders to compel production of records and impose sanctions for non-compliance. For OJK-supervised FIs, the powers for AML/CFT are provided in Article 56(43) of the OJK AML/CFT Regulation for PJK. There are also available powers in the OJK Law, Banking Law, Capital Market Law and other laws related to sectors under OJK supervision. For other FIs, similar powers are available under Article 51(3) of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 41(6) of Bappebti AML/CFT Regulation for Futures Brokers, and Article 13(1) of PPATK KYC Regulation for Postal Providers. The MCS KYC Regulation for Cooperatives does not contain such a provision.

389. *Criterion 27.4* – Article 1(17) in the AML Law states that supervisory and regulatory agencies shall have the authority to impose sanctions. The provision is quite broad to allow for the range of sanctions to be imposed, as described in R.35. There is also a general provision for supervisory and regulatory agencies to impose sanction on a reporting party in Article 1(9) of the Government AML Regulation No.43 of 2015, but only for AML. There is a general provision in Article 1(12) in the CFT Law, but there are more sector-specific regulations/laws that capture both AML and CFT. Articles 8(i) and 9(g) of the OJK Law provide broad powers to impose sanctions. Article 9 includes powers to revoke a licence or approval of business activities. For other FIs, such powers are available under Articles 56(3) and 57 BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers, Article 50 of Bappebti AML/CFT Regulation for Futures Brokers, and Article 1 (20) of the MCS KYC Regulation. The PPATK KYC Regulation for Postal Providers does not contain such a provision. There is provision in the abovementioned government regulation for PPATK to impose sanctions on the reporting entity for AML violations but not CFT violations. BI Regulation on Funds Transfers, Section VI, provides BI with the authority to terminate funds-transfer activities and removal of operators from the approved list. There are similar provisions in BI Regulation 12/3/2010 for Non-Bank Money Changers and Law No.32 of 1997 on Commodity Futures Trading Institutions. Under Law No.25 1992 on Cooperatives, Indonesian authorities can invoke Article 47 of that law to terminate a cooperative if there are serious violations.

Weighting and Conclusion

390. There are minor deficiencies relating to postal providers and cooperatives.

391. **Recommendation 27 is rated largely compliant.**

Recommendation 28 – Regulation and supervision of DNFBPs

392. Indonesia was rated non-compliant with former R.24 in the 2008 MER because DNFBPs were not included in Indonesia's AML/CFT regime.

393. *Criterion 28.1* - Gambling, including casinos, is prohibited under Article 303 of the Penal Code.

394. *Criterion 28.2* – Article 18(4) of the AML Law stipulates that supervisory and regulatory agencies shall be obligated to supervise compliance of reporting entities, including DNFBPs, with AML/CFT requirements. There is a more general reference in Article 1(12) in the CFT Law empowering supervisory and regulatory agencies to have the authority to supervise, regulate, and/or impose sanctions. The designated DNFBP supervisory agencies, as detailed in the table below, have all issued AML/CFT or KYC regulations for their sector, as described in R.22 and R.23:

Annex Table 1: Designated Supervisory and Regulatory Agencies

Reporting Entities	The Supervisory and Regulatory Agency
Designated Non-Financial Business	
Real estate/property company or agent	PPATK
Motor vehicle trader (car dealer)	PPATK
Precious stones and metals	PPATK
Art and antique goods trader	PPATK
Auction House	Ministry of Finance
Professions	
Lawyer	PPATK
Notary (also company formation providers)	Ministry of Law and Human Right
Land Titles Registrar	PPATK
Accountant and public accountant	Ministry of Finance
Financial planner	PPATK

395. *Criterion 28.3* – Indonesia has included other categories of DNFBPs such as art and antique goods traders, auction houses, motor vehicle traders (car dealers), and financial planners, which are listed in Article 17.1(b) of the AML Law and Article 3 Government AML Regulation No.43 of 2015. The major DNFBP supervisor, PPATK, which also supervises the higher-risk real estate and motor vehicle sectors, has a risk-based approach and internal procedures for AML/CFT supervision. It issued a PPATK Regulation No.13 on AML/CFT Compliance Audit in 2016 and updated its AML/CFT supervisory procedures in 2017. The other two DNFBP supervisors— namely, the Ministry of Finance and MLHR—are still developing their AML/CFT supervisory framework.

396. *Sub-criterion 28.4(a)* – The power to monitor compliance is based on Articles 18 (4) and 31 of the AML Law. Article 1(9) of the Government Regulation No.43 of 2015 stipulates PPATK and/or the supervisory and regulatory agency has the authority to supervise and impose sanctions, including all DNFBPs. There is a general provision in Article 1(12) in the CFT Law. Sector-specific regulations issued by DNFBP supervisors, as mentioned above, capture both AML and CFT. Articles 45–46 in PPATK AML/CFT Regulation for Goods and Service Providers, Articles 41–425 in PPATK AML/CFT Regulation for Financial Planners, Articles 12–13 in MoF AM/CFT Regulation for Accountants, and Article 45 in the PPATK AML/CFT Regulation for Lawyers provide for AML/CFT supervision and powers to impose sanctions. There is no specific reference in the MLHR AML/CFT Regulation for Notaries.

397. *Sub-criterion 28.4(b)* – There are general fit-and-proper test requirements in: (i) Articles 3(i), 10(1) and 11 of Advocate Law No. 18 Year 2003, which stipulate that the requirement to be a lawyer/advocate excludes an individual that has been convicted of a criminal offence punishable by imprisonment of five years or more, and (ii) Articles 6 and 16 of Law No.5 of 2011 for Public Accountants, which exclude anyone, with a similar conviction of imprisonment of five years or more. Real estate agents, precious stone and metal dealers, financial planners, and the other categories of DNFBPs (e.g. motor vehicle, art and antique dealers) are required to obtain a licence from both the Department of Trade and the provincial government. There are some basic FPT requirements, including a police record of no criminal convictions. For DNFBPs that are LLCs, Article 93(1) of the Company Law precludes a person from becoming a member of the Board of Directors who, within five years before appointment: (a) was declared bankrupt; (b) was a member of a board of directors or a member of a board of commissioners found guilty of causing a company to be declared bankrupt; or (c) was punished or will be punished for committing a crime detrimental to state finances and/or relating to the financial sector. But there is no explicit BO requirement.

398. *Sub-criterion 28.4(c)* – Article 42 of PPATK KYC Regulation for Financial Planners, Articles 42–46 of PPATK KYC Regulation for Other Goods and Services, Articles 42–46 PPATK KYC Regulation for Advocates, Article 31 MLHR KYC Regulation for Notaries, and Article 13 of MoF CDD Regulation for Accountants provide a range of sanctions, including a monetary fine but no specific amount is stated in the regulations. However, the administrative sanctions available are dissuasive and include either suspension or cancellation of licence.

399. *Criterion 28.5* – As noted under R.26 and above, PPATK has adopted a risk-based approach to supervision with SOPs for onsite and offsite inspection. However, other DNFBP supervisors have not adopted a risk-based approach. PPATK covers the most material and higher-risk DNFBPs in Indonesia, but the lack of procedures and processes for AML/CFT supervision of notaries is an important gap given their gatekeeper role in legal-person formation.

Weighting and Conclusion

400. There are some fit-and-proper test requirements and not all DNFBPs supervisors have policies and procedures for a risk-based approach to supervision. PPATK covers most DNFBPs, including the more material and higher-risk DNFBPs in Indonesia. However, the lack of procedures and processes for AML/CFT supervision of notaries is a tangible gap given the gatekeeper role they play in legal-person formation.

401. **Recommendation 28 is rated partially compliant.**

Recommendation 29 – Financial intelligence units

402. In its 2008 MER, Indonesia was rated largely compliant with former R.26. The main deficiencies was the assessment team had concerns with PPATK's ability to have access, directly or indirectly, on a timely basis, to required financial, administrative, and LEA information.

403. *Criterion 29.1* – The FIU of Indonesia is known as *Pusat Pelaporan dan Analisis Transaksi Keuangan* (PPATK), or in English as the Indonesian Financial Transactions Reports and Analysis Centre (INTRAC). PPATK is the national central agency for the receipt of disclosures filed by reporting parties. PPATK was first established in 2002 under Article 18 of the AML Law 2002, which was amended in 2010. Currently, PPATK is established under Article 37 of the AML Law with the function of analysing or examining STRs and other information related to ML, associated crimes and TF, and for the dissemination of the results of that analysis under Articles 40 and 41 of the AML Law. Additional functions and authority of PPATK are included in Articles 40, 41, 43, and 44 of the AML Law.

404. *Criterion 29.2* – PPATK is the central agency for the receipt of disclosures filed by reporting parties. Under Article 44(1)(a) of the AML Law, in implementing its functions under 40(d) of the AML Law (analysing or examining), PPATK can request and receive reports and information from reporting parties and, under Article 23(1)(a) of the AML Law, FIs and DNFBPs are required to submit STRs to PPATK. Article 23(1)(b) and 23(1)(c) also require the FI and DNFBPs to report cash financial transactions and wire transfers to PPATK. Finally, Article 27(1) of the AML Law requires DNFBP providers to submit reports on any transaction equal to 500 million IDR (~37,500 USR).

405. *Criterion 29.3* – To perform its analysis, PPATK is authorised to request any additional information from FIs and DNFBPs under Article 44(1) (c) of the AML Law. Article 41(1)(a) of the AML Law also authorises PPATK to request any information from government agencies and private institutions. This provision is clarified in Article 4(1) of Govt. Regulation No. 2 Year 2016 where it states that the head of PPATK can submit a written request to the head of the government agencies and private institutions for data and information, with such entities obligated to provide the requested information. Furthermore, PPATK has direct access to the database of the Citizenship Administration, Legal Entities Administration and State Officials Assets Report.

406. *Criterion 29.4* – PPATK conducts operational and strategic analysis, as described in Article 12 of the Head of PPATK Number 20 Year 2013 and pursuant to Article 40 of the AML Law, which is disseminated spontaneously or upon request to the relevant domestic or foreign competent authorities (Article 44(c) of the AML Law).

407. *Criterion 29.5* – Under Articles 44(c) and 90 of the AML Law, PPATK can disseminate information and results of its analysis to relevant domestic and foreign competent authorities. In accordance with Article 48 of the President Regulation of Indonesia Number 50 Year 2011 concerning the Mechanism of Implementation of Authority of PPATK, PPATK can disseminate analysis results to a criminal investigator spontaneously or upon request. Disseminations must be in accordance with Information Security Policy and Guidelines included in the Head of PPATK Regulation No. 13 Year 2011 concerning Information Security Governance with PAATK using secure electronic and non-electronic means for disseminations. Security features on electronic means include: virtual private network (VPN); dedicated computers in secure locations; limited access; two-stage authentication; and file restrictions. Security features on non-electronic means include: dissemination via official letter from PPATK to the investigator via liaison officer or collected in person; security classification; disclaimer statement; and password protection on any electronic material included in the dissemination.

408. *Criterion 29.6* – Under Head of PPATK Regulation Number 13 Year 2011 concerning Information Security Governance, PPATK has a comprehensive Information Security Policy and Guidelines covering all elements of c.29.6(a)–(c).

409. *Criterion 29.7* – The independence of PPATK is ensured in the AML Law. PPATK is an independent institution with budget allocated from the state revenue and expenditure budget ensured under Article 63 of the AML Law. Under Article 37 of the AML Law, PPATK is accountable to the President and independent and free from the intervention and influence of any power whatsoever in performing its duties and authority including its analysis (and dissemination function), domestic and international information exchange (Articles 88–90 of the AML Law) and human resources management (Articles 61–62 of the AML Law).

410. *Criterion 29.8* – PPATK has been a member of the Egmont Group since 2004. Its membership of the Egmont Group was approved by the Presidential Decree No. 24 Year 2011.

Weighting and Conclusion

411. **Recommendation 29 is rated compliant.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

412. In its 2008 MER, Indonesia was rated partially compliant with former R.27. The main deficiencies were: (i) inadequate resources applied to ensure that the offences were properly investigated, in particular parallel investigations of ML and underlying predicate crime; (ii) no demonstration that the offences, in particular TF offences, were being pursued proactively and systematically; (iii) over-reliance on case leads from STRs; and (iv) lack of capacity to undertake investigations.

413. *Criterion 30.1* – Under Article 74 of the AML Law, investigation of ML is designated in accordance with the predicate crime jurisdiction. Indonesia has four LEAs responsible for the investigation of predicate crimes, as follows:

- *INP* – under Article 14 (1)(g) of the Law of the Republic of Indonesia Number 2 Year 2002 concerning the State Police of the Republic of Indonesia (Police Law), INP is designated to conduct investigations into all crimes in accordance with the Criminal Code, the Criminal Procedure Code and other laws and regulations including the investigation of TF.
- *KPK* – under Article 6(c) of the Law of the Republic of Indonesia Number 30 Year 2002 concerning Commission for the Eradication of Criminal Acts of Corruption (Anti-corruption Law), KPK is designated to investigate corruption cases with Article 11 limiting such investigations to cases that: (i) involve LEAs, government executives, or other parties connected to corrupt acts committed by LEAs or government executives; (ii) have attracted the attention and dismay of the general public; and/or (iii) involve losses to the State of at least one billion IDR (~74,000 USD).
- *NNB* – under Article 71 of Law Number 35 Year 2009 concerning Narcotics, BNN is designated to conduct investigation of abuse and illicit trafficking in narcotics and narcotics precursors.
- *AGO* – Under 30(1e), of Law No.16 Year 2004 on AGO, AGO is designated to investigate special criminal cases, which under AGO Regulation No. PERJA-039/A/JA/10/2010 includes corruption offences, fisheries, economic offences (customs offences) and violations of human rights.

414. INP is designated to investigate TF, which are conducted by the Detachment 88, as specialised anti-terrorism division of INP.

415. *Criterion 30.2* – Under Article 75 of the AML Law, LEAs are authorised to pursue parallel financial investigations in ML investigations, but INP is not authorised to pursue the investigation of any related TF offences during a parallel investigation.

416. *Criterion 30.3* – All LEAs are designated to undertake seizing of goods that may become subject to confiscation. As discussed in R.4, under Articles 38–46 of the Criminal Code Procedures, all LEA investigators can undertake seizure of goods/evidence. For ML and terrorism/TF, additional powers to expeditiously identify, trace, and initiate freezing are provided for in the AML Law, CFT Law and Terrorism Law, as follows:

417. *ML* – under the AML Law, investigators, public prosecutors, or a judge can request FIs and DNFBPs to provide written statements concerning the assets (Article 72) or order an FI or DNFBP to freeze the assets (Article 71) of: (i) any person reported by PPATK to the investigators, (ii) a suspect; or (iii) a defendant.

418. *Terrorism/TF* – under Article 37 of the CFT Law, investigators, public prosecutors, or a judge can request information from any person providing services in the financial sectors (either formal or non-formal) concerning the funds of: (i) any person reported by PPATK to the

investigators; (ii) a suspect; or (iii) an accused. Under Article 30 of the Terrorism Law, for the purpose of investigation of any criminal act of terrorism, investigators, prosecutors or judges can request information from banks and other FIs regarding the assets of any person who is known to have committed a criminal act of terrorism or is strongly suspected of doing so. Under Article 29 of the Terrorism Law, investigators, prosecutors or judges can order banks and other FIs to freeze the assets of any individual whose assets are known, or reasonably suspected, to be the proceeds of any criminal act connected to terrorism.

419. *Criterion 30.4* – R.30 applies to two civilian investigators of ML (DG Customs and DG Tax—see below), which are designated to investigate ML in line with their predicate crime jurisdiction, and OJK, which can conduct financial investigations of criminal offences, in conjunction with INP, related to the entities it supervises.

420. Under Article 44 of the Consolidation of Law of the Republic of Indonesia Number 6 1983 concerning General Provisions and Tax Procedures, DG Tax is designated to investigate tax crimes. Under Article 112(1) of the Law Number 10 Year 1995 concerning Customs, DG Customs is designated to investigate crimes of customs affairs.

421. *Criterion 30.5* – Under Article 75 of the AML Law, the KPK, INP, and AGO are designated to investigate ML related to corruption, and all have powers to identify, trace, and initiate freezing and seizing of assets, as described above.

Weighting and Conclusion

422. It is unclear whether the relevant provisions provide for pursuit of parallel financial investigations and/or referral of cases for financial investigation.

423. **Recommendation 30 is rated largely compliant.**

Recommendation 31 – Powers of law enforcement and investigative authorities

424. In its 2008 MER, Indonesia was rated compliant with former R.28.

425. *Criterion 31.1* – As discussed in R.30, INP, KPK, NNB, AGO, DG Customs, and DG Tax are all designated to investigate ML in accordance with their predicate crime jurisdiction, and Special Detachment 88 is designated to investigate terrorism/TF. During the investigation of ML/TF and predicate crimes, investigators have compulsory measures, primarily under the Criminal Procedure Code, AML Law, and CFT Law, which apply to all ML/TF investigators.

426. For c.31.1(a), Article 7(1) of the Criminal Procedure Code; Article 72 of the AML; Article 37 of the CFT Law; Article 12 of the KPK Law; Article 44 of the Tax Law; Article 112 of the Customs Law and Article 75 and 76 of the Narcotics Law. For c.31.1(b), Articles 32 & 37 of the Code of Criminal Procedure; Article 44 of the Tax Law; Article 112 of the Customs Law; Article 86 of the Narcotics Law and Article 12 of the KPK Law. For c.31.1(c), Article 112 and 117 of Code of Criminal Procedure. For c.31.1(d), Article 5, 40, and 44 of the Code of Criminal Procedure; Article 112 of the Customs Law; Article 86 of the Narcotics Law; Article 12 of the KPK Law.

427. *Criterion 31.2* – The Code of Criminal Procedure does not include investigative techniques included under this criterion, but Indonesian law enables some investigators to use powers in their enabling legislation in ML/TF and predicate crime investigations (Article 7 of the Code of Criminal Procedure; Article 68 of the AML Law) as follows:

428. *Sub-criterion 31.2(a)* – INP can use undercover operations in preliminary investigations (Article 12 and 24 of the Regulation of Chief of INP No14 Year 2012) and NBB can use undercover operations in relation to undercover buy and controlled delivery (Article 75(j) of the Law Number 35 year 2009 concerning Narcotics).

429. *Sub-criterion 31.2(b)* – Article 31(3) of the Law of the Republic of Indonesia Number 11 2008 concerning Electronic Information and Transactions (Electronic Information and Transactions Law) allows for intercepting of communications by LEAs with INP issuing a SOP on its use (Regulation of the Chief of Indonesian National Police No 5 2010 concerning Procedure of Wiretapping) and there are similar powers for terrorism investigators (Article 31 of the Terrorism Law) and for NNB and KPK (Article 12(a) of KPK Law and Article 75(i) of Narcotics Law).

430. *Sub-criterion 31.2(c)* – INP can access computer systems but only for the investigation of criminal offences in the field of Electronic Information and Transactions. For NNB, terrorism investigators (Article 27 of the Terrorism Law) can access computer systems (Article 86(1) of the Narcotics Law). Furthermore, under the AML Law (Article 73), admissible evidence includes 'evidence as intended in the Criminal Procedure Law' and/or 'other evidence in the form of information uttered, sent, received, or saved in electronic form using optical devices or the like and documents'. Similar provisions are included in the CFT Law and Indonesia informed the assessment team that in conjunction with the criminal procedures code this gives LEAs the power to access computer systems in ML and TF investigations.

431. *Sub-criterion 31.2(d)* – INP/NNB and DG Customs can conduct controlled delivery (Article 75(j) of the Narcotics Law; Article 149(2) DG Customs Regulation Number 53 Year 2010 concerning DG Custom's Governance of Supervisions).

432. *Criterion 31.3* – LEAs can identify natural and legal persons who hold and control accounts, via a request to PPAK (see c.31.4) and PPATK's power to obtain information FI, DFNBs (Article 44 of the AML Law). In addition, for ML and TF investigators, public prosecutors or a judge can request FIs and DNFBPs to provide written statements concerning the assets of any person reported by PPATK to the investigators, a suspect, or a defendant (Article 72 of the AML Law; Article 37 of the CFT Law), and mechanisms under c.31.1(a). However, it is unclear if all these mechanisms operate without prior notification to the owner.

433. *Criterion 31.4* – The legal basis for LEA and PPATK to cooperate is under Article 90 of the AML Law with Decree of Head of PPATK No. 8 Year 2013 concerning Inquiry to PPATK clarifying information exchange between PPATK and LEAs to include information related to the investigation of ML/TF and associated predicate offences and other relevant information needed to support LEA investigations.

Weighting and Conclusion

434. Designated investigators of ML/TF and predicate crimes have compulsory means under c.31.1 and can request information from PPAK; however, not all investigators can use special investigation techniques in all predicate crime investigations and it is unclear if all mechanisms under c.31.3 operate without prior notification to the owner.

435. **Recommendation 31 is rated largely compliant.**

Recommendation 32 – Cash couriers

436. In its 2008 MER, Indonesia was rated partially compliant with SR.IX. The main deficiencies were: (i) bearer negotiable instruments not covered; (ii) detection capacity weak, limiting effectiveness; (iii) no clear authority to restrain money when a false, or no, declaration is made; (iv) proportionate and dissuasive administrative penalties not available and criminal penalties limited and not being applied; (v) statistics do not demonstrate effective implementation of SRIX.

437. *Criterion 32.1* – Pursuant to Article 34 and the Elucidation of the AML Law, Indonesia has established a system for the cross-border declaration for all incoming and outgoing currency (local and foreign) and bearer negotiable instruments (BNI), at a minimum of 100 million IDR

(~7,400 USD), which is implemented at all formal border crossings by DG Customs in accordance with Government Regulation Number 99 Year 2016 regarding the Carrying of Cash and/or Other Payment Instruments into or outside the Indonesian Customs Area (Cash Courier Implementation Regulation 2016); Regulation of the Minister of Finance of the Republic of Indonesia Number 157/Pmk.04/2017 Regarding the Procedures on Notification and Supervision, Suspicious Indicators, Carrying of Cash and/or Other Payment Instruments, and the Imposition of Administrative Sanctions and Deposit to State Treasury (Cash Courier Implementation Regulation 2017); and Circular Letter Number SE-12/BC/2016.

438. *Criterion 32.2* – Indonesia is implementing a written declaration system for all persons carrying local and foreign currency and BNIs (Circular Letter No. SE-12/BC/2016 and Cash Courier Implementation Regulation 2017).

439. *Criterion 32.3* – Indonesia implements a declaration system, as noted above.

440. *Criterion 32.4* – Upon discovery of a false declaration (Article 6(3) of the Cash Courier Implementation Regulation 2016) or non-declaration (Article 6(4) of the Cash Courier Implementation Regulation 2016), under Article 7 of Cash Courier Implementation Regulation, DG Customs can conduct further examination, including: (i) an interview; (ii) an inspection of the body; and/or (iii) an inspection of goods. Under Article 10 of Circular Letter No. SE-12/BC/2016, information that must be obtained in the interview is sufficient to establish the identity of the carrier, source, and intended use of currency and BNIs. Similar requirements are included in Cash Courier Implementation Regulation 2017.

441. *Criterion 32.5* – While Indonesia has some sanction for its cross-border declaration system, these sanctions (outlined below), may not be proportionate and dissuasive for high-level offending including for repeat offenders. Payment of the sanctions below must be made immediately using cash being carried. Indonesia has no sanctions for over-declaration.

442. *For non-declaration* – Under Article 35(1) of the AML Law, administrative sanctions included pecuniary sanction in the amount of 10% of the total value of all currency (local and foreign) and BNI to a maximum of 300 million IDR (~22,200 USD). Similar sanctions are included in Article 13(1) of the Cash Courier Implementation Regulation 2016 and Article 15(1) of the Cash Courier Implementation Regulation 2017.

443. *For under-declaration* – Under Article 35(2) of the AML Law, administrative sanctions include pecuniary sanction in the amount of 10% of the excess currency (local and foreign) and bearer-negotiable instruments to a maximum of 300 million IDR (~22,200 USD). Similar sanctions are included in Article 13(2) of the Cash Courier Implementation Regulation 2016 and Article 15(2) of the Cash Courier Implementation Regulation 2017.

444. *Criterion 32.6* – Under Articles 34(2) and 35(4) of the AML Law and Article 10 of the Circular Letter No. SE-12/BC/2016, DG Customs is required to report false declarations, administrative sanction applied, and any additional information obtained during an interview to PPATK within five days. Furthermore, under Article 34(3) PPATK can request additional information from DG Customs regarding the currency and BNIs. Similar provisions are included in Cash Courier Implementation Regulation 2017.

445. *Criterion 32.7* – While Indonesia has a number of coordination mechanisms related to narcotics and ML, it is unclear the extent to which these mechanisms are used in relation to implementation of R.32. In its TC response, Indonesia did mention that it uses MOUs to facilitate the profiling of passengers who enter/exit Indonesia, and that DG Customs also cooperates with airport authorities, airlines, and ferry companies in order to establish a passenger-targeting system used to target smuggling of drugs, cash and other high-value goods. Furthermore, liaison officers have been appointed to improve the coordination between DG Customs and PPATK.

446. A system for profiling and targeting passengers through a passenger-analysis unit and passenger name record applications has been used since 2008 and 2014, respectively, pursuant to PAU/PNR-Gov system is PMK 166/PMK.04/2014.

447. *Criterion 32.8* – Under Article 74 of the Customs Law, DG Customs has the general authority to carry out necessary actions in performing its tasks under the Customs Law and other regulations, where the enforcement is the responsibility of DG Customs, including conducting examinations, asking questions, conducting searches, and detaining goods (Article 77 of the Customs Law) and persons (Article 99 of the Customs Law). These powers have been clarified in relation to R.32 in the Cash Courier Implementation Regulation 2016. Under Article 17, DG Customs can restrain currency and BNI where false declaration is made; however, only in circumstance where sanctions (see c.32.5) cannot be applied.

448. In addition, as DG Customs is designated to investigate ML and customs-related predicate crimes, investigators may carry out detention, search, seizure or cohesive action (including prevention) (Article 112 of the Customs Law). However, it is unclear if DG Customs can stop or restrain currency or BNI upon suspicion of TF or non-customs-related predicate crimes, where sanctions are applied.

449. *Criterion 32.9* – Indonesia can share information related to R.32 through the following mechanisms:

450. Under Article 41 of the CFT Law, LEAs, PPATK, and other institutions related to the prevention and eradication of TF may enter into cooperation, whether in national or international scope.

451. Under Article 89 of the AML Law, PPATK can engage in international cooperation with similar foreign agencies and international agencies related to the prevention and eradication of ML. Under Article 90, PPATK can engage in international cooperation for the purpose of exchange of information in the form of requesting, providing, and receiving information with agencies that can include foreign customs authorities.

452. *Criterion 32.10* – Under Article 115 of the Customs Law, there are general safeguards related to official use of information, which extends to proper use of any information obtained under R.32. In addition, there are safeguards on R.32-related information submitted to PPATK. These safeguards do not seem to restrict either trade payments between countries or the freedom of capital movements.

453. *Criterion 32.11* – See analysis for c.32.5. In addition, Indonesia's ML offence, under Article 3 of the AML Law, includes 'any person that … takes out of the country … Assets known or reasonably suspected … as originating from the proceeds of a criminal act' with a criminal sanction of imprisonment for a maximum period of 20 years and a maximum pecuniary sanction of 10 billion IDR (~751,000 USD). While the definition of 'asset' is broad enough to cover both local and foreign currency and BNIs, Article 3 does not cover persons bringing into Indonesia currency or BNI related to ML/TF or predicate crimes. It is unclear if this gap is covered in other legislation.

Weighting and Conclusion

454. Indonesia has implemented at all formal border crossings a cross-border declaration system for incoming and outgoing currency (local and foreign) and BNI, at a minimum of 100 million IDR (~USD 7,400.00), under Article 34 and Elucidation of the AML Law. However, there are minor gaps in the sanctions regime.

455. **Recommendation 32 is rated largely compliant.**

Recommendation 33 – Statistics

456. In its 2008 MER, Indonesia was rated partially compliant with former R.32 because of comprehensive statistics on international cooperation outside of MLA.

457. *Criterion 33.1* – Under Article 9 of the Law Number 14 Year 2008 of Public Information Disclosure (Public Disclosure Law), all public agencies, including supervisors and LEAs, PPATK and MLHR are required to publish semi-annual reports on their activities, performance, and financial aspects. Additional, requirements related to c.33.1(a)–(d) are below.

458. *Sub-criterion 33.1(a)* – PPATK's Sub-directorate of Research maintains adequate statistics relating to STRs reported and disseminated in accordance with Articles 64, 65, and 69 of PPATK Regulation Number 3 Year 2017. PPATK also publishes some statistics on its website.

459. *Sub-criterion 33.1(b)* – All NCC members are required to maintain and provide statistical information as part of their NCC obligations (NCC Regulation Number: 001/XI/PER/2015 on SIPPENAS) and INP, KPK, and NNB are required to submit annual reports pursuant to Public Disclosure Law in accordance with Article 15 INP Regulation Number 16 Year 2010, Article 15(c) of KPK Law and Article 2(1)(j) President Regulation Number 23 Year 2010, respectively. While it is difficult to access reports only available in Indonesian, reports available in English[37] do contain statistics on ML/TF investigations, prosecutions, and convictions.

460. *Sub-criterion 33.1(c)* – The above requirements apply, but not all reports available in English[38] contain statistics on frozen property or seized assets.

461. *Criterion 33.1(d)* – Only the above requirement under Public Disclosure Law applies to MLHR, which is the central authority for MLA, and statistics on other international requests for cooperation are not maintained by all competent authorities.

Weighting and Conclusion

462. There are minor shortcomings in relation to statistics maintained by some LEAs on property frozen or seized and other international requests for cooperation.

463. **Recommendation 33 is rated largely compliant.**

Recommendation 34 – Guidance and feedback

464. Indonesia was rated partially compliant with former R.25 in the 2008 MER because DNFBPs were not included in Indonesia's AML/CFT regime and guidance has not been issued to them.

465. *Criterion 34.1* – Supervisors and PPATK use a range of measures to provide guidance and feedback to the FIs and DNFBPs that they regulate and supervise to assist them with the understanding of, and compliance with, their AML/CFT obligations, as follows:

466. *PPATK* – has issued guidance on STRs to both FIs and DNFBPs and other reports (required to be filed with PPATK) related to ML, TF and Indonesia's higher-risk predicate crimes and also guidance for specific entities within the financial sector and DNFBPs. These include, but are not limited to: (i) Identify Suspicious Transactions for Financial Services Providers; Identify Suspicious Transactions related to Terrorist Financing for Financial Services Providers; (ii) Suspicious Transactions Red Flag Indicators for Financial Services Providers; (iii) Guidelines for identification of profile, countries, businesses, products and/or services at high risk of money laundering; (iv) Guidelines Suspension Transactions related to ML/TF for Financial Service Providers; (v) Guideline Termination Transactions in the field of Bank, Capital Market, and Insurance. PPATK also established e-learning for all stakeholders

[37] DGT Tax annual reports for 2013, 2014, and 2015; KPK annual reports for 2014 and 2016; AGO annual reports for 2013, 2015 and 2016.

[38] DGT Tax annual reports for 2013, 2014, and 2015; KPK annual reports for 2014 and 2016; AGO annual reports for 2013, 2015, and 2016.

(http://elearning.ppatk.go.id/) and also holds an annual feedback event with its REs and industry associations.

467. *OJK* –has issued guidance and established the Communication Forum and Coordination of Financial Service Sector (FKKSJK). FKKSJK is assisting FIs with the understanding of and compliance with their AML/CFT obligations by conducting workshops and training. It is implementing a socialisation program of old and new requirements—i.e. OJK AML/CFT Regulation for PJK issued in 2017. Since November 2015, the OJK has conducted over 30 workshops around Indonesia. In addition to the feedback that may occur during workshops by the supervisor, as discussed above, the primary way by which OJK provides feedback is via its *person in charge* (PIC) mechanism where it can communicate directly with the PIC of a FI.

468. *BI* – has provided guidance to the entities it supervises through workshops and circular letters such as AML/CFT guidance including suspicious transactions; risk-based approach implementation guidance; and freezing without delay for terrorist financing and proliferation guidance. Since 2014, the BI has conducted over 11 workshops for non-bank MVTS and money changing providers on their AML/CFT obligations.

469. *Bappebti* – has established guidance or conducted workshops to assist the FIs it supervises with an understanding of, and compliance with, AML/CFT obligations. In 2017 it conducted over four such workshops.

Weighting and Conclusion

470. Guidance and feedback is less comprehensive for DNFBPs not supervised by PPATK.

471. **Recommendation 34 is rated largely compliant**.

Recommendation 35 – Sanctions

472. Indonesia was rated partly compliant with former R.17. Deficiencies in the 2008 MER mainly relate to: (i) available administrative penalties inconsistent and a lack of persuasive monetary penalties, (ii) PPATK lacked powers to apply direct administrative sanctions in relation to compliance with reporting obligations, (iii) the sanctions available to a number of regulators were only administrative; (iv) no powers were available to sanction Money Value service providers; (v) regulators lacked powers to impose sanctions on directors or members of the senior management of insurance companies.

473. *Criterion 35.1* – Under Indonesia's AML/CFT regulatory regime, sanctions are linked to a specific requirement(s), and contained in sector-specific regulations, with the exception of some basic CDD, STR reporting, and wire-transfer sanctions. The available sanctions and deficiencies are detailed below:

474. Article 13 of the AML Law provides for criminal (up to five-years custodial sentence) and pecuniary sanctions (of one billion IDR, ~7.4 million USD) for tipping off. Article 30 provides for administrative (fine) sanctions (by general cross-referencing laws and regulations) for violations of reporting requirements. Both articles cover all FIs and most DNFBPs, except for lawyers, notaries and accountants, and NPOs (unless they are cooperatives), as they are not captured under the AML Law. However, Government AML Regulation Number 43 of 2015 subject all DNFBPs to the AML Law requirements, including those not captured under the AML Law. The Regulation refers to the AML Law requirements, and to reporting and tipping-off requirements and sanctions for violations. Sanctions for NPOs are under Articles 60–62 of the CSO Law 2017.

475. Article 10 of the CFT Law provides criminal and pecuniary sanction of one billion IDR (~7.4 million USD) for tipping off. Article 13 provides administrative (fine) sanctions for STR reporting violations. Article 19 provides sanctions (reference to other sanctions) for wire transfers. These three articles cover all FIs and most DNFBPs, except for lawyers, notaries and

accountants, and NPOs (unless they are cooperatives), as they are not captured under the law. Sanctions for NPOs are under Articles 60–62 of the CSO Law 2017.

476. There do not appear to be any sanctions attached to the freezing obligation in Article 28 of the CFT Law; while (as noted in R.6) there is an obligation, the CFT Law does not provide for a sanction. Neither is there a sanction in the Joint TF Freezing Regulations. However, there are parallel freezing requirements in supervisors' AML/CFT regulations. Article 46 of OJK AML/CFT Regulation imposes a requirement to freeze, and a range of administrative/financial sanctions are available for non-compliance under Articles 65–66. BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers also states that, if the reporting entity fails to meet the obligation to 'freeze without delay', as stipulated under Article 47(3), then BI can impose a sanction on the reporting entity and/or its Director, Commissioner, and/or shareholders (Article 57). Article 40 of Bappebti AML/CFT Regulation for Futures Brokers imposes a freezing without delay while Article 50 imposes a range of administrative/financial sanctions. There is no freezing requirement in PPATK KYC Regulation for Postal Providers, only to submit an STR under Article 27. While there are sanctions in Article 47 of the MCS KYC Regulation for Cooperatives, they do not relate to TFS asset freezing as the regulation is absent from the freezing requirement. For postal service providers and DNFBPs, there are freezing provisions in Section Monitoring. 2 PPATK TF Freezing Circular No. 5 of 2016. There is no sanction in the circular, but it does state that the freezing-without-delay provision, '… can be sanctioned based on law and regulations'. It is not clear which law or regulation, or how this would be implemented.

477. Articles 65 and 66 of OJK AML/CFT Regulation for PJK provide for a range of sanctions for all OJK-supervised FIs. The maximum monetary sanctions for reporting, however, are capped at 10 million IDR (~740.00 USD), which cannot be considered as dissuasive. For violations of other requirements under the regulation, no monetary amount is mentioned. The sanctions are only applicable to requirements contained in the Regulation.

478. Articles 57–59 of BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers provide sanctions for any violation of requirements contained within the respective Regulation.

479. For other FIs and DNFBPs, the following have compliant requirements: Article 40 of the Bappebti Regulation for Commodity Futures Trading, Article 42 of PPATK KYC Regulation for Financial Planners, Articles 42–46 of PPATK KYC Regulation for Other Goods and Services, Articles 42–46 of the PPATK KYC Regulation for Advocates, and Article 31 of the MLHR KYC Regulation for Notaries provide a range of sanctions, including a monetary fine but no specific amount is stated in any of the regulations. However, the administrative sanctions available are dissuasive and include either suspension or cancellation of licence. PPATK KYC Regulation for Postal Providers does not contain sanctions. MoF CDD Regulation for Accountants does not contain sanctions but refers to other enforceable instruments including PPATK KYC Regulation for Other Goods and Services. For NPOs, a sanction is available under Article 79 of the CSO Law.

480. *Criterion 35.2* – The sanctions discussed in c.35.1 are applicable to directors and senior management but with the deficiencies identified above. PPATK KYC Regulation for Advocates, and MLHR KYC Regulation for Notaries do not cover boards of directors or senior management. This may not be an issue for sole traders or a provider with a few individuals but is a gap for larger providers where the reporting entity, board of directors, and senior management are separate to employees.

Weighting and Conclusion

481. There are some deficiencies in sanctions, but the most relevant and significant sectors have sanctions.

482. **Recommendation 35 is rated largely compliant**.

Recommendation 36 – International instruments

483. Indonesia was rated partially compliant with former R.32 and non-compliant with SR.I. The main deficiencies in the 2008 MER were that Indonesia had not acceded to the Palermo Convention. As well, the Vienna Convention, the Palermo Convention, and the Terrorism Financing Convention had not been fully implemented.

484. *Criterion 36.1* – Indonesia is a party to the four conventions, having ratified the UN Convention Against Illicit Traffic in Narcotics Drugs and Psychotropic Substances (Vienna Convention) by Law 7/1997; the UN Convention Against Transnational Organized Crime (Palermo Convention) by Law 5/2009, the United Nations Convention against Corruption (Merida Convention) by Law 7/2006, and the Terrorism Financing Convention by Law 6/2006.

485. *Criterion 36.2* – The Vienna Convention, the Merida Convention, the Palermo Convention, and the Terrorism Financing Convention have been mostly implemented, both via internal regulation and application of self-executing norms from these conventions, but there are some shortcomings in implementation (see R.3–R.5).

Weighting and Conclusion

486. Indonesia is a party to the four conventions, but there are some shortcomings in implementation (see R.3–R.5).

487. **Recommendation 36 is rated largely compliant.**

Recommendation 37 – Mutual legal assistance

488. Indonesia was rated partially compliant with former R.36 and SR.V. The main deficiencies of the 2008 MER included time limits likely to hamper prosecutions and mandatory dual criminality requirements. Deficiencies pertaining to the scope of Anti-terrorism Law were also found to pose constraints to international cooperation.

489. *Criterion 37.1* – Indonesia's MLA framework provides for a wide range of measures to seek and provide assistance in supporting investigations, prosecutions, and related criminal proceedings in ML, TF, and predicate crimes. The Mutual Legal Assistance in Criminal Matters Law 1/2006 (MLA Law) allows for: (i) providing and obtaining evidence; (ii) taking statements from persons; (iii) making arrangements for persons to give evidence or to assist in criminal investigations; (iv) recovering and confiscating assets/property; (iv) restraining dealings in property, or freezing of assets/property, that may be recovered; (v) executing requests for search and seizure; (vi) locating and identifying witnesses and suspects; (vii) service of process; (viii) identifying and tracing proceeds and instrumentalities of crime; and (vii) examining things and premises. Indonesia can also provide MLA based on its MLA treaties,[39] ASEAN MLAT on criminal matters, and under the principle of reciprocity (Article 5 of the MLA Law).

490. *Criterion 37.2* – The MLHR is the central authority for MLA under the MLA Law. The MLHR has issued guidance (Ministry of Law and Human Rights Republic of Indonesia Guidelines on Handling of Mutual Legal Assistance in Criminal Matters) for the handling of MLA in criminal matters, which is published on its website and outlines the process for the transmission and execution of requests. Jurisdictions may seek assistance through the MLHR directly or via diplomatic channels. In addition, for urgent requests, officers of the AGO, INP, and KPK may facilitate early execution by alerting the relevant LEAs and by commencing work based on an advance copy of the request. The MLHR prioritises requests based on relevant factors (including time constraints, type of request etc.) and uses follow-up meetings with LEAs and its case-management system for basic monitoring of requests.

[39] Indonesia has MLATs with Australia, China, Hong Kong, China; Korea, India, Vietnam. Also, there are MLA treaties under ratification process with the United Arab Emirates, Iran, and Switzerland.

491. *Criterion 37.3* – Indonesia's MLA legislation with grounds for refusal stipulated in Article 6 *et seq.* of the AML Law does not seem to present any unreasonable restrictive conditions. However, Article 7(b) may become unduly restrictive as this provision allows for refusal when requests 'burden the assets of the state' on a discretionary basis, without further clarifying how or to what extent such 'burden' is taken into account to refuse a request. One incoming MLA case has been refused under Article 7(b).

492. *Criterion 37.4* – Refusal of MLA requests on the sole ground that the offence involves fiscal matters or on the ground of laws imposing or confidentiality requirements on FIs or DNFBPs is not found in MLA legislation.

493. *Criterion 37.5* – Confidentiality of incoming and outgoing MLA is provided for in Article 58 of the MLA Law, with additional clarification included in MLHR guidance.

494. *Criterion 37.6* – The application of dual criminality is discretionary pursuant to Article 7(a) of the Indonesian MLA Law with Article 8 of the MLA Law providing the MLHR with the discretion to apply the principle of dual criminality (this interpretation was confirmed by Supreme Court Decision Number 31 of 2013). The MLA Law makes no distinction between coercive or non-coercive action in the execution of an MLA, and Indonesia has not refused MLA on the grounds of dual criminality.

495. *Criterion 37.7* – As discussed above, the principle of dual criminality in the MLA Law is at the discretion of the MLHR. In bilateral treaties, the principle of dual criminality can be regulated as discretionary ground for refusal (for example, in Indonesia's MLAT with Australia). In the absence of a bilateral treaty, there is no specific practice or legal requirement for the principle of dual criminality, if applicable, to be deemed satisfied regardless of whether both countries place the offence within the same category of offence, or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence.

496. *Criterion 37.8* – To the extent competent authorities are granted appropriate powers and investigative techniques (see R.31), upon referral of the MLA request to the INP or the AGO for follow up (Article 29(1) of the MLA Law), they can be used for the execution of MLA. The MLHR, as Central Authority, may seek the assistance of other LEAs such as BNN (narcotics related) or KPK (for corruption) in the process of executing a request from other countries regarding MLA. There seems to be nothing in the MLA Law that would prohibit the use of special investigative techniques (such as undercover operations or controlled deliveries) available to specific LEAs, as outlined in R.31.

Weighting and Conclusion

497. Indonesia's legal framework on criminal matters provides for broad MLA with MLHR as the central authority coordinating the execution of MLA. There are shortcomings in that: (i) MLA legislation allows for refusal when requests 'burden the assets of the state' on a discretionary basis, without further clarifying how or to what extent such 'burden' is taken into account to refuse a request; and (ii) although the principle of dual criminality in the MLA Law is at the discretion of the MLHR, in the absence of a bilateral treaty, there is no specific practice or legal requirement to give effect to c.37.7.

498. **Recommendation 37 is rated largely compliant.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

499. Indonesia was rated non-compliant with former R.38. In the 2008 MER, the main deficiencies found were that only assets 'derived from' offences were included as proceeds; that the definitions of property or assets did not include all kinds of goods and instrumentalities; and that non-criminal assets of corresponding value could not be confiscated. Moreover, the latter

could not be confiscated for international cooperation purposes as well and only ad hoc sharing of confiscated assets was available.

500. *Criterion 38.1* – The MLA Law provides the legal basis for Indonesia to identify, seize, and confiscate in response to a request by a foreign jurisdiction. The MLA Law provides the legal basis for Indonesia to identify and seize based on a foreign jurisdiction's warrant and/or court stipulation for the purpose of investigation or examination (Article 41 *et seq.* of the MLA Law). Furthermore, under Article 51 *et seq.* of the MLA Law, Indonesia can follow up confiscation requests, via search and seizure warrants from the Local District Court based on a foreign court ruling. Under Article 42, the Head of the Local District Court may issue search and seizure warrants with respect to foreign requests for articles or assets that are: (i) allegedly obtained from, or the proceeds of, crime (that has been or allegedly has been committed) under the law of the requesting state; (ii) used to commit or prepare such crime; (iii) particularly designed or allocated to commit such crime; (iv) related to such crime; (v) that is believed to be evidence in such crime; or (vi) that was used to hamper the investigation, prosecution, and examination before the court of such crime. Search and seizure of the above articles or assets is conducted in accordance with procedures, as discussed in R.4.

501. Articles 22 and 23 of the MLA Law provide for the enforcement of foreign judicial orders for forfeiture of seized assets, penalty imposition, and payment of compensation or restraining. However, enforcement also depends on an Execution of Judgments procedure (Part XIX, Articles 271–276 of the Criminal Procedure Code). However, confiscation of property of corresponding value can only be made in limited situations (based on Article 18(1)(b) of the Anti-corruption Law and Supreme Court Regulation 5/2014).

502. *Criterion 38.2* – Articles 22 and 23 of the MLA Law provide for assistance in the execution of foreign judgements. However, this law pertains to cooperation in criminal matters. Foreign non-criminal confiscation orders must be recognised and enforced under the Execution of Judgments procedure set forth in the Criminal Procedure Code (Articles 271–274), which are limited to related civil compensation for criminal offences. Moreover, non-conviction-based confiscation proceedings are not generally consistent with Indonesia's legal system where confiscation is usually preceded by a conviction in criminal proceedings. Hence, foreign provisional measures related to non-conviction-based proceedings cannot be executed.

503. Requests for asset confiscation in relation to ML can be fulfilled when a perpetrator is unavailable due to death, flight, or absence in certain cases (Article 79(3) and (4) of the AML Law) and if the perpetrator is unknown (Article 67(2) and (3) of the AML Law).

504. *Criterion 38.3* – Under Articles 45–47 of the MLA Law there are basic elements covering c.38.3(a) and (b). These measures are further regulated in AGO Asset Recovery Regulation 2014, which establishes the Asset Recovery Centre as the coordinating agency for confiscation actions with foreign jurisdictions and includes mechanisms for the management of all phases of asset recovery including, when necessary, disposing of property frozen, seized, or confiscated.

505. *Criterion 38.4* – Indonesia is able to share confiscated property with other countries but only on the basis of ad hoc agreements made pursuant to Article 57 of the MLA Law, which is further regulated by AGO Regulation 2014.

Weighting and Conclusion

506. MLA Law provides the legal basis for Indonesia to identify, seize and confiscate based on a request from a foreign jurisdiction. A minor shortcoming is that the confiscation of property of corresponding value, non-criminal confiscation, and sharing of assets must be undertaken on the basis of ad hoc agreements.

507. **Recommendation 38 is largely compliant.**

Recommendation 39 – Extradition

508. Former R.39 was rated largely compliant in the 2008 MER, mostly due to implementation constraints posed by dual-criminality requirements, given the deficiencies of former R.1.

509. *Criterion 39.*1 – Extraditable offences can be determined in bilateral agreements or by statute, under Law 1/1979 about Extradition (Extradition Law): (i) through a list-based approach pursuant to Article 4(1), which does not include ML or TF; or (ii) when it is not expressly mentioned in the list, under Article 4(2) extradition may also be conducted based on the policy of the requesting country (which encompasses the extradition for offences in accordance with applicable international law treaties). Therefore, ML and TF are extraditable offences on a discretionary basis pursuant to Article 4(2). Bilateral agreements encompassing ML and TF as extraditable offences due to an applicable minimum penalty threshold include extradition treaties with the Philippines, Australia, China, Hong Kong, Korea, India and Vietnam.

510. While extradition procedures are included in the Extradition Law—namely, in articles 22–24 and 39, the law provides for limited case management. To supplement this, the MLHR has guidance for Indonesian competent authorities and foreign jurisdictions, where procedures to conduct extradition are clarified and aimed at a timely execution and prioritisation (including details such as criteria to prioritise requests). The decision to extradite (which rests with the President of the Republic) is preceded by a court appraisal (regarding the legal requirements of the request), as well as by the non-binding opinion of other authorities (the Minister of Foreign Affairs, the Head of Indonesian National Police, the Attorney General, and the Minister of Law and Human Rights), which may hamper the timeliness of extradition procedures.

511. Extradition proceedings are considered urgent pursuant to Article 28 Extradition Law and there are measures to ensure the detainment of the person to be extradited while proceedings are pending for a reasonable period in order to ensure the fugitive offender remains in custody until a decision is made about the extradition request (Articles 25, 34, and 35 of the Extradition Law).

512. *Criterion 39.2* – While under Article 7(1) of the Extradition Law Indonesia does not extradite its own nationals, it may allow adjudication of trial of Indonesian nationals in circumstances where it is deemed better to adjudicate the case in the jurisdiction where the offence was committed (Article 7(2)), on a discretionary basis. Indonesia has also established the principle *aut dedere aut judicare* in bilateral treaties.

513. *Criterion 39.3* – The Extradition Law does not explicitly provide for the dual-criminality requirement to be satisfied regardless of whether both countries place the offence within the same category of offence, or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence. However, it has been demonstrated that these requirements may be precluded under the Extradition Law (Hadi Ahmadi Case). This may also be provided for according to certain bilateral treaties.

514. *Criterion 39.4* – It is noted that Indonesia has made efforts to overcome the inability to deliver persons through extradition by using administrative deportation mechanisms. However, the Extradition Law does not recognise simplified extradition mechanisms and it has only been regulated to a limited extent in a bilateral treaty (treaty on extradition with Korea).

Weighting and Conclusion

515. Under the Extradition Law, Indonesia can extradite persons based on bilateral agreements or by statute with ML and TF as extraditable offenses on a discretionary basis. Minor shortcomings include the need of appraisal by several authorities, which may cause delays, and the legislation does not provide for simplified extradition mechanisms.

516. **Recommendation 39 is rated largely compliant.**

Recommendation 40 – Other forms of international cooperation

517. In its 2008 MER, Indonesia was rated largely compliant with former R.40. The main deficiencies were that appropriate channels for international cooperation between competent authorities were not effectively in place for the money remittance sector or for the NPO sector.

518. *Criterion 40.1* – LEAs (INP, AGO, KPK, and NNB), supervisors (BI, OJK, and Bappebti) and PPATK can provide international cooperation, particularly within the framework of information exchange, in relation to ML, predicate offences, and TF (further details below). PPATK is able to exchange information both spontaneously and upon request (Article 90(2) of MLA Law) and provides for measures to expedite procedures and ensure timeliness in its SOP. It is not clear however, how timeliness of procedures is ensured by other competent entities, and DG Customs and DG Tax cannot use investigative techniques to conduct inquiries and obtain information on behalf of foreign counterparts (see c.40.18).

519. *Sub-criterion 40.2(a)* – Competent authorities have a lawful basis for providing a wide range of international cooperation.

520. *Sub-criterion 40.2(b)* – There appear to be no objections to the use of the most efficient means to cooperate in enabling legislation for key competent authorities, and some of them have MOUs with foreign counterparts setting parameters for efficient cooperation between authorities. Moreover, (i) INP has liaison officers in several regional jurisdictions and other foreign jurisdictions;[40] (ii) PPATK conducts analyst exchange programs with foreign jurisdictions to foster international cooperation capacity; and (iii) joint investigations have been set up by PPATK and BNN based on MOUs.

521. *Sub-criterion 40.2(c)* – INP, through its National Central Interpol Bureau Interpol Indonesia in its International Relations Division, uses Interpol Channels as its primary gateway for international cooperation, and KPK and BNN also utilise these channels via assistance requests to/from Interpol Indonesia. PPATK uses the Egmont Secure Website (ESW). Communication for non-Egmont members is also classified and carried by secured e-mail.[41] Apart from the situations where other LEAs use Interpol channels, Indonesia did not demonstrate that other competent authorities (such as AGO, KPK, BNN, DGT, DG Customs, BI, and OJK) use appropriate means to exchange information depending on the classification of information that is to be shared.

522. *Sub-criterion 40.2(d)* – To a certain extent, OJK has clear procedures to handle information exchange (under Articles 3–6 PMK 39/2017) and PPATK has established a Financial Intelligence Consultative Group to provide for timely execution for terrorism-related requests and strives to enhance the timeliness of responses via informal coordination with the Detachment 88 specialised unit. Specific criteria to prioritise and expedite procedures related to terrorism cases are provided for in the PPATK SOP and PPATK Circular Letter Number 4 Year 2017. However, it is unclear whether other competent authorities have clear processes for prioritisation and timely execution of international cooperation.

523. *Sub-criterion 40.2(e)* – PPATK and OJK have clear processes for safeguarding information received (see Article 14 PPATK Regulation Number 8 Year 2013, PPATK Regulation concerning information security governance and Article 10 PMK 39/2017) regarding exceptions on s. 34(2) and s. 34(4) GPTPL). Other authorities, including supervisory and regulatory authorities, rely on secrecy and confidentiality provisions within their respective legislation.

524. *Criterion 40.3* – Competent authorities have the legal basis to enter into MOUs when necessary and appear to have either multilateral or bilateral arrangements for information

[40] Timor-Leste, Philippines, Malaysia, Thailand, Singapore, China, Saudi Arabia, Australia, Netherlands, and United States.

[41] Pursuant to PPATK Circular Letter Number 4 Year 2017 and Article 14 paragraph (1) of PPATK Regulation Number 8 Year 2013.

exchange.[42] However, it has not been sufficiently demonstrated which jurisdictions these agreements are with, when such agreements were made, or the criteria underlying the priority given to agreements in order to ascertain to what extent they are pursued (except for general reference to criteria underlying the priority-given agreement by PPATK under Circular Letter Number 6 Year 2017).

525. *Criterion 40.4* – Some competent authorities have demonstrated their ability to provide feedback upon request; for example they have provided feedback to counterparts, via feedback forms (PPATK), at bilateral meetings (AGO and BI) or by other means such as mail (KPK, DGT, and BI). However, besides PPATK, it is unclear if competent authorities are required to provide feedback upon request, and when provided whether it has been in a timely manner.

526. *Criterion 40.5* **–** With the exception of information exchanged by PPATK and BI, Indonesia did not provide sufficient information to demonstrate competent authorities do not prohibit nor place unreasonable or undue restrictive conditions on information exchange or assistance, and do not refuse requests for assistance on the grounds listed in this criterion.

527. *Criteria 40.6–40.7*. Article 17 of Law Number 14 Year 2008 on disclosure of Public Information provides an overarching legal framework for disclosure of information. Some key competent authorities have additional safeguards for disclosure of information including requests, and some key competent authorities MOUs with foreign counterparts include information controls. PPATK has established control measures and safeguards over information exchange on the basis of a standard template provided by the Egmont Group. BI has limited confidentiality requirements, subject to internal specification, pursuant to Article 71 of Law 23 Year 1999. For OJK, Article 33(1) of the OJK Law provides for confidentiality requirements, and its MoUs also establish similar requirements. However, it is unclear if other competent authorities have controls and safeguards for use of official information and whether such mechanisms provide coverage of information exchanged or requested with foreign competent authorities.

528. *Criterion 40.8* **–** Most LEAs and the PPATK are able to conduct inquiries on behalf of their foreign counterparts and exchange information with their foreign counterparts (INP, through the Interpol Coordination Team, based on Head of INP Decision Letter Number Pol: Skep/203/V/192 dated 9 May 1992; PPATK (Article 44(1) of AML Law); AGO and DGT (reference is made to criterion 40.2). Article 44(1) of the AML Law (regulated under 36(1) and (3) of President Regulation Number 50 of 2011 states that PPATK may forward information and/or analysis results to the requesting agency, both inside and outside the country. However, for other LEAs, it is not clear whether they can exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically due to public policy constraints established in the legislation. Moreover, there is no evidence that authorities such as the BNN and DG Customs can comply with this criterion requirement, and it has not been clarified, nor specific reference provided, regarding how KPK can do so. As detailed below, OJK and BI can conduct inquiries for foreign counterparts.

Exchange of information between FIUs

529. *Criterion 40.9* – Under Articles 44(c), 89 and 90 of the AML Law and Article 41 of the CFT Law, PPATK has adequate legal basis for providing cooperation on ML, predicate offences, and TF.

530. *Criterion 40.10* – Pursuant to PPATK Circular Letter Number 4 Year 2017, PPATK provides feedback upon request and whenever possible.

[42] Including, inter alia, BNN MoU with the Australia Federal Police; Nigeria National Drug Law Enforcement Agency; Narcotics Control Bureau, Philippine Drug Enforcement Agency; Office of the Attorney General, Mexico; Fiji Police Force; Portuguese General Directorate on Addictive Behaviours and Dependencies; Office of the National Narcotics Control Board, Thailand.

531. *Criterion 40.11* – Under Articles 44(c)(d), 89 and 90 of AML Law and Article 41 of CFT Law PPATK has broad powers to exchange information, with the only limitation being that requests from foreign LEAs and or counterparts will only be fulfilled insofar as they do not disrupt the national interest and take into account the provisions of laws and regulations in the field of foreign affairs and international treaties (Article 44(d) of the AML Law).

Exchange of information between financial supervisors

532. *Criterion 40.12* – Supervisors have the legal basis for proving cooperation with foreign counterparts, as follows:

533. *PPATK* – Under Article 90 of the AML Law and Article 41 of the CFT Law, PPATK can cooperate with foreign counterparts including in relation to its supervisory functions.

534. *OJK* – Under Article 47(1)b of the OJK Law, the OJK has authority to cooperate with foreign authorities in the field of information exchange. This article allows OJK to provide information to foreign authorities whether the information is already held by OJK or the information is obtained from other domestic counterparts. OJK may conduct inquiries on behalf of foreign counterparts and exchange the information with foreign counterparts. Moreover, under Article 47(4) of the OJK Law, specific for examination and investigation framework, OJK may cooperate and provide assistance with examinations and investigation conducted by foreign authorities.

535. *BI* – Under Article 56 of the Bank Indonesia Law, BI can cooperate with foreign counterparts including in relation to its supervisory functions. BI can also cooperate with international institutions including multilateral agencies in order to carry out the task referred to in Article 8.

536. *Bappebti* – It is unclear if Bappebti can cooperate with foreign counterparts.

537. *Criterion 40.13* – Under the above articles in the AML Law, OJK Law and Bank Indonesia Law, PPATK, OJK, and BI have wide-ranging power to engage in cooperation and information exchange with foreign counterparts, including information held by FIs, in a manner proportionate to their respective needs. It is unclear if Bappebti has the legal basis to exchange information held by FIs.

538. *Criterion 40.14* – Under the above articles in the AML Law, OJK Law, and Bank Indonesia Law, PPATK, OJK, and BI have wide-ranging power to engage in cooperation and information exchange, which may include, when relevant for AML/CFT purposes, information types under sub-criterion 40.14(a)–(b)—PPATK is not a prudential supervisor. It is not clear whether the relevant provisions provide for the exchange of customers' CDD information. It is unclear if Bappebti can exchange information types outlined in sub-criterion 40.14(a)–(c).

539. *Criterion 40.15* – Under the above articles in the AML Law, OJK Law, and Bank Indonesia Law, PPATK, OJK, and BI have wide-ranging power to engage in cooperation and information exchange, which may include conducting inquiries on behalf of foreign counterparts and facilitation of foreign counterparts' inquiries. It is unclear if Bappebti has such powers.

540. *Criterion 40.16* – Regulation of the Head of PPATK Number 13 Year 2011 concerning Information Security Governance (see Appendix) sets policy on management of information access rights in PPATK. It states the parties who need access to information must apply for written permission to the owner via letter/email. The owner of the information must ensure that the parties who need access to information have signed a confidentiality agreement in accordance with the existing provisions. For OJK, in order to ensure that there is authorisation prior to dissemination or use of that information for supervisory and non-supervisory purposes, in every MoU between OJK and foreign authorities there is a specific article regarding requirements to specify the information requested and the purpose for which the information is sought. For BI, the terms for information exchange are elaborated in MoUs. For example, the

MoU between BI and PPATK states that information exchange is confidential and there is a specific article regarding requirements to specify the information requested and the purpose for which the information is sought. The situation is not clear for other financial supervisors.

Exchange of information between law enforcement authorities

541. *Criterion 40.17* – INP, AGO, KPK, and NNB are able to exchange domestically available information with foreign counterparts (see Article 15(2)(h) of Law Number 2 Year 2002 concerning INP; Article 12(h) of Law Number 30 Year 2002 concerning KPK; Article 117 of President Regulation Number 38 Year 2010 on AGO's Organisation as amended by President Regulation Number 29 Year 2016 for AGP; Article 70(g) of Law Number 35 Year 2009 concerning Narcotics). In addition, these LEAs have a number of MOUs with foreign counterparts to support information exchange. However, it is unclear if civil ML investigators (DG Customs and DG Tax) are able to exchange ML investigation-related information with foreign counterparts.

542. *Criterion 40.18* – INP and KPK are able use available investigative techniques to conduct inquiries and obtain information on behalf of foreign counterparts as specified in MOUs and multilateral treaties (see Article 43(3) of Law Number 2 Year 2002 concerning INP; Article 12(h) Law Number 30 Year 2002 concerning KPK). While NNB, DG Tax, and DG Customs cannot use investigative techniques to conduct inquiries and obtain information on behalf of foreign counterparts, Indonesia clarified to the assessment team that INP, as the primary LEA, would conduct such inquires.

543. *Criterion 40.19* – Articles 63, 75, and 83 of the Narcotics Law, Articles 88–90 of the AML Law, Article 13(f) of the KPK Law, and Article 15(2)(h) of the Police Law enable to a large extent LEAs to establish joint investigation teams.

Exchange of information between non-counterparts

544. *Criterion 40.20* – OJK is able to cooperate with non-supervisory counterparts under Article 48 of the OJK Law, which provides for international cooperation with investigative authorities, as well as directly with its counterparts (c.40.8). For other competent authorities, no evidence was provided regarding Indonesia's ability to exchange information indirectly with non-counterparts, applying the relevant principles under the criterion, nor whether it ensures that the competent authority that requests information indirectly makes it clear for what purpose and on whose behalf the request is made.

Weighting and Conclusion

545. Indonesia has minor shortcomings in relation to general principles, exchange of information between supervisors, exchange of information between LEAs, and counterpart cooperation.

546. **Recommendation 40 is rated largely compliant.**

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	• Gaps in assessment of legal perrons/arrangements. • Incomplete requirements on risk mitigation and assessment measures for Pos Indonesia, savings and loans cooperatives and notaries.
2. National cooperation and coordination	LC	• Gap in coordination among DNFBP supervisors.
3. Money laundering offence	LC	• Counterfeiting and piracy of products are not predicate offences for ML. • Lack of clarity if sanctions for legal persons prejudice criminal liability of legal persons.
4. Confiscation and provisional measures	LC	• Indonesia has shortcomings in that not all freezing measures can be undertaken ex-parte or without prior notice. • There are no specific protections for bona fide third parties in some specific laws. • Indonesia can only confiscate property of corresponding value in corruption cases where there is a state loss.
5. Terrorist financing offence	LC	• Gaps in the criminalisation of all terrorist acts as identified in the annex to the TF convention.
6. Targeted financial sanctions related to terrorism and TF	PC	• UNSCR 1267, TFS is not implemented without delay. • TFS obligations do not apply to all natural and legal persons. • No clear prohibition on the provision of funds or financial services to designated individuals and entities.
7. Targeted financial sanctions related to proliferation	NC	• Most DPRK persons/entities have not been listed without delay. • No domestic listing of Iranian persons/entities. • No prohibition of providing financial services to designated persons. • Freeze mechanism is only enforceable on non-bank MVTS and non-bank money changing service providers.
8. Non-profit organisations	LC	• Lack of measures to address the activities of NPO managers and directors. • No clear policies for promoting accountability, integrity, and public confidence in high-risk NPOs. • Incomplete outreach to all NPOs at risk
9. Financial institution secrecy laws	C	
10. Customer due diligence	LC	• Lack of explicit requirement for cooperatives to conduct CDD on occasional transactions that appear to be linked. • Definition of BO in AML/CFF regulation for cooperatives is not fully consistent with FATF's definition. • Lack of explicit requirement for cooperatives, non-bank MVTS, and non-bank money changers, and postal providers in respect of understanding the nature of the business relationship • For futures traders, CDD requirements for legal arrangements are not explicitly provided. • Incomplete specific CDD measures for cooperatives including timing of verification, existing customers, and failure to complete CDD.
11. Recordkeeping	LC	• No specific requirements for postal providers and cooperatives to ensure that CDD information and transaction records are available swiftly to authorities.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
12. Politically exposed persons	LC	• There is no requirement on PEPs for postal providers. • There are minor gaps in risk-management system for savings and loans cooperatives.
13. Correspondent banking	C	
14. Money or value transfer services	C	
15. New technologies	LC	• Minor gaps regarding obligations on existing products and timing of risk assessments for non-bank MVTS, non-bank money changers, postal providers, and cooperatives.
16. Wire transfers	LC	• Minimum recordkeeping time is not specified. • Recipient bank not required to verify the identity of the beneficiary.
17. Reliance on third parties	LC	• Gaps in requirements on the level of third-party country risk for non-bank MVTS and non-bank money changers.
18. Internal controls and foreign branches and subsidiaries	C	
19. Higher-risk countries	LC	• No EDD requirements for postal providers and cooperatives. • Lack of clarity on other available countermeasures.
20. Reporting of suspicious transaction	C	
21. Tipping-off and confidentiality	LC	• CFT Law lacks provision to protect the reporting party, its directors, officials, and employees.
22. DNFBPs: Customer due diligence	LC	• There is no definition of beneficial owner and PEPs in the MoF CDD Regulation for Accountants.
23. DNFBPs: Other measures	LC	• Lack of clarity on attempted transactions and an absence of internal control and higher-risk-country requirements in the MoF CDD Regulation for Accountants.
24. Transparency and beneficial ownership of legal persons	PC	• Risk assessment of legal persons did not address comprehensively the issue of foreign-owned limited liability companies. • For cooperatives, the CCR does not specify who is the company registrar or the timeline for registration. • It is unclear if cooperatives, associations, and foundations are required to comply with Law 8/1997 on Corporate Documents. • Lack of mechanisms to ensure information is accurate and updated. • Gaps in BO requirements. • Unclear whether competent authorities have powers to obtain timely access to information on all legal persons. • Gaps in bearer shares prohibition. • Nominee directors not explicitly prohibited. • Unclear if there are sanctions available for non-compliance with the Company Law. • Unclear if existing mechanism allows for rapid international cooperation on BO information.
25. Transparency and beneficial ownership of legal arrangements	PC	• No requirement to maintain information and keep it accurate and updated if a person acts as a trustee of a trust created under the law of another country and is not a customer of an FI or DNFBP.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
		• No requirement to ensure trustees of a trust created under the law of another country to disclose their status to FIs or DNFBPs • INP does not have timely access to FI and DNFBP information. • No specific legislation to provide for international cooperation. • No specific measures on trustees to meet their obligations.
26. Regulation and supervision of financial institutions	LC	• FPT requirements for OJK-licensed FIs do not explicitly define UBO (ultimate business ownership). • Full RBA procedures and processes not adopted for the OJK-supervised NBFI, and cooperatives supervised by MCS
27. Powers of supervisors	LC	• Supervisors of cooperatives have general powers and absent authority to compel production of records. • PPATK lacks power to impose sanctions on postal providers for CFT violations.
28. Regulation and supervision of DNFBPs	PC	• Supervisors for accountants and lawyers do not have risk-based supervision policies and procedures. • Supervisor for notaries lacks specific powers to monitor compliance. • No BO requirement for DNFBPs that are companies. • With the exception of PPATK, DNFBP supervisors do not have policies and procedures for risk-based supervision.
29. Financial intelligence units	C	
30. Responsibilities of law enforcement and investigative authorities	LC	• It is unclear whether the relevant provisions provide for pursuit of parallel financial investigations and/or referral of cases for financial investigation.
31. Powers of law enforcement and investigative authorities	LC	• Not all investigators can use special investigation techniques in all predicate crime investigations. • Not all mechanisms under c.31.3 operate without prior notification to the owner.
32. Cash couriers	LC	• Cross-border declaration system may not be proportionate and dissuasive for high-level offending including for repeat offenders. It is also unclear if Indonesia has sanctions for over-declaration. • Under Article 17, DG Customs can restrain currency and BNI where a false declaration is made; however, it appears that this provision is limited to circumstances where sanctions (see c.32.5) cannot be applied. • Article 3 does not cover persons bringing into Indonesia currency or BNI related to ML/TF or predicate crimes.
33. Statistics	LC	• LEAs and the MLHR are not maintaining the required statistics for confiscation and MLA, respectively.
34. Guidance and feedback	LC	• Guidance and feedback is less comprehensive for DNFBPs not supervised by PPATK.
35. Sanctions	LC	• No sanctions attached to the freezing obligation in Article 28 of the CFT Law. • PPATK KYC Regulation for Postal Providers does not contain sanctions. • PPATK KYC Regulation for Advocates, and MLHR KYC Regulation for Notaries do not appear to cover board of directors or senior management.
36. International instruments	LC	• Not all conventions have been fully implemented.

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
37. Mutual legal assistance	LC	• There are no clear requirements for MLHR discretion related to dual criminality to be deemed satisfied regardless of whether both countries place the offence within the same category of offence, or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence. • MLA legislation allows for refusal when requests 'burden the assets of the state' on a discretionary basis, without further clarifying how or to what extent such 'burden' is taken into account to refuse a request • Deficiencies in the use of LEA powers in the execution of MLA.
38. Mutual legal assistance: freezing and confiscation	LC	• Minor shortcomings include confiscation of property of corresponding value, non-criminal confiscation, and sharing of assets must be undertaken on the basis of ad hoc agreements.
39. Extradition	LC	• There is no explicit provision for these offences as extraditable offences, but ML and TF are extraditable offences on a discretionary basis. • The need of appraisal by several authorities may cause delays and the legislation does not provide for simplified extradition mechanisms.
40. Other forms of international cooperation	LC	• It is not clear how timeliness of procedures is ensured by other competent entities, and DG Customs and DG Tax cannot use investigative techniques to conduct inquiries and obtain information on behalf of foreign counterparts. • It has not been sufficiently demonstrated which jurisdictions these agreements are with, when such agreements were made, nor the criteria underlying the priority given to agreements in order to ascertain whether they were negotiated in a timely way. • Besides PPATK, it is unclear if competent authorities are required to provide feedback upon request, or, when provided, whether it has been in a timely manner. • Indonesia did not provide sufficient information to demonstrate competent authorities do not prohibit or place unreasonable or undue restrictive conditions on information exchange or assistance, and do not refuse requests for assistance on the grounds listed in this criterion. • It is unclear if other competent authorities have controls and safeguards for use of official information and whether such mechanisms provide coverage of information exchanged or requested with foreign competent authorities. • It is unclear if Bappebti can cooperate with foreign counterparts. • It is unclear if civil ML investigators (DG Customs and DG Tax) are able to exchange ML investigation-related information with foreign counterparts. • It is unclear if all competent authorities can cooperate with non-counterparts.

TABLE OF ACRONYMS

AGO	Attorney-General's Office
AML	Anti-Money Laundering
AML Law	Law No. 8 Year 2010 concerning on the Prevention and Eradication of Criminal Act of Money Laundering
Anti-Corruption Law	Law of The Republic of Indonesia No. 30 Year 2002 concerning on Commission for the Eradication of Criminal Acts of Corruption
ARC	Asset Recovery Centre
ASEAN	Association of Southeast Asian Nations
Banking Law	Law No. 10 Year 1998 on Banking
Bappepti	Commodity Futures Trading Regulatory Agency
Bappepti AML/CFT Regulation for Futures Brokers	Regulation of Head for Commodity Futures Trading Regulatory Agency, No. 8 Year 2017 on Implementation of Anti Money Laundering and Prevention of Terrorism Financing Programs on Futures Broker
Bappepti Procedure on Supervision and Monitoring	Bappepti Procedure No. 9 Year 2017 on Procedures for Implementation of Compliance Supervision and Monitoring of Anti Money Laundering and Counter Terrorism Financing Program on Futures Broker
Bappepti Guideline on RBA	Bappepti Guideline No. 11 Year 2017 for Implementation of Anti Money Laundering and Counter Terrorism Financing Program for Futures Broker
BAZNAS	National *Amil Zakat* Agency
BI	Bank Indonesia
BIN	*Badan Intelijen Negara;* or State Intelligence Agency (SIA)
BI AML/CFT Regulation for Non-Bank Payment and Non-Bank Money Changing Service Providers	Bank Indonesia Regulation No.19/10/PBI/2017 concerning Implementation of Anti-Money Laundering and Prevention of Terrorism Financing for Non-Bank Payment Systems Service Provider and Non-Bank Money Changing Service Provider
BNI	Bearer Negotiable Instruments
BNN	*Badan Narkotika Nasional;* or National Narcotics Board (NNB)
BNPT	*Badan National Penanggulangan Terorisme;* or National Counter Terrorism Agency (NCTA)
BO	Beneficial Owner
Capital Market Law	Law No. 8 Year 1995 on Capital Market
Cash Courier Implementation Regulation	Government Regulation No. 99 Year 2016 concerning the Carrying of Cash and/or Other Payment Instruments Into or Outside the Indonesia Customs Area
CBCC	Cross Border Cash Courier
CCR Law	Law No. 3 Year 1982 concerning on Obligatory Registration of Company
CDD	Customer Due Diligence
CJDC	Central Jakarta District Court
CFT	Counter Financing Of Terrorism
CFT Law	Law No. 9 Year 2013 concerning the Prevention and Eradication of the Criminal Act of Financing of Terrorism
Company Law	Law No. 40 Year 2007 concerning Limited Liability Companies
Cooperative Law	Law No. 25 Year 1992 concerning Cooperatives
CREST	Compliance Risk Exposure Scoring Tool
CSO Law	Law No. 17 Year 2013 concerning Civil Society Organizations
CTR	Cash Transaction Reports
Customs Law	Law No. 17 Year 2006 concerning Customs
DG Customs	Directorate General Customs and Excise

DG Tax	Directorate General Taxation
DNFBPs	Designated Non-Financial Businesses and Professions
DPRK	Democratic People's Republic of Korea
DTTOT List	Domestic Designated List Of Individuals/Entities pursuant to UNSCR 12617/1373 (List of Alleged Terrorist and Terrorist Organisations)
EDD	Enhanced Due Diligence
Extradition Law	Law No. 1 Year 1979 concerning Extradition
FATF	Financial Action Task Force
FKKSJK	Communication Forum and Coordination of Financial Service Sector
FIs	Financial Institutions
FIU	Financial Intelligence Unit
Foundation Law	Law No. 16 Year 2001 concerning Foundations
FTF	Foreign Terrorist Fighters
GDP	Gross Domestic Product
GRIPS	Gathering Report & Information Processing System
IDR	Indonesian Rupiah
IFTI	International Funds Transfer Instruction
Insurance Law	Law No. 40 Year 2014 concerning Insurances
INP	Indonesian National Police
ISIL	Islamic State of Iraq and the Levant
KPK	*Komisi Pemberantasan Korupsi;* or Corruption Eradication Commission (CEC)
LAZ	Local *Amil Zakat* Institution
LEA	law enforcement agency
LLC	limited liability companies
MCS	Ministry of Cooperative & SMEs
MCS KYC Regulation for Cooperatives	MCS Regulation No.6 Year 2017 concerning the Implementation of Know Your Customer Principles for Cooperatives Engaging in Savings and Loan Extension Activities
MIT	Mujahadeen Indonesian Timur
ML	money laundering
MLA	Mutual Legal Assistance
MLA Law	Law Number 1 Year 2006 concerning Mutual Legal Assistance in Criminal Matters
MLAT	Mutual Legal Assistance Treaty
MLHR	Ministry of Law and Human Rights
MLHR KYC Regulation for Notaries	Minister of Law and Human Rights Regulation Number 9 Year 2017 concerning Know Your Customers for Notaries
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MOF Decree on Insurance Licensing	Minister of Finance Decree No. 426 06/2003 concerning Business Licensing and Institutional Aspects of Insurance Companies and Reinsurance Companies
MOF CDD Regulations for Accountants	Minister of Finance CDD Regulations No. 55 01/2017 for Accountants and Public Accountants
MoHA	Ministry of Home Affairs
MoLHR	Ministry of Law and Human Rights

MoRA	Ministry of Religious Affairs
MoSA	Ministry of Social Affairs
MOA	memorandum of agreement
MLHR KYC Regulation for Notaries	Minister of Law and Human Rights ~~KYC~~ Regulation No.9 Year 2017 concerning Know Your Customers for Notaries
MOU	Memorandum of Understanding
ML	Money Laundering
MLA Law	Law No. 1 Year 2006 concerning on Mutual Legal Assistance in Criminal Matters
MLAT	Mutual Legal Assistance Treaty
MVTS	Money or Value Transfer Service
Narcotics Law	Law No. 35 Year 2009 concerning Narcotics
NBFI	Non Bank Financial Institutions
NNB Regulation Number 7 2016	Regulation of the Head of National Narcotics Board No. 7 Year 2016 concerning the Preliminary Investigation and Investigation of the Money Laundering from Predicate Offences of Narcotics and Narcotic Precursors
NNB	National Narcotics Board or *Badan Narkotika Nasional* (BNN)
NCC	National Coordination Committee on Anti-Money Laundering and Counter of Financing Terrorism
NERA	Nuclear Energy Regulatory Agency
NPO	non-profit organisation
NPWP	Taxpayer Identification Number
NRA	National Risk Assessment
OFAC	The Office of Foreign Assets Control
OJK	Financial Services Authority (FSA)
OJK AML/CFT Regulation for PJK	Financial Services Authority ~~(OJK)~~ No.12 01/2017 concerning AML/CFT Regulation
OJK Law	Law No. 21 Year 2011 concerning Financial Services Authority
PEPs	politically exposed persons
PF	proliferation financing
Police Law	Law No. 2 Year 2002 concerning the National Police of the Republic of Indonesia
PPATK	*Pusat Pelaporan dan Analisis Transaksi Keuangan*; or Indonesian Financial Transactions Reporting and Analysis Centre (INTRAC)
PPATK Decree No. 122	PPATK Decree No. 122 Year 2017 concerning Task Force Management, The List of Suspected Terrorist and Terrorist Organisation
PPATK KYC Regulation for Advocates	PPATK KYC Regulation No.10 Year 2017 for Advocates (Lawyers)
PPATK KYC Regulation for Financial Planners	PPATK KYC Regulation~~s~~ No. 6 Year 2017 for Financial Planners
PPATK KYC Regulation for Other Goods and Services	PPATK KYC Regulation No. 7 Year 2017 for Other Goods and Service Providers
PPATK KYC Regulation for Postal Providers	PPATK KYC Regulation No. 9 Year 2011 for Postal Providers
PPI	Public Perception Index
Public Disclosure Law	Law No. 14 Year 2008 concerning Public Information Disclosure
RBA	Risked-Based Approach
RBBR	Risk-Based Bank Rating
RBS	Risk-Based Supervisory Tool
Regulation of Criminal Investigation Management	Regulation of Chief of INP No. 14 Year 2012 concerning Criminal Investigation Management

RE	Reporting Entities
RPPT	Referred to as professional trustee reporting parties for this recommendation
Rupbasan	*Rumah Penyimpanan Barang Rampasan dan Sitaan Negara;* or State Storage House for Confiscated and Forfeited Assets
SIUP	Trading Business Licence
SKDKP	Certificate of Business Domicile
SIPENAS	Reporting and Monitoring of National Strategy of Prevention and Eradication of Money Laundering and Terrorist Financing Information Systems
SOC	Secure Online Communications
SIPESAT	Integrated Customers Information System
SME	Small and Medium Enterprises
SOC	Secure Online Communications system
SOPs	Standard Operating Procedure
SRA	Sectoral Risk Assessment
STR	Suspicious Transaction Report
STRANAS	National Strategy on the Prevention and Eradication of Money Laundering and Terrorist Financing
Tax Law	Consolidation of Law No. 6 Year 1983 concerning General Provisions and Tax Procedures,
Terrorism Law	Law No. 15 Year 2003 concerning the Stipulation of Government Regulation in lieu of Law Number 1 Year 2002 concerning the Eradication of Criminal Acts of Terrorism
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
TSPs	Trust service providers
UN	United Nations
UNSCR	United Nations Security Council Resolution
USD	United States Dollar
VPN	Virtual private Network
WMD	Weapons of Mass Destruction
WMD Proliferation List	National list of designated individual/entities pursuant to R.7
Zakat (alms) Law	Law No. 38 Year 1999 concerning on *Zakat*/Alms Management and Presidential Regulation No. 14 Year 2014 ('*Zakat* Regulation').