



# Anti-money laundering and counter-terrorist financing measures

## Lao PDR

### Mutual Evaluation Report

August 2023





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## EXECUTIVE SUMMARY

1. This report provides a summary of the anti money laundering and counter terrorist financing (AML/CFT) measures in place in Lao PDR as at 23 September 2022. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Lao PDR’s AML/CFT system, and provides recommendations on how the system could be strengthened.

### *Key Findings*

- a. As reflected in the national risk assessment (NRA), there are significant gaps in the assessment and understanding of national and sectoral ML/TF risks (casinos, real estate, banks, transnational organised crime, corruption, environmental crime, human trafficking, etc.) and cross-border risks. There are also significant gaps in the assessment of non-profit organisations (NPOs) at risk of TF. Lao PDR authorities have low levels of risk understanding across all sectors. There is an absence of a cohesive and coordinated policy, regulatory and enforcement efforts to identify and mitigate identified ML/TF risks.
- b. The virtual asset (VA) service providers (VASPs) risk assessment (2022) had no clear methodology and did not consider the NRA findings, the ML/TF risk posed by the safekeeping or administration of VAs, or the risks posed by different types of VA activities. The assessment also did not quantify the size of Lao PDR’s cryptocurrency market, identify relevant ML/TF typologies, nor did it include information from relevant public and private sector stakeholders.
- c. National and agency-level policies and prioritisation, including resource allocation do not sufficiently focus on key risks.
- d. There are challenges in the development and use of financial intelligence by the Anti-Money Laundering Intelligence Office (AMLIO) and law enforcement agencies (LEAs) to better support investigations of predicate crimes, ML, TF and asset tracing.
- e. Lao PDR has not sufficiently prioritised ML investigations, prosecutions and asset confiscation with a focus on ML associated with key risks - domestic and cross-border going beyond the NRA findings to include ML associated with corruption, large-scale transnational drug trafficking, human trafficking, etc.

- f. Lao PDR lacks clear mechanisms to effectively implement targeted financial sanctions (TFS) obligations. This includes a lack of guidance to the private sector or prompt communication of updates made to the UN sanctions lists in order.
- g. There are significant deficiencies in the ML offence and in the regulatory preventive measures including for customer due diligence (CDD), ongoing monitoring, enhanced/specific measures, politically exposed persons (PEPs), correspondent banking, new technologies (including requirements on VASPs), wire transfer rules, internal controls and TFS.
- h. There are significant weakness in the implementation of risk-based AML/CFT measures for DNFBPs, including most importantly casinos, real estate agents, and dealers in precious metals and stones (DPMS).
- i. Lao PDR has commenced some aspects of AML/CFT supervision in the banking sector. However, there is a need to significantly enhance the frequency, depth and focus of that supervision. There is a lack of supervision, guidance and outreach of other parts of the financial sector as well as for DNFBPs and NPOs including the high risk casino sector, real estate sector, and DPMS.
- j. Lao PDR has not used the full range of sanctions available to promote compliance to AML/CFT regulations, in particular for high-risk REs such as banks and casinos.
- k. Lao PDR has not implemented sufficient measures to ensure that accurate and up-to-date beneficial ownership information in relation to legal persons and legal arrangements is obtained and is available to competent authorities in a timely manner. Inconsistent and non-compliant statutory definitions of the term 'beneficial owner' creates stumbling blocks to the collection of accurate information.
- l. Lao PDR has not sufficiently prioritised and pursued formal and informal international cooperation to support ML and TF investigations (including predicate offence investigations), asset tracing, prosecutions and reporting entity supervision, particularly for high-risk crime types and in high risk sectors (notably the casino sector, but also the banking and real estate sectors).

### ***Risks and General Situation***

2. Lao PDR faces significant domestic and transnational risks from profit-driven crime. It has geographic proximity to higher ML/TF risk jurisdictions in the ASEAN region that exposes it to foreign illicit financial flows which, in turn, creates internal ML/TF vulnerabilities and risks. Lao PDR is not a regional financial centre and has lower risks of being used as a destination for criminal proceeds compared to some of its neighbouring countries. Nevertheless, Lao PDR is at risk of exploitation as a transit location for criminal proceeds.

3. While Lao PDR does not appear to face significant threats from regional or international terrorism or terrorist financing, major vulnerabilities in its financial and non-financial sectors, porous borders, and generally weak AML/CFT control systems, increase its TF risks.

### *Overall Level of Effectiveness and Technical Compliance*

4. Since its last assessment in 2010, Lao PDR's AML/CFT regime has undergone some institutional reforms. However, there remain major gaps and deficiencies in its legal and institutional framework, including fundamental flaws in its ML and TF offences, its STR reporting regime, and the CDD information-collection obligations on reporting entities (REs). Other technical compliance weaknesses add to systemic vulnerabilities and raise significant risk concerns.

5. In terms of effectiveness, Lao PDR has generally low results as a function of numerous factors including lack of resources, training and capability, with fundamental improvements needed in most areas, most notably in financial and non-financial supervision, ML investigation and prosecution, and TF and terrorist-related sanctions. Improvements are needed in other areas including international cooperation and TF risk mitigation.

6. Lao PDR's significant cash-based economy increases both ML and TF risk. The assessment team considers that the casino sector (in particular, casinos in the 'Golden Triangle') where customers transact primarily in cash, with limited-to-no oversight and supervision, to be a noteworthy threat to the integrity of Lao PDR's financial system.

### *Assessment of Risk, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33 & R.34)*

7. Lao PDR faces very significant domestic and cross-border ML risks, but these are not well assessed and understood by authorities. Lao PDR continues to face globally significant risks from illicit proceeds generated by drug production and drug trafficking in the Golden Triangle region and through other areas. In addition to risks of proceeds of drug crime, Lao PDR suffers from illicit proceeds generated from a range of crimes including various types of fraud, corruption, environmental crimes, arms trafficking, human trafficking, and a range of other offences. Lao PDR's 2018 National Risk Assessment (NRA) highlighted a number of higher risk sectors in the country including banking, casinos, real estate, and trading in precious metals and stones. However, the limited depth, scope and accuracy of the NRA undermines Lao PDR's understanding of ML/TF risk. Particular concerns are noted with weaknesses in risk-understanding related to corruption and ML, foreign investment, and transnational ML. Very serious concerns are highlighted in this report with respect to ML risk in the casino sector, the absence of risk mitigation controls for casinos, and the generally poor levels of understanding of the risks and vulnerabilities in that sector by both the public and the private sectors.

8. Lao PDR's assessment and understanding of TF risks is poor and based exclusively on the fact that there have been no investigations into TF, or cases of TF in the courts. The NRA assessed the TF risk in Lao PDR as 'low' based solely on these facts. There is a lack of appreciation of the vulnerabilities that raise the risk level of TF, including weak border controls, proximity to regional conflicts and a changing regional environment, coupled with low levels of capacity within competent authorities to respond to changes in the TF threat environment.

9. The National Coordination Committee (NCC) is responsible for leading the development of AML/CFT institutional frameworks and policies. However it lacks a coherent and informed picture of ML and TF risks which affects the development of effective risk mitigation measures. There are also major challenges with domestic operational cooperation to combat ML threats and to combat proliferation financing. Finally, there are significant gaps in the private sector's understanding of risk, which is partly a function of the lack of detailed sectoral assessments for FIs, and DNFBPs as well as a lack of detailed guidance by authorities to assist the various private sector entities.

*Financial Intelligence, ML Investigations, Prosecutions and Confiscation (Chapter 3 – 10.6, 7,-8; R.1, R.3, R.4, R.29-32)*

10. AMLIO is established in the Bank of Lao PDR (BOL) and serves as Lao PDR's FIU and as an AML/CFT supervisor. AMLIO's primary responsibilities include data collection, analysis, and dissemination of information relating to ML and TF, and coordination with related domestic and international agencies. The receipt of limited information, especially from higher risk sectors (casinos, banks and real estate), and a lack of supporting IT infrastructure and analytical tools, impede effective analysis. AMLIO collects and analyses various reports, but the range, number and quality of STRs reported is low and non-existent for some high risk sectors, in particular, casinos. This undermines the AMLIO's ability to produce useful financial intelligence. AMLIO provides information upon request and disseminates ML/TF information spontaneously in limited circumstances.

11. LEAs do not prioritise the use of financial intelligence for investigations of ML predicate offences or the tracing of proceeds of crime. Authorities claim there is no TF in Lao PDR (noted above) and as a result they have not implemented systems to prioritise TF should it occur. Few LEAs integrate financial intelligence with investigations. AMLIO's disseminations are not regularly used to initiate predicate offence investigations. The key investigative bodies can access some information on request but do not regularly do so. Most AMLIO disseminations are made on request, however the quantum and scope of disseminations to LEAs do not reflect Lao PDR's risk profile.

12. ML has not been sufficiently prioritised in line with the identified risks. Lao PDR's ML offences are structurally deficient and ML investigations have exclusively focused on self-laundering. LEAs lack sufficient awareness of the ML offence, and investigation strategies do not focus on investigating the criminals or criminal organisations, or the transnational aspects of crimes by following the money in and through criminal networks. This reflects fundamental weaknesses in the assessment of, and responses to, transnational crime risk (especially drugs), as well as corruption and ML risks. Some ML investigations are conducted as part of joint agency teams, which support inter-agency cooperation. However, LEAs do not, overall, make sufficient use of AMLIO financial intelligence (despite shortcomings) in the course of ML investigations. Prosecutions of the relatively few ML offences have been successful. Lao PDR could not demonstrate the effective use of sanctions in ML cases. All ML cases were disposed of jointly with their underlying predicate offences and therefore penalties and sanctions were imposed globally and could not be disaggregated on a 'per-offence' basis.

13. Lao PDR does not employ confiscation to strategically target ML/TF risk. The results of asset restraint and forfeiture actions do not reflect Lao PDR's risk profile and there are very low rates of confiscation overall. The assessment team is concerned about Lao PDR's capability and capacity to respond to risk on the border as it relates to cash smuggling and transnational ML occurring in the casino sector – a sector extremely vulnerable to ML.

*Terrorist and Proliferation Financing (Chapter 4 – 10.9, 10, 11; R.1, R.4, R.5-8, R.30, R.31 & R.39)*

14. There have been no investigations, prosecutions or convictions for TF in Lao PDR, which authorities state is consistent with their understanding of TF risk (10.1). Lao PDR has limited organisational structures to detect and investigate TF. While TF investigation procedures have recently been issued, these procedures do not sufficiently outline the steps to be taken, and coordination to undertake, between agencies and with foreign partners, to effectively investigate potential TF cases.



15. Additionally, despite relevant LEAs stating a readiness to respond to TF if it were to occur, significant deficiencies in the TF offence and weaknesses in Lao PDR's understanding of its TF risks, as well as a lack of ongoing monitoring of possible changes in its TF risk environment, undermine Lao PDR's preparedness to detect and commence TF investigations. Similarly, while Lao PDR does have international cooperation schemes, it has not pursued sufficient cooperation with foreign partners to be able to identify and investigate TF cases with foreign elements or on behalf of foreign agencies.

16. Lao PDR has a legal framework to apply TFS for terrorism and TF. However, fundamental improvements are required for further enhancing the level of understanding about compliance of TFS obligations among both competent authorities and REs as well as the implementation of a risk-based approach to NPO sector outreach and supervision. No assets and instrumentalities related to TF activities of designated entities and individuals have been identified and frozen, which is consistent with the low TF risk profile. There are gaps in the freezing obligations to apply without delay as well as the lack of notifications of designations, lack of guidance on TFS obligations and lack of supervision and enforcement. Moreover, there is a lack of enforcement actions by competent authorities, and available sanctions are not effective, proportionate, and dissuasive.

17. Lao PDR completed a limited assessment of the NPO sector, but it has not yet identified the sub-set of NPOs most likely to be at risk of abuse for TF. MOHA and MOFA are responsible for the registration and supervision of local NPOs and INGOs respectively. Both local NPOs and INGOs demonstrated no, or very limited, understanding of TF risk and risk mitigation even though awareness raising activities were organised for local NPOs in 2020-2022. Monitoring and supervision of the NPO sector is project- or activity-based and some limited elements of CFT have been included in monitoring, but there has been limited enforcement. There is no practical guidance to the sector about the potential vulnerabilities of NPOs to TF abuse and TF risks, and the measures that NPOs can take to protect themselves against such abuse.

18. Lao PDR established a legal and regulatory framework for TFS for PF in 2020 and has actively organized awareness raising campaigns to enhance effective implementation of TFS obligations which apply to all REs, and natural and legal persons. Larger domestic and internationally exposed FIs demonstrate an awareness of their TFS obligations for PF, while understanding is weak among smaller FIs and especially designated non-financial businesses and professions (DNFBPs). No assets were identified or frozen in relation to the relevant UNSCRs. Delays in the notification of designations, reliance on an English language-based website and lack of guidance to and supervision and enforcement of REs impair the effectiveness of the TFS regime for PF. Lao PDR did not demonstrate its commitment and willingness to implement UNSCR sanctions and was not able to respond to the requests by the assessment team regarding potential sanctions evasion by DPRK nationals indicated in UN reports as being hosted by Lao PDR.

#### *Preventive Measures (Chapter 5 – IO.4; R.9-23)*

19. Lao PDR has taken steps to strengthen its legal framework for AML/CFT preventive measures although significant gaps remain which hamper the effective implementation by REs. Apart from large banks, the overall understanding of ML/TF risks, and the implementation of risk mitigation measures, including CDD and enhanced due diligence (EDD) and other AML/CFT obligations by REs and especially among DNFBPs, is still in its infancy. Authorities are yet to give the necessary support and adequate guidance to ensure the effective implementation of preventive measures by FIs and DNFBPs. Reporting of STRs is very low and almost all STRs received by AMLIO are from the banking sector. Except for requests for further information on reported STRs, REs do not receive any guidance or feedback on how

to enhance the quality or number of STRs. Although internal controls are in place in larger domestic and international FIs, many REs lack sufficient internal controls.

*Supervision (Chapter 6 – 10.3; R.14, R.26-28, R.34, R.35)*

20. Banking is dominant in the financial sector due to its size and importance. Banking assets represent the highest percentage relative to other financial institutions (FIs). As such, banking represents an inherently higher ML/TF risk, in line with the NRA findings. Casinos, DPMS and real estate agents represent the highest risk DNFBPs in view of their products/services and the significant use of cash by customers when dealing with these entities. DPMS and real estate agents have yet to be subject to AML/CFT examinations and/or monitoring. There is a low level of understanding of ML and TF risk in these sectors, and AML/CFT compliance is low.

21. AMLIO was initially designated supervisor for AML/CFT for DNFBPs. In 2020, shortly before the originally planned ME onsite visit (postponed due to COVID-19), AML/CFT supervision for DNFBPs was transferred to DNFBP licensing authorities.

22. Risk-based supervision is still at an early stage of implementation for the financial sector and casinos, and has been delayed for the remainder other DNFBPs. AMLIO (the AML/CFT supervisor for the financial sector) and other supervisors need to expand the scope and depth of their AML/CFT supervision as well as the supervisory resources applied to high-risk sectors. The combination of limited understanding of risk and resource-constraints at AMLIO reduce the quality of their supervision. There are mechanisms in place to prevent criminals from entering the market through their respective licensing and registration authorities, but these are not sufficiently implemented. Supervisors have a mixed understanding of ML/TF risks in their sectors and the understanding of the impact of these risks on each sector is basic, with DNFBP supervisors demonstrating a low level of understanding.

23. Sanctions are available to supervisors but these are not dissuasive unless applied at the highest end of the available range. What sanctions have been applied (a low number) are limited to warning letters to FIs for breaches of AML/CFT obligations. Remedial plans in response to on-site examination findings and recommendations (not considered a sanction) are assessed only when follow-up reviews are conducted (not before).

*Transparency and Beneficial Ownership (Chapter 7 – 10.5; R.24-25)*

24. Lao PDR authorities and the private sector have a poor understanding of the ML/TF risks associated with legal persons and legal arrangements.

25. Some basic information on legal persons is publicly available. REs are the main source of information on beneficial ownership of legal persons for competent authorities, but the adequacy, accuracy and currency of the information acquired is weak across FIs and DNFBPs. LEAs indicated that in some cases beneficial ownership information in relation to legal persons was sought, however, most (perhaps all) cases related to requests for basic legal person information. LEAs did not demonstrate a regular or consistent practice of obtaining beneficial ownership information of customers of REs in the course of financial investigations.

26. REs do not collect beneficial ownership information in relation to domestic legal arrangements established under the Civil Code nor do they appear to be doing so with respect to foreign

trusts. Sanctions available for non-compliance with information collection requirements are not dissuasive and, in any event, no sanctions have been applied. Competent authorities do not obtain beneficial ownership information on legal arrangements in the course of their official duties.

### *International Cooperation (Chapter 8 – 10.2; R.36-40)*

27. Lao PDR has a reasonable framework for international cooperation and generally provides timely MLA and extradition assistance when requested. The OSPP as the central authority prioritises requests from ASEAN MLAT jurisdictions and works constructively with these jurisdictions to promptly deal with incoming requests. A manual (as opposed to electronic) case management system in place in which requests from non-ASEAN MLAT jurisdictions should be given priority, however, the timeliness and quality of responses to requests from non-ASEAN MLAT jurisdictions, and how they are prioritised, is unclear.

28. Lao PDR commenced using outgoing MLA requests (as at the time of the on-site visit) to pursue domestic ML, associated predicate offences, and TF cases with transnational elements. Only one MLA request has been made so far, which related to a predicate offence. This is inconsistent with Lao PDR's risk profile and is, in part, a consequence of a limited understanding of transnational crime risks, and limited domestic investigative and law enforcement activity in relation to ML and TF.

29. Lao PDR did not demonstrate to any extent whether competent authorities engage in international exchanges of basic and beneficial ownership information of legal persons and legal arrangements.

### *Priority Actions*

- |    |  |
|----|--|
| a. | Significantly improve and update the understanding of risk by conducting further and more robust assessments of national and sectoral ML/TF risks (casinos, real estate, banks, transnational organised crime, corruption, environmental crime, human trafficking, etc.) and cross-border risks. |
| b. | Develop expert capability and capacity, and deploy a cohesive and coordinated policy, regulatory and enforcement efforts to identify and mitigate identified ML/TF risks.  |
| c. | Establish and resource policies and agency-level plans which focus on key risk areas and prioritise the development and use of financial intelligence by AMLIO and LEAs to better support investigations of predicate offences, ML, TF, and asset tracing.                                       |
| d. | Provide AMLIO with adequate and effective systems, analytical tools and skills to more effectively produce financial intelligence and to respond to the operational needs of competent authorities   |
| e. | Prioritise and implement ML investigation procedures for each LEA with a focus on ML associated with key risks, both domestic and cross-border, going beyond the NRA findings to include ML associated with corruption, large-scale transnational drug trafficking, human trafficking, etc.      |
| f. | Make fundamental enhancements to LEA's ML investigation teams' capability to trace and restrain proceeds of crime. Implement prioritised national policies and agency level policies   |

and procedures (including enhanced capacity and systems) for tracing, restraining, managing and recovering criminal assets, in particular for high-risk domestic and cross-border crimes.

- g. Support the identification of potential TF cases by monitoring the threats of TF (domestically, regionally and globally) and possible vulnerabilities within Lao PDR to TF; and remain vigilant against a change in Lao PDR's TF risk profile; and better support the consideration by frontline investigators of potential TF cases.
- h. Provide practical guidance to improve understanding and implementation of TFS obligations and establish a clear and prompt mechanism for communicating updates to the sanctions lists. Risk assess NPO sectors, and identify the sub-set of NPOs at greater risk for TF abuse, and tailor outreach, controls and supervision on that sub-sector. Strengthen TFS legal and regulatory framework for PF in compliance with R.7 and prioritise the implementation of TFS obligations, including increased guidance (country-specific PF vulnerabilities), outreach, supervision and enforcement.
- i. Address TC gaps in relation to preventive measures for CDD, ongoing monitoring, enhanced/specific measures, PEPs, correspondent banking, new technologies including requirements on VASPs, wire transfer rules, internal controls and TFS.
- j. Take action to implement risk-based AML/CFT requirements in the DNFBP sector without further delay with a focus on casinos, real estate agents, and DPMS.
- k. Enhance risk-based supervision (frequency, depth and focus) to ensure adequate supervision and monitoring of higher-risk FIs, DNFBPs, and VASPs, in particular prioritising higher intensity supervision of higher-risk financial sectors and casinos.
- l. Strengthen fit and proper controls to prevent criminals and their associates from holding a significant or controlling interest, or holding a management function, in high-risk DNFBPs (particularly casinos); implement comprehensive checks to enforce these obligations; and promptly identify, remedy, and sanction violations as appropriate.
- m. Assess the ML/TF risks of all types of legal persons, and develop and implement a strategy to mitigate those risks. Implement comprehensive mechanisms to ensure that accurate and up to date beneficial ownership information is obtained and is available to competent authorities.
- n. Prioritise and pursue formal and informal international cooperation (possible agency level directives) to support predicate/ML/TF investigations, asset tracing, prosecutions and supervision, particularly for high risk crime-types and in higher risk sectors in keeping with Lao PDR's risk profile.

## Effectiveness & Technical Compliance Ratings

### Effectiveness Ratings

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

### Technical Compliance Ratings (C – compliant, LC – largely compliant, PC – partially compliant, NC – non compliant)

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

### Preface

This report summarises the AML/CFT measures in place in Lao PDR as at the date of the on-site visit – 12-23 September 2022. It analyses the level of compliance with the FATF 40 Recommendations of 2012 and the level of effectiveness of Lao PDR’s AML/CFT system based on the FATF’s 2013 assessment methodology. Recommendations in this report suggest how Lao PDR’s system can be strengthened.

The evaluation was conducted by an assessment team consisting of:

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- Ms. Carolyn Marsden, AUSTRAC, Australia (legal expert);
- Ms. Gantsetseg Myagmarjav, Central Bank of Mongolia, Mongolia (financial expert);
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The assessment team was supported by the following persons from the APG Secretariat: Gordon Hook, Erin Lubowicz, Daniel Qualishefski, Gavin Raper, David Shannon, Nicole VanLent, and Suzie White.

The report was reviewed by Mr. Daniel Tang (Office of Internal Audit, Monetary Authority of Macao, China), Mr. Muammad Mohsin Hossaini (Additional Director, Bangladesh Financial Intelligence Unit, Bangladesh), Mr. Fu Hsuan Wu (Executive Officer, Financial Supervisory Commission, Chinese Taipei) and the FATF Secretariat.

#### *Statistical tables*

Information shown in tables throughout this report has been sourced directly from Lao PDR government authorities, unless otherwise stated.

#### *Translations of legal instruments*

Non-official English translations of laws and other relevant instruments were provided by Lao PDR authorities. The translations were treated as accurate for all purposes from the outset of the evaluation.

#### *Exchange rates*

In this report, Lao PDR’s currency is adjusted at the US conversion rate in effect at the time of the on-site visit: 1.00 USD = 16,315 Lao Kip (LAK). However, some tables convert LAK for years prior to 2022 for historical purposes (e.g., in confiscation tables). The historical exchange rates in years prior to 2022 use the USD exchange rate effective 1 July in the stated year.

## CHAPTER 1. ML/TF RISKS AND CONTEXT

1. The Lao People's Democratic Republic (Lao PDR) is a landlocked country on the Indo-Chinese peninsula in Southeast Asia. It shares borders with five countries: Myanmar (238 km), the People's Republic of China (475 km), Vietnam (2,161 km), Cambodia (555 km), and Thailand (1,845 km). Lao PDR covers an area of 236,800 km<sup>2</sup> and has a population of approximately 7.5 million.<sup>1</sup> With 50 officially recognized ethnic groups, Lao PDR is the most ethnically diverse country in Southeast Asia.<sup>2</sup> The official language of Lao PDR is called Lao or Laotian, it occurs in multiple dialects and is one of the Tai languages of Southeast Asia.

2. Lao PDR has seen a relatively rapid and steady economic growth in recent decades based primarily on natural resources such as hydropower, mining and timber. Smallholder agriculture is the predominant source of income and employment for 78 per cent of the population.<sup>3</sup> While the country has one of the lowest population densities in the region (approximately 32 inhabitants/km<sup>2</sup>), the mountainous topography limits the arable land.<sup>4</sup> Over 60 percent of the population lives in rural areas, where most of the households (80 percent) are still subsistence farmers.<sup>5</sup>

3. The United Nations has classified Lao PDR as a least developed country, with an estimated GNI per capital of USD2,539 in 2022<sup>6</sup> and an estimated GDP per capita of USD 2,536<sup>7</sup> in 2020. The Lao PDR economy is heavily reliant on hydropower, mining, forestry, and farming.<sup>8</sup>

4. Lao PDR is a one-party parliamentary socialist republic. The only legal political party is the Lao People's Revolutionary Party (LPRP). The General Secretary of the LPRP is the President of Lao PDR and the head of State; the Prime Minister is the head of government. The eleven-member Politburo of the LPRP is the key decision-making body and its constituents are drawn from the 49-member Central Committee.

5. The Government of Lao PDR is the Executive Branch of the State. It is approved by and responsible to the National Assembly and the President of the State. The Executive Branch is the primary organisation for administration and consists of the Council of Ministers which includes the Prime Minister, Deputy Prime Ministers, Ministers, and chairs of government agencies (Constitution, Art. 71). Lao PDR has 17 provinces and one municipality. There are three levels of local administration within each province: provincial, district and village administrations.

6. The Legislative Branch consists of a unicameral National Assembly (Sapha Heng) directly elected by citizens from a list of candidates approved by the LPRP. The National Assembly meets twice a year and has the power to make laws and oversee the activities of the executive, the people's courts and the Office of the Public Prosecutor. The National Assembly Standing Committee is the permanent body of the National Assembly and acts on behalf of the National Assembly between sessions. The National Assembly Standing Committee consists of a Chair, Vice-Chair and members.

<sup>1</sup> (2021) [datacatalog.worldbank.org](https://datacatalog.worldbank.org)

<sup>2</sup> <https://www.fao.org/3/cc0302en/cc0302en.pdf>

<sup>3</sup> <https://webapps.ifad.org/members/eb/125/docs/EB-2018-125-R-25.pdf?attach=1>

<sup>4</sup> <https://www.fao.org/3/cc0302en/cc0302en.pdf>

<sup>5</sup> <https://www.fao.org/3/cc0302en/cc0302en.pdf>

<sup>6</sup> <https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/CDP-PL-2022-8-4-Monitoring.pdf>

<sup>7</sup> <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=LA>

<sup>8</sup> <https://oec.world/en/profile/country/lao>

7. Lao PDR is a civil law jurisdiction generally based on its historical relationship with France. Legislation is the primary source of law. Jurisprudence is not binding on judges. International treaties and agreements ratified by Lao PDR form part of its sources of law. Lao PDR's hierarchy of laws is reflected in the Law on Making Legislation, 2012, Part 1, and outlined below in Table 1.1.

**Table 1.1: Hierarchy of legal instruments in order of enforceability**

Legal Instruments
1. Constitution
2. Laws (including Penal/Civil Code)
3. Resolutions of the National Assembly
4. Resolutions of the Standing Committee of the National Assembly
5. Ordinances of the President of the Republic
6. Decrees of government
7. Resolutions of the government
8. Orders and Decisions/Agreements of the Prime Minister
9. Orders, Decisions/Agreements and Instructions of the Minister and head of government authority
10. Resolutions of Provincial People's Assembly
11. Resolutions of the Standing Committee of the Provincial People's Assembly
12. Orders, Decisions/Agreements and Instructions of the Provincial Governors and City Governors
13. Orders, Decisions/Agreements and Instructions of the District and Municipality Chiefs
14. Village Regulations

8. The Judicial branch is appointed by the National Assembly Standing Committee. The highest court is the People's Supreme Court (consisting of the court president) with criminal, civil, administrative, commercial, family, and juvenile chambers, each with a vice-president and several judges. Subordinate courts are appellate, provincial, municipal, district and military courts. The hierarchy of the Lao PDR court system is:

- People's Supreme Court (the highest court);
- People's Court of Appeal (hears appeals from courts of first instance);
- Regional Courts (People's City Courts and People's Provincial Courts);
- First Instance Courts (People's District Courts and People's Municipal Courts);
- Military Courts (High Military Court and Regional Military Court).

9. If necessary, the National Assembly Standing Committee may decide to establish a 'special court' under Article 90 of the Constitution to deal with any matter.

10. The President of the People's Supreme Court is appointed, and may be removed, by the National Assembly based on the recommendation of the President of the State. The term of office of the President of the People's Supreme Court is the same as the term of office of the National Assembly. The vice-presidents of the People's Supreme Court are appointed or removed by the President of the State based on the recommendation of the President of the People's Supreme Court. Judges of the People's Supreme Court, presidents, vice-presidents, and local courts' judges are appointed, transferred and removed by the National Assembly based on the recommendation of the President of the People's Supreme Court.



## *ML/TF Risks and Scoping of Higher-Risk Issues*

### *Money Laundering Risks*

11. Lao PDR is impacted by high levels of proceeds-generating crimes including significant illicit proceeds generated from drug production and trafficking (including opiates) in the ‘Golden Triangle’ region and through other areas. Various forms of fraud, environmental crimes, arms trafficking, human trafficking, illicit resource extraction (of jade), human trafficking, theft and other offences are also of concern in Lao PDR. The activities of large-scale transnational crime groups is a serious concern and threat to the country. Sectors posing varying levels of ML and TF risk include banks, casinos, real estate agents, and trading in precious metals and stones, as well as significant issues relating to its cash-intensive economy. Moreover, there is a concern with relatively new Special Economic Zones (SEZs) established as part of a government initiative to attract and maintain foreign investment for infrastructure development. Some of the 12 zones currently in existence have been linked to ML associated with high risk predicate crimes, including drug trafficking and illegal trade in wildlife and exotic animal parts.

12. Credible assessment of drug threats in Lao PDR supported by open source reporting, including by the UNODC, note that Lao PDR remains a major transit point for methamphetamine trafficking from Myanmar, and a producer of opium.<sup>9</sup> The UNODC also notes that there has been an exponential increase in seizures of precursors in the Golden Triangle in the preceding five years.

13. Lao PDR has significant exposure to cross-border illicit flows related to crimes in other jurisdictions. The increasing use of Lao PDR as a transit jurisdiction for both narcotics and precursors can be attributed to the country’s geographical position in South East Asia, and the porous nature of its lengthy and rugged borders (difficult to police), making it an attractive smuggling route. Authorities recognize some risks from foreign criminals using Lao PDR as a transit country. The MERs of all five neighbours identified major to very significant cross-border crime risk, in particular Myanmar.

14. Lao PDR’s borders are exploited for other forms of smuggling and trafficking, including persons, cash, wildlife, and precious metals and stones. Human trafficking remains a significant problem and is infrequently detected by authorities, but under-reported.<sup>10</sup>

15. Lao PDR faces significant risks from environmental crimes and related proceeds including trafficking in wildlife and forestry offences. UNODC highlighted the wide scope of some aspects of wildlife offences in Lao PDR, its strategic location and a lack of capacity to enforce CITES regulations and national wildlife laws. Lao PDR is reported as a hub for illicit international wildlife trade.<sup>11</sup>

16. Lao PDR faces significant ML risks from corruption, with proceeds of corruption laundered within and outside of Lao PDR. Corruption challenges include PEP involvement in high risk sectors of the economy (e.g. casinos). Corruption is an issue in Lao PDR with nepotism contributing to

<sup>9</sup> UNODC (2021), *Synthetic Drugs in East and Southeast Asia – Latest developments and challenges at:* [https://www.unodc.org/roseap/uploads/documents/Publications/2021/Synthetic\\_Drugs\\_in\\_East\\_and\\_Southeast\\_Asia\\_2021.pdf](https://www.unodc.org/roseap/uploads/documents/Publications/2021/Synthetic_Drugs_in_East_and_Southeast_Asia_2021.pdf), p. 61.

<sup>10</sup> UNODC (2017) *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand Report.*

<sup>11</sup> UNODC (2019), *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact.*

management failure and chronic losses in state-owned enterprises and embezzlement of development funds by officials.<sup>12,13,14</sup>

### *Terrorist Financing Risks*

17. Lao PDR has indicated that there has been no evidence of threats from transnational or domestic terror groups in Lao PDR. The NRA assessed TF in Lao PDR as low and found that no cases of TF had been filed or prosecuted since the last mutual evaluation in 2011. The assessment team's scoping of risks ahead of the on-site visit concluded, on a preliminary basis, that there is a low threat of domestic terrorism financing in Lao PDR. However, Lao PDR's porous borders, its proximity to conflict areas, and the changing regional context, coupled with low levels of capacity within competent authorities to respond to changes in the TF threat, are a concern.

18. Lao PDR's assessment of TF risk was based on the lack of cases however the regional context (borders with Myanmar and Thailand where TF risk is high) was not fully considered and commented upon.

### *VA/VASP Risks*

19. Lao PDR faces similar risks in the misuse of crypto-currencies and virtual assets as those faced by other economies in the Mekong sub-region. The NRA 2018 did not assess the risks of VAs and VASPs. Further, deficiencies in the September 2022 risk assessment of the VASP sector provides no further insight into the specific ML/TF risks Lao PDR may face.

### *Special Economic Zones (SEZs)*

20. In 2010, Lao PDR issued the 'Decree On Special Economic Zone[s] and Specific Economic Zone[s] 443/PM/2010' which defines the principles, regulations and organisation of these zones. According to Article 2 of the Decree, SEZs receive specific privileges, have an autonomous economic and financial system, and are managed and administered by the Economic Executive Board according to a 'one-stamp mechanism' (ease of business). Specific Economic Zones can be established inside a Special Economic Zone under an agreement between an investor and the Administrative Committee. SEZs are intended to support development of new infrastructure and commercial facilities. The Decree includes special incentives for investment.

21. The additional 'Decree on Special Economic Zone No 188/GOV dated 7 June 2018' (Decree on SEZ) provides for special tax and customs incentives to attract investments 'through the formulation of special promotion policies' in order to 'enable regional and international integration, and contribute to the continuous and sustainable national socio-economic development' (Art. 1). Foreign investors may also obtain residency rights (Art. 70, Law on Investment Promotion). There are no specific controls overlooking SEZ developers' or investors' bank accounts to monitor financial inflows or outflows. Lao PDR has designated 12 SEZs for a range of purposes broadly falling within three categories: industrial zones (5); tourism and new urban centres (4); and trade and logistics zones (3).<sup>15</sup> Collectively these 12 SEZs cover an area greater than 18,415 ha and include a mix of government and privately operated zones involving companies from China, Vietnam, Lao PDR, Chinese Taipei and Malaysia. The World Bank notes that 55% of the workers in the SEZs are foreigners.<sup>16</sup> From 2016-2020, 743 companies

<sup>12</sup> <https://www.transparency.org/en/countries/laos2022>

<sup>13</sup> <https://thediplomat.com/2022/06/laos-is-on-the-brink-of-sovereign-bankruptcy/>

<sup>14</sup> <https://laotiantimes.com/2022/04/20/state-inspection-authority-usd-732-million-lost-to-corruption-since-2016/>

<sup>15</sup> <https://investlaos.gov.la/where-to-invest/special-economic-zone-sez/>

<sup>16</sup> World Bank Economic Monitor Report, p. 42.

invested over USD 12 billion in registered capital into SEZs and included foreign investors from 18 jurisdictions.<sup>17,18</sup> A further USD 2.5 billion was invested in 2021.<sup>19</sup>

22. Credible open source reporting notes that casinos operating in SEZs appear to operate outside government control and in contravention of laws. Human, narcotics and wildlife trafficking and the laundering of proceeds through casinos are of particular concern in these areas, specifically the Golden Triangle SEZ.<sup>20,21</sup> In 2015 following an extensive on-site investigation, the NGO Environmental Investigation Agency (based in London), reported that the SEZs are a growing hub for illegal wildlife trade including tiger skins and body parts, rhino horns and ivory.<sup>22</sup>

23. One casino reported operating entirely on a cash basis, including the wages of all staff and the payment of all investments. A number of factors raise further concerns of integrated ML risks, including the fact that in 2018, a foreign government sanctioned companies and individuals operating in the Golden Triangle SEZ declaring them a transnational criminal organisation.<sup>23</sup> The sanctioned person was the beneficial owner of a casino, however, authorities took no action to respond to these risks.<sup>24</sup> An international airport in the SEZ with an initial capacity for 500,000 visitors annually, and reportedly owned by the same sanctioned individual, is expected to open in May 2023.<sup>25,26</sup>

### Scoping Note

24. Based on material provided by Lao PDR and open source information, a pre-on-site scoping note was prepared on risks faced by Lao PDR and considered the following to be high risk crimes:

- drug production and trading;
- a range of fraud offences;
- theft of property, corruption and bribery, and environmental crime.

25. AML enforcement and prevention activities at the border, and related international cooperation measures, present challenges to Lao PDR. The scoping exercise identified significant

<sup>17</sup> The Phnom Penh Post, 743 Companies Invest in Lao SEZs Over Five Years, 12 December 2021. <https://www.phnompenhpost.com/business/743-companies-invest-lao-sezs-over-5-years>

<sup>18</sup> Investment Promotion Department, *All Approved Investment Projects by Country (1 January 2016 to 31 December 2020)*, 12 September 2022. From: <https://investlaos.gov.la/resources/statistics/>

<sup>19</sup> Investment Promotion Department, *All Approved Investment Projects by Country (1 January 2021 to 31 December 2021)*, 12 September 2022. From: <https://investlaos.gov.la/resources/statistics/>

<sup>20</sup> Indonesia Ministry of Foreign Affairs, *Fifteen Indonesian Human Trafficking Victims Repatriated from Golden Triangle Area in Bokeo, Laos* 26 June 2022. <https://kemlu.go.id/portal/en/read/3728/berita/fifteen-indonesian-human-trafficking-victims-repatriated-from-golden-triangle-area-in-bokeo-laos>

<sup>21</sup> Investment Monitor, *Golden Triangle: The World's Worst Special Economic Zone*. 28 March 2022. <https://www.investmentmonitor.ai/comment/golden-triangle-special-economic-zone-laos-worst/>

<sup>22</sup> *Sin City: Illegal Wildlife Trade in Lao's Golden Triangle Special Economic Zone* London, UK, 2015. Also: Daan P Van Uhm, (2022) *Illegal wildlife trade in two special economic zones in Laos: Underground–open-sale fluctuations in the Golden Triangle borderlands* at: <https://www.frontiersin.org/articles/10.3389/fcsc.2022.1030378/full>.

<sup>23</sup> US Department of the Treasury, *Treasury Sanctions the Zhao Wei Transnational Criminal Organisation*. 30 January 2018. <https://home.treasury.gov/news/press-releases/sm0272>

<sup>24</sup> The sanctioned person received a Lao government bravery award - <https://laotiantimes.com/2022/10/03/laos-government-presents-medal-to-chinese-casino-operator/>

<sup>25</sup> *Bokeo Airport to Start Operations in May 2023*, Visapara Phontham, 3 January 2023. At: <https://laotiantimes.com/2023/01/03/bokeo-airport-to-start-operations-in-may-2023/>

<sup>26</sup> *Laos' Bokeo International Airport to Open Next Year*, Ong Jeng Yan 27 December 2021, at: <https://smartaviation-apac.com/laos-bokeo-international-airport-to-open-next-year/>

sectoral weaknesses relating to criminal proceeds flowing into Lao PDR as a function of those vulnerabilities. Sectors of concern were the following:

- banks;
- casinos;
- real estate agents;
- dealers in precious metals and stones.

26. The assessment team identified lesser risks from securities firms and non-deposit-taking banks, group finance companies, and asset management companies whose activities are focused primarily on managing portfolios of non-performing loans of domestic FIs. These entities were considered to have lower ML/TF risks.

## Materiality

### Cash economy

27. Lao PDR's economy is heavily cash-based and largely dollarized.<sup>27</sup> Some measures are in place to promote the greater use of local currency and facilitate de-dollarization. These measures include a Lao Kip promotional campaign and a policy of enforcement of legislation on domestic transactions to be based in Lao Kip.<sup>28</sup> However, in mid-2022 (just prior to the on-site visit) Lao PDR faced a crisis with foreign debt further undermining the Lao Kip.<sup>29</sup> In June 2022, inflation rose to a 20 year high<sup>30</sup> and, as a result, the Lao Kip lost over 38% of its value against the US dollar, and 33% against the Thai Baht (THB), noting that Thailand is Lao PDR's major trading partner.<sup>31</sup>

28. The reduction of cash usage and increased adoption of digital payments to support the digital economy are strong priorities of Lao PDR's 'Five-Year Payment System Development Strategy of Banking-Financial System (2021-2025).'<sup>32</sup>

### Financial inclusion/exclusion, remittances

29. Lao PDR suffers from low levels of financial inclusion, with inclusion-problems related to formal remittance. Global Findex data from 2017 indicates that just under 29% of persons aged 15 and over have an account at a formal financial institution and only 6% received wages by transfer into an account.<sup>33</sup> Digital financial services are increasing, albeit from a very low base.<sup>34</sup>

30. Remittances are predominantly from Lao migrant workers in Thailand. Over the five-year period, 2017-2021, remittances into Lao PDR averaged USD 412M. Remittances accounted for 60% of household income in the 9% of households that received remittance. During the Covid-19 pandemic

<sup>27</sup> Kyophilavong, Phouphet; Uddin, Gazi; Shahbaz, Muhammad; Harvie, Charles; and Charoenrat, Teerawat, "Money Demand in a Dollarized Economy: Evidence from Laos PDR" (2019). *Faculty of Business - Papers (Archive)*. 1679. <https://ro.uow.edu.au/buspapers/1679>

<sup>28</sup> IMF Article IV Consultation August 2019 - <https://www.imf.org/-/media/Files/Publications/CR/2019/1LAOEA2019002.ashx>

<sup>29</sup> <https://asiatimes.com/2022/10/china-indebted-laos-way-more-broke-than-advertised/>

<sup>30</sup> <https://www.dw.com/en/laos-economic-crisis-intensifies-amid-massive-chinese-debt/a-62758725>

<sup>31</sup> Asian Development Bank, *Asian Development Outlook 2022 Update: Entrepreneurship in the Digital Age* (page 176), September 2022

<sup>32</sup> World Bank, *Positioning the Lao PDR for a Digital Future*, (pages 34) 28 June 2022

<sup>33</sup> Global Partnerships for Financial Inclusion G20 Financial Inclusion Indicators, at: <https://datatopics.worldbank.org/g20fidata/country/lao-pdr#>

<sup>34</sup> World Bank, *Positioning the Lao PDR for a Digital Future*, (pages 32 -37) 28 June 2022

(2020-2022) remittances into Lao PDR declined by approximately 56%. The value of informal remittances is estimated to be in the range of USD 150-200M per year.<sup>35</sup>

**Table 1.2: Remittances into and out of Lao PDR (figures in USD Million)**

Remittances	2016	2017	2018	2019	2020	2021
Total amount of remittances by individuals	385.66	450.88	433.12	407.19	360.85	435.43
Transfers from workers	104.80	110.07	56.39	78.79	69.92	82.57
Individual transfer	280.86	340.81	376.73	328.39	290.93	352.86
Gross Domestic Product	15.902	17.061	18.129	18.718	19.097	18.892
Ration of remittances to GDP	2.43%	2.64%	2.39%	2.18%	1.89%	2.29%

### VA and VASPs

31. In 2018 the Bank of Lao (BOL) issued a public warning to residents about the risks of trading in cryptocurrencies including ML/TF risk. BOL subsequently issued Notice No.382/CO in October 2018 to FIs prohibiting them from owning, operating, or being involved in supporting, cryptocurrency business operations. BOL advised FIs to increase their oversight when offering credit or deposit services to businesses that may be related to cryptocurrency operations.

32. In 2021 Lao PDR announced a new pilot programme to allow the mining and trading of cryptocurrency<sup>36</sup> and allowed six companies to participate in a three-year pilot programme.<sup>37</sup> The programme aims to assist Lao PDR in becoming a key cryptocurrency market in the region and to generate up to a possible USD 190M in new revenue to assist in increasing officials' wages, pay off debt, and cover pandemic-related expenditures.<sup>38</sup> Crypto-mining firms were to pay USD1M per 10 megawatts used and crypto-trading firms were to pay USD 1m and 15% income tax.<sup>39</sup> In January 2022, BOL issued the first two crypto-trading licences<sup>40</sup> and in May 2022 it was reported that the first crypto-mining operation was launched<sup>41</sup> (although officials have indicated that no such operation were in existence though one was nearing launch).

33. The pilot programme heightens Lao PDR's exposure to ML/TF risks and it was not until September 2022 that a basic VA/VASP risk assessment was produced.

<sup>35</sup> Development Research Institute and International Organisation for Migration, *Remittance Landscape in Lao People's Democratic Republic 2022*.

<sup>36</sup> <https://www.lexology.com/library/detail.aspx?g=87acfa2e-16ae-4324-b1cc-3578e43964b1>

<sup>37</sup> On 24 November 2021, BOL's Payment Systems Department ordered one of these companies to cease operating because it was not operating in accordance with its agreement (<https://laotiantimes.com/2021/11/25/bank-of-laos-orders-phousy-group-suspend-welncance-cryptocurrency-operations/>).

<sup>38</sup> <https://aifgroup Laos.com/News/NewsDetails?id=46>

<sup>39</sup> <https://laotiantimes.com/2021/11/15/government-issues-regulations-for-cryptocurrency-miners-and-platforms-in-laos/>.

<sup>40</sup> Xinhua, *Lao central bank issues licenses for cryptocurrency exchange platforms*. 19 January 2022. Available from <https://english.news.cn/asiapacific/20220119/d58d9ca2cd7848e5bb18646f6993a63d/c.html>

<sup>41</sup> <https://aifgroup Laos.com/News/NewsDetails?id=46>

*Exposure to trade and finance with DPRK*

34. Lao PDR maintains full diplomatic relations with the DPRK and in March 2020 the jurisdictions signed a new cooperation agreement.<sup>42</sup>

35. In March and September 2022, a UN Panel of Experts identified at least four restaurants, one night market and one IT service company operating in Lao PDR employing DPRK nationals after applicable measures towards the closure of the restaurants, cancellation of the corporate registration of the IT company and the repatriation of those nationals were taken by Lao authorities in 2020. Lao PDR repatriated 28 DPRK workers between 2017 and the second half of 2019.<sup>43</sup>

*Structural Elements*

36. The World Bank's World Wide Country Snapshot shows that Lao PDR has made significant progress on political stability and absence of terrorism. Although there are moderate improvements in the rule of law, government effectiveness, and control of corruption, overall rankings, however, remain low. There was no improvement in voice and accountability and regulatory quality rankings.

**Table 1.3: Lao PDR Governance Indicators 2008 – 2011**

Indicator	Percentile Rank (0-100) 2011	Percentile Rank (0-100) 2021
Voice and Accountability	4.69	4.35
Political Stability & absence of violence/terrorism	45.02	69.81
Government effectiveness	22.27	30.29
Regulatory quality	18.48	18.27
Rule of law	16.43	27.40
Control of corruption	9.95	15.38

**Source:** World Bank's World Wide Country Snapshot.

37. Lao PDR also ranks low on Transparency International's 2022 Corruption Perceptions Index.<sup>44</sup> Lao PDR scored 30 out of 100 (with zero being a high perception of corruption and 100 being a very low perception of corruption), ranking 126 of 180 countries. Lao PDR's improvement in more recent years (since 2017) is slight, suggesting that corruption remains a significant issue. According to some media sources, corruption restrains Lao PDR's economic development (through loss of revenue)<sup>45</sup> and some members of Lao PDR's National Assembly have pointed to cases of bribery, lenient judicial treatment of corrupt officials, and political interference in decisions by the courts.<sup>46</sup> Lao PDR's NRA, on the other hand, assessed bribery as a low-medium risk notwithstanding that (according to State run media) the Prime Minister told the National Assembly recently that 'embezzlement by executives and staff, combined with poor management, are the main reasons for the chronic losses suffered by State enterprises.'<sup>47</sup>

<sup>42</sup> <https://www.nknews.org/2020/04/north-korean-lao-foreign-ministries-sign-cooperation-agreement-in-vientiane/>

<sup>43</sup> United Nations Security Council Panel of Experts Reports established pursuant to Security Council resolution 1874 (2009), March 2022 and September 2022.

<sup>44</sup> <https://www.transparency.org/en/cpi/2022/index/lao>

<sup>45</sup> <https://thediplomat.com/2022/06/laos-is-on-the-brink-of-sovereign-bankruptcy/>

<sup>46</sup> <https://www.rfa.org/english/news/laos/corruption-06172019142019.html>

<sup>47</sup> [https://www.vientianetimes.org.la/freeContent/FreeContent121\\_PM\\_y22.php](https://www.vientianetimes.org.la/freeContent/FreeContent121_PM_y22.php)

**Anti-money laundering and counter-terrorist financing measures in Lao PDR 2023**

38. The Heritage Foundation 2023 Index of Economic Freedom 2022 notes that Lao PDR's overall legal framework is inefficient and lacks transparency. The rule of law is undermined by corruption and political interference.<sup>48</sup>

#### *Political stability*

39. The World Bank's 2022 Worldwide Governance Indicators rate Lao PDR's performance in terms of political stability (69.81 on a scale from 0 to 100), control of corruption (15.38), regulatory quality (18.27), government effectiveness (30.29) and rule of law (27.4).<sup>49</sup> The scores for political stability and rule of law are a significant improvement on Lao PDR's 2016 results. The remainder of the indicators also show an improvement, except for regulatory quality which has decreased over 6%, government effectiveness which has declined over 8%, and voice and equality which has decline slightly.

#### *High-level commitment*

40. Despite the ranking reflected above, Lao PDR's government has expressed its high-level commitment to implement FATF Recommendations. This was reflected through the previous FATF ICRG process and also in the preparation and conduct of the mutual evaluation. There is direct ministerial input to national level AML/CFT coordination structures.

#### *Stable institutions with accountability, integrity and transparency*

41. Lao PDR faces a number of significant challenges with achieving more open government, regulatory enforcement, rule of law and fundamental rights. The World Bank has noted that regulatory frameworks to promote corporate governance and to mitigate conflicts of interest are inadequate. 'Regulatory complexity and discretion discourage new enterprises from entering and have led to the prevalence of informal business practices.'<sup>50</sup> The World Bank noted further that: 'More than half of informal businesses choose to remain informal to avoid the cost and difficulty of registration... Even among registered businesses informal practices are prevalent.'<sup>51</sup> There are few civil society organisations that are able to actively operate in the Lao PDR to promote accountability and to work to improve integrity and transparency across Lao PDR's society and economy.

42. There are a number of impediments to freedom of the press in Lao PDR. Media coverage of significant financial crime matters in Lao PDR is available to some degree via open source media outlets, which also assists the private sector's understanding elements of the risk environment for profit-driven crime.

#### *Rule of law and the judicial system*

43. Significant concerns remain with the independence and impartiality of the judiciary stemming from corruption. Cases of bribery, lenient judicial treatment of corrupt officials, and political interference in decisions by the courts<sup>52</sup> have been reported by independent sources including members of the National Assembly and the State Inspection Authority.<sup>53</sup> Lao PDR has taken a number of steps during implementation of the 2009 Legal Sector Master Plan and the 2009 *Master Plan on*

<sup>48</sup> <https://www.heritage.org/index/country/laos>.

<sup>49</sup> Worldwide Governance Indicators <https://info.worldbank.org/governance/wgi/Home/Reports>.

<sup>50</sup> World Bank, *Lao PDR Economic Monitor Tackling Macroeconomic Vulnerabilities*, October 2022 p. 40.

<sup>51</sup> Ibid.

<sup>52</sup> US Department of State, 2021 Country Report on Human Rights Practices: Laos at: <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/laos>

<sup>53</sup> [https://www.unafei.or.jp/publications/pdf/GG8/19\\_GG8\\_IP\\_Lao\\_PDR.pdf](https://www.unafei.or.jp/publications/pdf/GG8/19_GG8_IP_Lao_PDR.pdf).

*Development of the Rule of Law in Laos toward 2020.*<sup>54</sup> The plan identified a wide range of challenges with capacity, structures and efficiency. Steps taken to meet some challenges include capacity building and structural reforms in various areas of the judiciary. The Ministry of Justice (MOJ) approved a Strategic Plan 2021-2025 with goals to develop further judicial capacity.

## **Background and other Contextual Factors**

### *Issues of corruption*

44. Lao PDR authorities identify corruption (including embezzling property, receiving bribes and abusing positions of power) as a major predicate for ML and a major challenge. Lao PDR has taken steps towards prosecution and punishment of corrupt individuals over the last few years but corruption remains a significant challenge, and occurs at all levels and in all sectors.<sup>55</sup> Issues of corruption represent significant impediments to the implementation of effective AML/CFT systems.

### *Geographical context*

45. Lao PDR's geographical location and the fact that a significant portion of its border crossings are uncontrolled presents significant challenges to the effective implementation of AML/CFT controls.

46. Lao PDR has 38 official international border crossings (including land, airports, rail and a dry port),<sup>56</sup> for which there are only 985 enforcement staff. There are also many informal and illegal land border crossing points capable of exploitation. The relatively high number of border crossings between Lao PDR and its neighbours without patrolled checkpoints exacerbates the vulnerabilities to illicit trafficking and smuggling,<sup>57</sup> as well as illicit cross-border transportation of currency. In 2017, UNODC reported that the scale of irregular migration from Lao PDR to Thailand was very significant and potentially in excess of legal cross-border movements.<sup>58</sup>

### *Cross-border trade*

47. Cross-border trade has been increasing significantly. In 2020, Thailand (34%), China (28%) and Vietnam (19%) accounted for over 83% of Lao PDR's cross-border trade.<sup>59</sup> US Dollars, Thai Baht and Chinese Yuan are widely used in some parts of Lao PDR for trade and business (formal and informal).

### *AML/CFT Strategy 2021-2030 – 'Vision to 2035'*

48. In September 2022 (week prior to the on-site visit) the President of Lao PDR endorsed the 'Strategy on AML/CFT of Lao PDR – In the Period of 10 years (2021-2030) and Vision to 2035' (AML/CFT Strategy 2021–2030) which was prepared by the NCC after the NRA's adoption. The strategy aims to strengthen AML/CFT measures as one of the state's tools to maintain peace, public order, and to promote sustainable socio-economic development. The strategy provides a road map for policy

<sup>54</sup> [https://www.undp.org/sites/g/files/zskgke326/files/migration/la/LSMP\\_Sep\\_2009\\_.pdf](https://www.undp.org/sites/g/files/zskgke326/files/migration/la/LSMP_Sep_2009_.pdf)

<sup>55</sup> <https://www.rfa.org/english/news/laos/corruption-06172019142019.html>

[https://www.unafei.or.jp/publications/pdf/GG8/19\\_GG8\\_IP\\_Lao\\_PDR.pdf](https://www.unafei.or.jp/publications/pdf/GG8/19_GG8_IP_Lao_PDR.pdf)

<sup>56</sup> This information is on the Lao Department of Immigration website at: <https://immigration.gov.la/checkpoints/>

<sup>57</sup> The APG MERs of Cambodia (2017), Thailand (2017) and Vietnam (2021) have all referenced common porous borders including with Lao PDR and risks emanating from those borders.

<sup>58</sup> *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand* (2017), UNODC, 58-39.

<sup>59</sup> <https://wits.worldbank.org/CountrySnapshot/en/LAO>.



development and for the assignment of specific actions across the membership of the NCC to respond to weakness and risk in Lao PDR's AML/CFT system.

49. In addition to the AML/CFT Strategy 2021-2030, Ministries implemented a range of directives to respond to ML. For example, the Ministry of Forestry was given responsibility to investigate ML related to environmental crime (included in their strategic plan to 2025). The NRA identified environmental crime as a low threat however open-source reporting on wildlife related crime, in particular the farming and trafficking of exotic animals and animal products, and the acknowledgement that Lao PDR citizens receive high amounts of funds from these crimes, contradict this assessment.<sup>60</sup>

50. The AML/CFT Strategy 2021-2030 also identifies that legislative requirements for an effective AML/CFT system have not been fully implemented; coordination required by legislation has not been fully established; budget limitations are impeding the training and development of staff with AML/CFT duties and responsibilities including LEAs, and that the depth of understanding of the responsibilities by the private sector remains limited. In response, the AML/CFT Strategy 2021-2030 sets out five areas of focus: first, to strengthen legal frameworks; second, to review the NCC and its roles and responsibilities to improve its capability and that of its membership; third, to improve performance of supervisors and the understanding of risk across all reporting sectors; fourth, to improve capacity and capability to investigate and prosecute high risk predicate crimes, ML and TF; and fifth, to strengthen international cooperation. Lao PDR is taking steps to meet these five goals.

#### *Legal & institutional framework*

51. The following agencies and Ministries have roles in relation to AML/CFT:

- **AMLIO:** AMLIO is the financial intelligence unit and AML/CFT supervisor of FIs and casinos. It is also the secretary to the NCC. AMLIO is established within the Bank of Lao by statute.
- **Bank of Lao PDR (BOL):** BOL is the central bank of the Lao PDR. BOL is the prudential regulator and supervisor of the banking sector, MVTS and certain NBFIs.
- **Ministry of Public Security (MoPS) – General Department of Police:** This agency is responsible for all crimes. Five departments responsible for ML investigations: Criminal Investigation Department (CID); Counter Narcotics Department (CND); Human Trafficking Department.; Environment Crime Department.; and Economic Police Department (EPD). The CID is responsible for TF investigations.
- **Office of the Supreme People's Prosecutor (OSPP):** OSPP is responsible for the prosecution of ML and TF offences.
- **Ministry of Foreign Affairs (MOFA):** MOFA has a role in implementing aspects of TFS in Lao PDR and the regulation of foreign NGOs operations.
- **Ministry of Finance (MOF):** MOF supervises and regulates the insurance sector, including for AML/CFT. MOF is responsible for licensing and AML/CFT supervision of audit firms.

<sup>60</sup> Environmental Investigation Agency (2015), *Sin City: Illegal Wildlife Trade on Laos' Golden Triangle Special Economic Zone* (Washington DC) at: [www.eia-international.org](http://www.eia-international.org); J. Schweikhard, et al (2019) *Investigations into the illegal wildlife trade in central Lao PDR* (2019) TRAFFIC Bulletin Vol. 31 No. 1; Kanitha Krishnasamy et al (2018) *Observations of illegal wildlife trade in Boten, a Chinese bordertown within a Specific Economic Zone in Northern Lao PDR* 14 (2018) e0039014 at: <https://www.sciencedirect.com/science/article/pii/S2351989418300052?via%3Dihub>.

- **People’s Court and Supreme People’s Court:** The People's Courts are the judicial branch of the State, and they are responsible for adjudicating criminal cases, including ML cases.
- **Office of Anti-corruption State Inspection Organisation:** The State Inspection Authority, pursuant to Article 33 of the Law on State Inspection, has the responsibility to prevent and suppress corruption, including a role investigating predicate offences related to corruption.
- **Enterprise Registration Office (ERO):** ERO operates under the Ministry of Industry and Commerce and is responsible for the registration of all types of enterprises including legal (juristic) persons, partnerships and sole traders.
- **Lao Securities Commission Office (LSCO):** LSCO is a licensing, prudential and AML/CFT supervisory authority for securities companies.
- **Ministry of Home Affairs (MOHA):** MOHA is responsible for the registration and supervision of domestic NPOs.
- **Department of Land, Ministry of Natural Resources and Environment:** This Department is responsible for licensing and AML/CFT supervision of real estate trading agencies.
- **Ministry of Planning and Investment (MPI):** This Ministry is responsible for investment approval of businesses on the controlled list (which includes casinos)<sup>61</sup> and the licensing of casinos (including in SEZs).
- **Forestry Inspection Department, Ministry of Agriculture and Forestry (MOAF):** MOAF is responsible for investigating forestry offences and related ML.
- **Ministry of Technology and Communications (MOTC):** Formerly the Ministry of Sciences and Technology, this Ministry is listed in Article 3 of the Decree on Entrust, as a responsible AML/CFT Ministry. The decree outlines its AML/CFT role and responsibilities are ‘implementing the activities of AML/CFT as defined in Article 4’.
- **MOJ Department of Promotion Judicial System:** This Department is responsible for licensing and AML/CFT supervision of law firms, MOJ Notary Department is responsible for notaries.
- **Office of the Prime Minister:** The Office of Prime Minister is responsible for approving investments in the controlled business list, concession investments and SEZ development projects.
- **Ministry of Information, Culture and Tourism (MOI):** The Heritage Department is responsible for licensing and AML/CFT supervision of dealers in valuable materials and antiquities which includes dealers in precious metals and dealers in precious stones. The Department of Mass and Culture within this Ministry has oversight responsibility for licensing and AML/CFT supervision of gaming devices (roulette and slot machines).<sup>62</sup>
- **Ministry of National Defence:** The Ministry’s responsibilities are defined in Articles 4 and 10 of the Decree on Entrust and includes investigating and interrogating money laundering offences.

<sup>61</sup> See Decree on the Approval of the Controlled Business List

<sup>62</sup> Regulation of the Minister of Information And Culture on Management, Inspection, and Permission for Game in the Lao PDR No. 664/MIC, Dated 22 October 2003

- **Customs (MOF):** Customs is responsible for cross-border control in accordance with relevant laws and regulations.
- **Internal Trade Department (ITD), Ministry of Industry Commerce:** is responsible for licencing and AML/CFT supervision of dealers in precious metals and stones.

#### *Financial sector, DNFBPs and VASPs*

52. Based on their relative importance and Lao PDR's risk, context and materiality, implementation issues have been weighted most heavily for the banking and casino sectors, followed by real estate agents and DPMS. Implementation issues were moderately weighted for MVTS and foreign exchange bureaus,<sup>63</sup> MFIs and insurance, securities companies and lawyers. Lesser weight was applied to leasing companies, pawnshops, notaries and asset management companies.

#### *Financial Institutions*

53. With total assets of commercial banks amounting to LAK 113,156.92 billion (USD 6.936B), banks dominate most financial sector activity in Lao PDR. Based on the nature of their ownership, products and services, and the volume of activity, they are vulnerable to abuse with respect to ML/TF. This vulnerability is compounded by the less-than-adequate quality of internal controls and the relatively low levels of AML/CFT awareness across the banking sector.

**Table 1.4: Financial Institutions in Lao PDR as at 2022**

Financial Sector	Number	Assets held
<b>Banks</b>	<i>Total 38</i>	Total assets LAK 113,156.92 billion (USD 6.936 billion) - 87.52% of GDP.
<ul style="list-style-type: none"> <li>• State-Owned Commercial Bank</li> <li>• Joint-State Commercial Bank</li> <li>• Private Bank</li> <li>• Subsidiary Bank</li> <li>• Foreign Commercial Bank Branch</li> <li>• Specialised Bank</li> </ul>	<ul style="list-style-type: none"> <li>1</li> <li>5</li> <li>7</li> <li>8</li> <li>16</li> <li>1</li> </ul>	Figures from just prior to the Covid-19 pandemic show commercial banks held 38 percent of banking assets; foreign bank branches held 30 percent; private banks, 14 percent; foreign bank subsidiaries, 7 percent; joint-venture banks, 8 percent; and specialized bank, 2 percent <sup>64</sup>
<b>Financial Institutions</b>	<i>Total 166</i>	
<ul style="list-style-type: none"> <li>• Deposit taking</li> <li>• Non-deposit taking</li> <li>• Credit union and saving</li> </ul>	<ul style="list-style-type: none"> <li>19</li> <li>111</li> <li>36</li> </ul>	
<b>Insurance</b>	<i>Total 22</i>	Insurance fees LAK 624,263.25 million (USD 38.27M) Compensation fees (expenditure) LAK 172,424.91 million (USD10.57M)
<ul style="list-style-type: none"> <li>• Life Insurance</li> <li>• General Insurance</li> <li>• Combined Insurance</li> </ul>	<ul style="list-style-type: none"> <li>4</li> <li>8</li> <li>10</li> </ul>	
<b>Remitters (MVTS)</b>	3	Overseas outflows LAK 23.30 billion (USD 1.43M) Inflow transfers LAK 26.65 billion (USD 1.63M)
<b>Foreign Exchange</b>	113	Trading amount LAK 168.73 billion (USD 10.34M)

<sup>63</sup> In September 2021, BOL ordered currency exchange businesses to transition into representatives of commercial banks. On 13 January 2023 BOL subsequently issued a notice revoking the business licences of the 113 foreign exchange bureaus associated with the commercial banks.

<sup>64</sup> International Monetary Fund *Country Report No. 20/206: Technical Assistance Report – Risk-Based Banking Supervision*. Published June 2020

<b>Securities Firms</b>	3	Market capitalisation of LAK 7,552 billion (USD 567M), daily average trading value LAK 149 million (USD 9,133), 11 listed companies (as at 30 June 2022)
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#### *DNFBPs*

54. The lack of AML/CFT supervision and the immaturity of the AML/CFT compliance framework over these sectors present a range of vulnerabilities, especially considering the growth in real estate and the cash intensive nature of the precious metals and stones sector.

55. Casinos present the highest ML risks, due to their cash intensive nature; their 24-hour operation; their physical location near border regions; the general lack of regulatory supervision; and the weaknesses with preventative measures and AML/CFT supervision.

**Table 1.5: DNFBPs in Lao PDR, 2022 (Art. 8.8, Law on AML/CFT)**

DNFBPs <sup>65</sup>	Number	Notes
Casinos	4	Registered capital LAK 830 billion (USD 50.87M) - 0.64 per cent of GDP. 95% of customers are foreigners
Agents that provide/manage financial payment tools <sup>66</sup>		
Real estate trading agencies	948	Registered capital LAK 22,000 billion (USD 1.35B) - 17 % of GDP
Precious metal and antique dealers	685	Registered capital approx. LAK 153 billion (USD 9.38 M) - 0.11% of GDP
Bar association and/or legal firms	49	
Notary public	1	
External auditing firms	55	

#### *VASPs*

56. In 2018 BOL prohibited FIs from owning, operating or being involved in supporting cryptocurrency businesses then in 2021 Lao PDR announced a cryptocurrency pilot programme permitting a limited number of VASPs to apply for a licence to operate. At the time of the on-site, no VASPs were operating in the trial. The extent to which VASPs operated in Lao prior to the prohibition or operate outside of the cryptocurrency is unclear however anecdotal evidence suggests that citizens are able to buy/sell cryptocurrencies.

#### *Preventive measures*

57. Preventive measures are set out in the Law on AML/CFT and the related enforceable Agreement on AML/CFT Measures. The Law on AML/CFT covers all FIs and most DNFBPs, but natural persons, accounting firms and trust and company service providers are not covered. VASPs are covered to a limited extent under two pilot projects. However, there are a number of technical deficiencies in relation to PEPs, CDD, enhanced and specific measures and STRs which impede effective implementation of AML/CFT obligations by RES.

<sup>65</sup> Lao PDR includes antique dealers and external auditors in its definition of DNFBPs which are not included in the FATF Standards

<sup>66</sup> Lao PDR has not defined these businesses or the services they provide.

58. Lao PDR has not exempted specific sectors or activities from the AML/CFT requirements.

### *Legal persons and arrangements*

59. Lao PDR law permits the establishment of a number of types of legal persons and arrangements. However, Lao PDR is not a regional centre for the formation or management of legal persons or arrangements.

### Legal Persons

60. A number of laws govern the establishment of legal persons, referred to as ‘juristic persons’ as follows (the attributes of each are described at R.24 in the TC Annex):

- a) Law on Enterprises:
  - Companies
  - Limited companies
  - Public companies
  - Cooperative enterprises
  - Limited partnerships
  - State enterprises
  - Mixed enterprises
- b) Decree on Foundations
- c) Decree on Associations
- d) Decree on INGOs
- e) Decree on Groups and Cooperatives.

61. The Decree on Groups and Cooperatives establishes a different legal framework than the Law on Enterprises which also permits ‘cooperative enterprises’. As of 2021, there were a total of 13,356 registered enterprises (individual, state, company, mixed). The majority of these were individual enterprises (13,317), with 22 cooperatives, 16 state companies and 1 mixed. The number of foreign businesses is relatively small (7.5% of registered enterprises in 2021) but has more than tripled in the past five years. By December 2021, approximately 743 companies (including local and foreign) that invested in the Special Economic Zones with a total registered capital of over USD 12B.<sup>67</sup>

62. The NRA 2018 does not assess the ML/TF risk arising from the features of legal persons. Risks associated with legal persons are not understood by Lao PDR authorities.

### Legal Arrangements

63. The Civil Code provides for ‘Third Party Contracts’ including the establishment of ‘Conditional Donation Contracts’ and conditional ‘Bailment Contracts.’ These arrangements have the characteristics of legal arrangements as defined in the FATF standards and reflect the basics of Article 2 of the Hague Convention on Trust Recognition (the FATF framework for understanding trusts, and legal arrangements from civil law countries).<sup>68</sup> Competent authorities are not aware of any foreign trusts operating in Lao PDR although the Agreement on AML/CFT Measures establishes obligations on RES to conduct CDD when dealing with foreign trusts and trustees.

<sup>67</sup>The Phnom Penh Post, *743 Companies Invest in Lao SEZs Over Five Years*, 12 December 2021. <https://www.phnompenhpost.com/business/743-companies-invest-lao-sezs-over-5-years>

<sup>68</sup> See TC Annex R.25 for a description how these arrangements are similar to the arrangements described in the Hague Convention on Trusts at Article 2.

64. Lao PDR authorities have provided no information on the number of local and foreign legal arrangements nor have authorities risk-assessed any of the types of these arrangements. Lao PDR authorities have a very limited understanding of ML and TF risks relating to these civil legal arrangements.

#### *Supervisory arrangements*

65. Bank of Lao PDR is the licensing authority for banks, non-bank financial institutions (pawnshops, leasing, micro-finance institutions, and credit unions), MVTs providers and currency exchange bureaus. The Department of State-Owned Enterprise Reform (Ministry of Finance) and Lao Securities Commission Office are the licensed authorities for the insurance and securities sectors respectively. For DNFBPs, there are multiple licensing authorities (government departments). While the Bank of Lao PDR is a supervisor of VASPs (Art. 41, Decision on Cryptocurrency Trial), there is no AML/CFT supervisor for VASPs.

66. There are mechanisms in place to prevent criminals from entering the market through the relevant licensing authorities licensing or registration regimes, but these are not sufficiently implemented for FIs and are not implemented for DNFBPs.

67. AMLIO is the main AML/CFT supervisor for the financial sector and works in conjunction with the Bank of Lao PDR. The Lao Securities Commission Office is empowered to issue regulations, conduct risk assessments and undertake inspections for AML/CFT compliance by securities firms. The Department of State-Owned Enterprise Reform and Insurance under the Ministry of Finance supervises insurance companies.

68. AMLIO was the designated supervisor for AML/CFT for DNFBPs. Prior to the ME onsite visit, AML/CFT supervision responsibilities for DNFBPs were transferred to those government departments responsible for licensing each of the DNFBPs. Risk-based supervision is at an early stage of implementation for casinos, but has not occurred for other DNFBPs.

**Table 1.6: AML/CFT Supervision of Reporting Entities**

Reporting entities	Number	AML/CFT Supervisors
<b>Financial Institutions</b>		
Commercial bank	38	AMLIO
Currency exchange shops	113	
Money Transfer service companies	3	
Micro-Finance institutes	122	
Pawnshops	54	
Leasing companies	29	
Securities companies	3	LSCO
Insurance companies	22	State-Owned Enterprises Management and Development and Insurance, MOF
<b>DNFBPs</b>		
Real estate trading agencies	948	Department of Land, Ministry of Environment and Nature Resources

Dealers in precious metals and dealers in precious stones	685	Department of Import and Export, Ministry of Industry and Commerce Enterprise Registration and Management, Ministry of Industry and Commerce ITD, Ministry of Industry and Commerce
Bar association	4	Department of Promotion Judicial System, MOJ
Legal firms	79	
Notary public	1	Notary Department, MOJ
External auditing firms	55	Accounting Department, MOF
Casinos	4	AMLIO
<b>Total</b>	<b>2160</b>	

### *International cooperation*

69. Lao PDR faces significant international ML risks, particularly from drug trafficking, cross-border smuggling of goods, environmental crime and human trafficking. Authorities recognize that foreign criminals use Lao PDR as a transit country through which they enter neighbouring countries (Cambodia, China, Myanmar, Thailand and Vietnam). Recent MERs of these five countries, in particular Myanmar, identified major-to-very significant cross-border crime risk with Lao PDR. Drug predicate crime is largely facilitated with cash. Given the cash-intensive nature of the Lao PDR economy, this presents high risks across the AML/CFT system.

70. Lao PDR does not actively pursue formal or informal cooperation in keeping with its cross-border risks. The limited use of formal international cooperation channels is likely to be due to a lack of understanding of transnational crime risks, and limited domestic investigative and law enforcement activity in relation to ML/TF and confiscating the proceeds of crime.

71. Lao PDR provides MLA and extradition through multilateral and bilateral agreements, treaties and on the basis of reciprocity. The ASEAN Mutual Legal Assistance in Criminal Matters Treaty (ASEAN MLAT) is the predominant multilateral agreement under which MLA is provided. Nine of Lao PDR's regional neighbours are parties to this agreement<sup>69</sup> including the five countries with which Lao PDR shares a land border and similar transnational crime risks. Lao PDR also has bilateral agreements with Vietnam, China and South Korea.

72. There is a generally sound legislative framework for providing international cooperation and clear processes for dealing with incoming and outgoing requests. Where a country is a party to an agreement or treaty with Lao PDR requests are directed to, and coordinated by, the Office of the Supreme Public Prosecutor (OSPP) as the central authority. Where there is no agreement or treaty in place, requests are made through diplomatic channels and coordinated by the OSPP.

73. Lao PDR is a member of a range of bodies that support agency-to-agency international cooperation, including INTERPOL, the World Customs Organization (WCO) and the International Organization of Securities Commissions (IOSCO).

74. Lao PDR has applied for Egmont membership.

<sup>69</sup> All ten ASEAN members are party to the treaty: Brunei Darussalam; Cambodia; Indonesia; Lao PDR; Malaysia; Myanmar; the Philippines; Singapore; Thailand; and Vietnam.

## CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

*Key Findings and Recommended Actions***Key Findings**

1. Lao PDR has assessed its risk through its first NRA published in 2018 with a separate assessment of VASPs in 2022, but has not produced other assessments of ML or TF risk. The findings of the NRA and VASP assessment are only partially reasonable. Tax crimes were not assessed despite independent evidence that tax evasion occurs on a large scale.
2. TF risk, assessed as low, is based entirely on a lack of STRs and prosecutions and not on more relevant information such as Lao PDR's regional context, its status as a transit country, its cash-based economy, and its porous borders. The understanding of TF-related risk is superficial and does not adequately inform responses and risk mitigation to potential TF.
3. The NRA did not comprehensively identify risk associated with transnational ML or with ML associated with corruption. The NRA reflects an over reliance on analysis of prosecuted predicate crimes, which has restricted the understanding of risk. ML risks arising from Lao's porous borders are significant.
4. Given the sole reliance on the NRA and the limitations in its scope Lao PDR did not demonstrate a good understanding of its ML/TF risks. Lao PDR has not taken steps to conduct sectoral or threat specific assessments or update the NRA.
5. Lao PDR demonstrated progress at policy levels to develop stronger frameworks informed by the NRA, particularly the AML/CFT Strategy 2021-2030, to implement measures to improve Lao PDR's AML/CFT regime.
6. Lao PDR has not implemented any exemptions, or enhanced or simplified measures for any sectors based on understanding of risk.
7. Operational coordination and activities in response to the NRA are maturing at a much slower pace. Operational coordination does not sufficiently reflect Lao PDR's risk profile. Operational coordination is not yet occurring in relation to combating PF.
8. The absence of coordination by authorities in response to the high and unmitigated risks in the casino sector needs urgent addressing by authorities.
9. Private sector understanding of the ML/TF risk is mixed and is nearly absent beyond larger banks. DNFBP sector's understanding of risk is weak and nearly absent in the casino sector. Understanding and accuracy of risks and vulnerabilities from transnational organized crime, foreign investment, legal persons, and threats more generally is weak.

**Recommended Actions**

Lao PDR should undertake the following:

- A. Conduct further more robust risk assessments to deepen and update its understanding of national and sectoral ML/TF risks. Focus should be on cross-border risks and sectoral risks (casinos, real



estate, banks, transnational organised crime, corruption, and environmental crime, human trafficking, etc.) including a re-focus on relevant factors impacting VASP risk. These risk assessments should look beyond data of domestic criminal convictions and critically validate all applied data, and expand data sources to include broader perspectives of ML/TF threats and vulnerabilities and consider assessments from international organisations, academics and importantly, feedback from foreign (particularly neighbouring) jurisdictions.

- B. Further analysis of TF risk and threat exposure including assessment of the regional context. Following this, authorities should develop policies and plans that enable a more dynamic but focused response to emerging TF risks.
- C. Prioritise operational resources in response to identified risks through the NCC.
- D. Enhance operational cooperation and coordination of supervisors and LEAs to target high risk activities and sectors such as drug trafficking, cross-border smuggling of cash and goods, and casinos.
- E. Develop expert capability and capacity amongst competent authorities to respond to risks from high risk sectors, particularly within the casino sector.
- F. Conduct more targeted outreach to medium and high risk sectors to build and strengthen awareness and understanding of their risks with a particular focus on DNFBPs. This will require the development of more detailed and sector-specific guidance to the DNFBPs, specifically the casino sector, and the development of measures to combat specific risks in each sector.
- G. Consider conducting an assessment of PF risk related to DPRK to more effectively support implementation of TFS against proliferation of WMD.

75. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R.2, R.33 and R.34 and elements of R.15.

76. The assessment team's findings on IO.1 are based on its review of the key documents such as the NRA, relevant policy documents and the AML/CFT Strategy 2021-2030. The assessment team also met with Lao PDR government authorities, LEAs, the AML/CFT supervisors, and select REs.

### ***Immediate Outcome 1 (Risk, Policy and Coordination)***

#### ***Lao PDR's understanding of its ML/TF risks***

77. Lao PDR's NRA was developed using the World Bank methodology and assesses national risk as a function of threats, vulnerabilities and consequences and describes the scale and nature of risks at a national and sector level. The NCC coordinated the NRA using a range of data from across the private and public sectors within working groups. The findings across crime-types and sectors are partly reasonable, but they diverge greatly from a number of credible reports from multilateral bodies (UN and others) on very significant threats and vulnerabilities for profit-driven crime. Porous land borders with Thailand, Vietnam, Cambodia, Myanmar and China exacerbate risks. Each of these jurisdictions have significant cross-border ML risks themselves, and have been identified in their own ML risk assessments. Significant sections of Lao PDR's border areas form part of the 'Golden Triangle' – an area known for drug production and smuggling. Limited capacity and capability of border enforcement

agencies and their vulnerability to corruption further exacerbate the likelihood of cross-border threats materialising. The 2018 NRA does not sufficiently consider these factors.

78. The following crime-type risks and risk-factors from 'high' to 'low' were assessed and reflected in the NRA by Lao PDR authorities.

**Table 2.1: Money Laundering and Terrorist Financing - Crime-Types**

Crime-type Risks	Assessed Risk in the NRA
Drugs (production and trafficking)	Medium to high
General fraud	Medium
Cheque forging	Low to medium
Counterfeit currency	
General forgery	
Corruption	
Illegal property trading	
Human trafficking	Low
Environmental crime	
Theft	
Bribery	
Trading illegal weapons	
Robbery	
Terrorist financing	
Tax offences	

79. While the NRA provides a foundation for an improved understanding of risk with partially reasonable findings that identify a range of challenges, the NRA has limitations in its scope and findings which affects the ability of relevant officials and the private sector to fully understand Lao PDR's ML and TF risks.

80. Below is a more detailed discussion of a) ML risk; b) TF risk; c) Sector risk; and d) Overall country risk as presented in the NRA.

#### *Money Laundering Risks*

81. Data for the ratings in the NRA was initially sourced through obtaining judgments from provincial and national courts that identified the provinces within Lao PDR with the highest occurrence of predicate crime from 2013-2016.<sup>70</sup> Questionnaires were completed by representatives from the courts, prosecution authorities and investigators to provide a more detailed understanding of the occurrence of crime. The NRA acknowledges that there were limitations with the data received. Paper-based, as opposed to more accurate and up-to-date electronic, information presented limitations on information collection in response to the questionnaire. However, authorities considered that sufficient information was collected to accurately assess ML and TF risk.

82. The NRA identifies drug production/trafficking, and general fraud as the highest threat predicate offences<sup>71</sup> consistent with other countries in the region. Below is a discussion of some of the assessment team's principal concerns with the findings of the NRA.

<sup>70</sup> Vientiane, Savannakhet, Champasak, Khammouane, Luang Namtha and Bokeo.

<sup>71</sup> Lao PDR recorded the largest ever seizure in South East Asia in 2021 with the recovery of 55 million methamphetamine tablets and 1.5 tonnes of crystal methamphetamine.

83. **Tax crimes:** As noted in Table 2.1, tax crimes were not assessed by Lao PDR in the 2018 NRA. During the assessment process authorities indicated that there were no tax offence cases in the country and this was the reason they were not assessed. However, TF and securities offences were assessed despite the same lack of cases. But, relatively recent and independent local research (2017) has demonstrated that large-scale tax evasion occurs in Lao PDR, in particular in relation to trade-pricing and labelling, giving rise to trade-based ML in the context of regional trade.<sup>72</sup> The NRA suggests that the method for dealing with tax evasion is to improve personal compliance behaviour with administrative measures only. As stated in the NRA: ‘In the event of a violation of tax laws and regulations, there will be measures to re-education [sic], fines, discipline instead of civil punishment or criminal punishment in each case...’ (NRA, p. 19). The primary reason for this approach is also set out in the NRA: ‘Although there [are] strict regulations and enforcement mechanisms, the actual implementation could not be achieved...’ This last statement is a clear indication that tax collection is a significant challenge giving rise to a significant ML vulnerability in Lao PDR.

84. There is a need to assess risks of large scale ML associated with tax crimes in Lao PDR. There is a low level of understanding of the ML risks to the country associated with tax evasion relating to both direct and indirect taxation. Deficiencies in the tax collection system, and the vulnerabilities of FI/DNFBPs expose Lao PDR to tax crime exploitation and that tax crimes are high risk predicate crimes to money laundering.

85. **Drug offending:** Authorities considered most drug offending relates to smuggling of narcotics through Lao PDR from, and to, neighbouring jurisdictions at modest financial gain for Lao PDR citizens. For this reason, authorities were not identifying opportunities to investigate and prosecute ML-related to narcotics crime. This understanding and explanation conflicts with the UN’s findings on drug production. The NRA did not sufficiently consider data of income generated by the sale and transportation of narcotics. Similarly, confiscation data was equally relied upon, however much of these confiscations were in fact instruments of crime as opposed to proceeds from narcotics crime (see IO.8). There were opportunities for improved understanding through closer analysis of this data. The NRA is in keeping with the assessment team’s concern that drug consumption in Lao PDR is likely to generate significant profits for crime groups.

86. **Corruption:** Lao PDR faces very serious corruption and related ML risks. Lao PDR has not done a stand-alone risk assessment of ML associated with domestic or foreign corruption and bribery, nor of the effects of corruption on the operation of parts of its AML/CFT system. A range of credible assessments by organisations and statements by Lao PDR authorities confirm these risks (cited earlier) but they are not accurately reflected in the NRA. As noted in Chapter 1, Lao PDR ranks low on Transparency International’s 2022 Corruption Perceptions Index – 126 out of 180 countries.

87. **Other crimes:** The NRA identified environmental crime as low risk, however open-source reporting on wildlife crime challenge the reasonableness of this assessment., Particular significant risks are noted from the farming of tigers and other exotic animals, the trafficking of exotic animal parts and animal products, and the acknowledgement that Lao PDR citizens receive high amounts of proceeds<sup>73</sup>.

<sup>72</sup> Phaydanglobriayao Ka, ‘Tax Evasion in the Lao PDR: Evidence from Missing Imports with China and Thailand’ *Journal of Economics, Business and Management*, Vol. 5, No. 2, February 2017: ‘higher tax rates tend to induce higher tax evasion. This means that introduction of VAT seems to cause higher tax evasion in values because inclusion of VAT leads to an increase in tax rates. This may be seen as an incentive for people or firms to engage in border trade transactions to evade paying taxes through a means of under-reporting in values.’ (at 76).

<sup>73</sup> NRA p. 9

88. Lao PDR faces very serious human trafficking and related ML risks<sup>74</sup>, but these are not well considered in the NRA not are they well understood by officials. Other predicate crimes including fraud and theft were identified through the volume of convictions entered and the value of confiscated property by offence. Reliance on convictions to establish threat profiles limits understanding of risk. The lack of inclusion of data on crime that was reported and/or not successfully prosecuted undermines the assessment of the volume of the income generated crime and the value of that potential income.

89. It is notable that Lao PDR has not prioritised further assessments of risk following the 2018 NRA, either sectoral risk assessments, particular threat assessments or updates to the NRA. Lao PDR did complete a risk assessment of VASPs but due to significant deficiencies in its methodology (see R.15) it does not provide a greater understanding of ML/TF risk in the sector. This reflects challenges during the COVID-19 period to some extent, but the concern remains that there are no mechanisms to identify and assess emerging or changing risks.

90. Although not included or addressed in the NRA, there is some exposure to PF and sanction evasion risk. In particular the UN Panel of Experts reports in 2022 cite concerns regarding the presence of DPRK nationals in Lao PDR which present proliferation financing exposure. This exposure is compounded by an absence of notifications to REs when UNSCR lists are updated and the reliance of English language websites to notify designations. Competent authorities and REs did not demonstrate any understanding of PF potential exposure.

91. The NRA did not comprehensively and accurately assess threats from transnational organised crime and ML (risk of proceeds generated in a foreign jurisdiction being laundered in Lao PDR) because of its reliance on domestic convictions.

#### *Terrorist Financing Risks*

92. In the NRA Lao PDR assessed the risk of terrorist financing as a crime and the exploitation of sectors for TF as low risk. The assessment was not as extensive as the ML assessment and considered three factors:

- a) Terrorist threats;
- b) The threat of the financing of terrorism; and
- c) Vulnerabilities.

93. Overall, TF risks are not well understood by Lao PDR authorities. The NRA did not consider the regional context of Lao PDR (bordering five countries) and the impact of some of those countries on TF risks. The primary justification for the assessment of TF as low was a lack of STRs, criminal investigations and prosecutions. Moreover authorities were of the view that the probability of a funded terror event occurring in Lao PDR was low and the raising or laundering of funds for the funding of an external terror event was also low. However, Lao PDR's acknowledged status as a transit country for a range of illicit commodities may increase TF risk. Authorities need to do more to comprehensively assess and understand TF risk and in particular consider Lao PDR's regional context with porous borders and how its heavily cash-based economy impacts the risk of TF.

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<sup>74</sup> US State Department, 2022 Trafficking in Persons Report July 2022, pp. 341-344

*Sectoral Risks*

94. Lao PDR has assessed its principal sectors in the NRA. The NRA is supplemented by a very limited risk assessment of virtual asset service providers (VASPs), as follows:

**Table 2.2: Money Laundering Risks by Sectors<sup>75</sup>**

Sectors	Assessed Risk in the NRA
Casinos	High
VASPs	
Banks	Medium to high
Real Estate	
Precious metal and stone dealers	
Insurance companies (life)	Medium
MVTS	
Currency Exchange - FOREX	
Securities	Low to medium
Special Economic Zones	Not assessed
Lawyers/notaries	
Accountants	

95. **Casinos:** The NRA identified the casino sector as high risk due to its exclusive patronage by foreigners, its cash intensity, the absence of controls to prevent ML/TF, and the lack of supervision of this sector. The assessment team is of the view that there are significant concerns that criminals or their associates have ownership or control of casinos in Lao PDR especially in the Golden Triangle region.

96. This issue is highlighted with an example where ownership of a casino in Lao PDR was transferred in early 2022 from an individual who is subject to US Treasury sanctions, and who is widely reported in open-source information to be involved in organised crime. This transfer to the new owner, being another foreign individual who open-source information raises concerns over character, was approved by senior government officials. The casino itself is located within the golden triangle which is recognised as being a global area of concern for synthetic drug production and distribution, and is immediately adjacent to jurisdictions with high prevalence of the most serious narcotic crime. The casino purportedly does not operate any domestic bank account, conducts its business exclusively with foreign cash currency, and pays for all goods and services related to its operation and its 250 employees with cash, (including AML compliance staff), therefore it is identified to present extreme risk associated with the cross-border movement of what must be hundreds of millions in foreign currencies. Of wider concern, this casino is also currently in the initial stages of building a hospital and educational facilities (with cash) for the benefit of communities that surround it, presenting a risk that illicit funds are being widely distributed into the business community.

97. Despite open source reporting of this issue, and credible and recent NGO studies of this sector (as referenced in the NRA), it is unclear that Lao PDR officials really understand the casino sector risks (despite rating them as high) and whether they are taking any steps to mitigate them. Casinos which are situated on the country's borders provide cash-only gambling services for foreigners. One casino with highly intensive cash services is owned by a bank. Despite these risks, Lao PDR officials do not appear to understand the risks. The NRA itself makes no mention of foreign ownership, cash-based gambling and the risk attaching, in the analysis of risks related to casinos.

<sup>75</sup> This table was compiled by the assessment team using information at sections 4.1 to 4.7 of the NRA.

98. There have been no STRs filed with AMLIO and no prosecutions for ML or TF related to casinos. This reflects a low level of understanding by officials of ML risks related to the casino sector.

99. **Securities:** The NRA rated the securities sector as low-medium risk. Business licencing, market access regulations, identification of sources of capital and shareholders, and honesty of securities' company employees were assessed as high, market liquidity as low and types of securities products as very low. Of 13,188 accounts, 13,072 were held by individuals and 116 by institutional investors. The NRA indicates that there have been no STRs filed by securities companies because employees do not understand AML/CFT obligations and no criminal cases have occurred in the securities sector.<sup>76</sup>

100. At the time of the onsite visit, the Lao Securities Exchange had 13 listings and a daily trading volume below USD 10,000.<sup>77</sup> However, the NRA identifies a range of deficiencies that undermine the understanding of ML/TF risk. For example, implementation of the Law on AML/CFT was lacking; guidance on AML/CFT obligations was ineffective; and, there were no AML/CFT-related inspections due to the lack of suitably experienced personnel. Further, securities companies had not appointed staff or implemented systems to monitor and report on ML/TF activity, there were no internal or external audits, and employees were untrained and did not understand AML/CFT measures. The NRA also noted foreign investors were also able to trade using an omnibus account to obscure their identities (which raises the risk level of the sector).<sup>78</sup>

101. **Banks, Real Estate Agents and Precious Metal Dealers.** These three sectors are rated as medium to high risk of ML. However, the understanding reflected in the NRA and in discussion with officials during the on-site visit was low.

102. Real estate agents and precious metals dealers showed a basic understanding of the findings of the NRA but did not articulate how the products and services they offered exposed them to ML/TF risks other than in the broadest sense. For example, real estate transactions are high value and may therefore present a higher risk. Representatives did not identify potential risks posed by foreign sources of wealth or income, high value cash transactions, legal persons or arrangements or how the proceeds of corruption, trafficking or transnational crime could be attempted to be laundered through their businesses. Recent law reforms aimed at increasing foreign investment in real estate heighten some of these risks.<sup>79</sup>

103. Foreign owned banks and large domestic banks demonstrated a greater understanding of ML/TF risks, and that their products and services may present higher risks (e.g. wire transfers, large cash transactions) however smaller banks showed only a limited understanding of ML/TF risks and largely agreed with the NRA findings without identifying gaps or alternate views.

104. While the NRA assesses these sectors for laundering proceeds of crime, the assessment lacks details of prevalent techniques and channels of laundering, and details of the roles of possible third-party professional launderers, including lawyers and accountants (who were not assessed). The NRA lacks details on the use of cash for ML, including cross-border movement of cash.

<sup>76</sup> NRA, p.28 and p.29.

<sup>77</sup> Figures from analysis of daily trading volumes statistics for August 2022 published on <http://www.lsx.com.la/>.

<sup>78</sup> An omnibus account a trading account that allows for managed trades of more than one person. The identities of the holders of the individual accounts are not generally known or disclosed to the carrying firm. (Cornell Law School, Legal Information Institute, 17 CFR § 15.00).

<sup>79</sup> Tilleke & Gibbins International Ltd., *Laos Opens Real Estate Investment Opportunities to Foreigners*. 15 October 2020. <https://www.tilleke.com/insights/laos-opens-real-estate-investment-opportunities-foreigners/>

105. **Special Economic Zones:** Lao PDR's economic strategy includes the establishment of 12 Special Economic Zones (SEZs) to drive economic development and attract foreign investors through the granting of special privileges to investors. The Golden Triangle SEZ, located on the border of Thailand, Myanmar and Lao PDR is a joint development between the Lao PDR Government and Chinese private investment. However, as noted in Table 2.2 above, the risks associated with ML and TF in the SEZs was not assessed.

106. Multiple open-source reporting highlights the occurrence of drug crime, people smuggling, wildlife trafficking and money laundering occurring within and through this particular zone. Current government marketing for this zone promotes the existence of a casino and describes these zones as business-friendly. ML/TF risk understanding associated with these zones, and in particular foreign investment is not understood by officials.

107. SEZs are designed to attract foreign investment into Lao PDR and in addition to tax incentives, include a range of incentives which may heighten ML/TF risks. The Decree on Special Economic Zone and Special Economic Zone in the Lao PDR No.443/PM dated 26 October 2010 permits independent economic and financial management within the SEZ (Art. 36), developers and investors rights and benefits, including assets are protected (Art. 38), goods and services can be bought and sold in foreign currencies (Art. 54) and investors may receive honorary citizen status (Art. 37.10). The Decree also states FIs are managed by an 'Administration Committee and/or the Economic Executive Board of the SEZ' (Art. 77) and the Law on Investment Promotion assigns the Ministry of Planning and Investment (MPI), as the supervisory authority for SEZ (Art. 63). Neither of these bodies has expertise in overseeing compliance with AML/CFT laws.

108. There is a high risk that criminal proceeds could flow into the SEZs and be insulated by the Government from asset seizures. Moreover, tax evasion in the zones would not be prosecuted as a predicate or ML offence. Lao PDR officials were unaware of these risks.

#### *Overall Country Risk*

109. Based on the combined totals and analysis of the various risks Lao PDR has indicated that its overall Country Risk for money laundering and terrorist financing is Medium-to-High.<sup>80</sup>

110. The NRA appears to have had only limited impact on the effectiveness of the AML/CFT system. Understanding of ML/TF risks, which were generally consistent across competent authorities, mirror the NRA's findings and did not extend beyond it. STR reporting has been increasing in line with general trends since 2013 while CTR reporting pre- and post- publication of the NRA remained constant. While there was an increase in border cash reports (BCR), this was modest based on risk and context factors. There has been an increase in financial intelligence reports and also an improvement in domestic information exchange, but sharing of information with international partners remains unchanged.<sup>81</sup> This series of indicators do not reflect sharp increases in reporting from sectors identified as having risk, nor is there apparent increased demand for financial intelligence from domestic or international partners. This suggests that there has not been a reorientation by domestic agencies in response to an improved understanding of risk.

<sup>80</sup> See NRA 2018, p. 8.

<sup>81</sup> Data contained within the AML/CFT Strategy 2021-2030 pages 10-13.

*National policies to address identified ML/TF risks*

111. In 2014 Lao PDR established the National Coordination Committee for anti-money laundering and counter financing of terrorism (NCC). The NCC leadership comprises the Deputy Prime Minister (president of the NCC), the Governor of the Bank of Lao PDR (vice president), Deputy Minister of Public Security (vice president) and representatives from 12 ministries, comprising a board of 15. Under the coordination of the NCC, the government has directed priority to improving legislation, improving coordination domestically, and establishing mechanisms to improve international cooperation. The NCC leads policy development and issues directives to implement AML/CFT obligations.

112. The NCC's directive to establish the NRA<sup>82</sup> was to identify Lao PDR's risks and to develop an action plan to effectively respond to those risks and to implement international obligations. This resulted in the establishment of an ad-hoc committee to draft legislation on international cooperation and the issue of directives to LEAs to direct their efforts towards high-risk predicate offending and associated ML such as narcotics crime<sup>83</sup> supported by a range of training initiatives. In addition, risk-based prioritisation was developed in relation to monitoring, inspecting and evaluating the AML/CFT-related obligations of REs.

113. After completing the NRA, the NCC issued a high-level strategic document, the AML/CFT Strategy 2021-2030. This strategy was endorsed by the President on 9 September 2022 (the week prior to the on-site) as a road map for policy development with specific actions assigned across the membership of the NCC to respond to weaknesses and risks across the AML/CFT system.

114. The AML/CFT Strategy 2021-2030 identifies that legislative requirements for an effective AML/CFT system had not been fully implemented although Lao PDR had already strengthened, to some extent, its technical legal framework. However, a serious omission in the national strategy is a lack of priority and a plan to address the ML risks of the casino sector.

115. The NRA has, to some extent, had a positive influence on the AML/CFT system in Lao PDR, but there remains a strong need to deepen understanding of risk by agencies in order to best deploy Lao PDR's limited resources. However, operational activities have not yet been sufficiently directed by findings of the NRA.

*Exemptions, enhanced and simplified measures*

116. Lao PDR has not implemented exemptions or enhanced/simplified measures for any sectors.

*Objectives and activities of competent authorities*

117. The Decree on Entrust directs enforcement agencies to respond to ML and TF when identified. While LEAs appear to have an understanding of risk, they acknowledge that capacity and capability improvements are required to enable a comprehensive response to ML risks. As a general statement, authorities were highly motivated to perform but were constrained in their activities due to limited resources.

<sup>82</sup> Notification No 477/PMO, 24 March 2017.

<sup>83</sup> On 28 June 2018 the Government directed that narcotics crime was a strategic national priority for the Ministry of Public Security.



118. LEAs generally do not demonstrate a sufficient understanding of the occurrence of transnational ML occurring in Lao PDR. However, increasing awareness of domestic ML has seen an increase in domestic ML investigations (see IO.7).

119. Supervisor objectives and activities have, to some extent, been informed by risk, but this has been undermined by capability, capacity, and a lack of clear responsibilities. The NRA does not include sufficient details of risk in various sectors to support risk-based supervision. NRA findings have not, for example, led to prioritisation of supervision of the casino sector or operational coordination to respond to casino sector risks. A recent redesign of the supervisory framework has been introduced but it remains immature and therefore it is not able to be assessed in terms of how deployment of supervisory resources will respond to risk.

#### *National coordination and cooperation*

120. The participation of senior government leaders within the NCC provides high level coordination and cooperation in setting AML/CFT policies. These policy areas have focused on legislative and institutional reform but have not sufficiently focused on setting strategic goals to improve risk mitigation. In addition, NCC leadership has not yet resulted in strong collaboration and coordination among and between agencies to improve operational outcomes in priority risk areas (offences and sectors). Operational cooperation is largely informal and between law enforcement agencies or supervisors and has not resulted in the development of a common understanding about how agencies can maximise support for each other, and how respond to new and emerging ML and TF risks.

121. Lao PDR demonstrated some coordination at the policy level to establish a legal framework to combat financing the proliferation of WMD (PF). Lao PDR established a committee from seven ministries responsible for developing an order for withholding, freezing, and seizing assets associated with PF. This order was endorsed in November 2020 and reflects coordination in response to policy needs. Lao PDR has not yet established or implemented operational coordination to implement the CPF framework.

#### *Private sector's awareness of risks*

122. Private sector understanding of the NRA and ML/TF risks is mixed. Foreign banks have a better understanding of risk compared to other sectors in the domestic context as a result of their parent group risk assessments and policies. Larger domestic banks have a better understanding of risks compared to smaller banks and FIs, but their risk understanding is inadequately addressed in internal policies. The understanding of risk by all DNFBPs, including casinos, is poor. REs generally have some knowledge of the NRA, but understanding of their own sector's risks or risks posed to their own businesses was not well demonstrated.

123. DNFBPs' understanding of risks and vulnerabilities from transnational organized crime, foreign investment, legal persons and legal arrangements, as well as threats more generally is weak. This is a function of two things:

- a) An absence of detailed risk assessments (including specific sectoral assessments) with an insufficient focus on enterprise-level risk assessments; and
- b) Authorities have not undertaken sufficient outreach to REs to build and strengthen awareness and a shared understanding of risk. Lao PDR authorities' engagement with the private sector in the development of the NRA included meetings and interviews, and a questionnaire however

this engagement did result in an informed and relevant understanding of risk. Moreover, there is a lack of detailed formal guidance to the private sector on how to identify and mitigate risk.

124. Lao PDR authorities did not demonstrate an understanding of risks of VAs and VASPs.

125. The AML/CFT Strategy 2021–2030 acknowledges that, as a general statement, REs do not yet fully understand the importance of AML/CFT, and do not understand their obligations to a satisfactory level.<sup>84</sup> Overall, private sector understanding of ML and TF risk is low.

#### *Overall conclusion on Immediate Outcome 1.*

126. There is a low level of understanding of ML and TF risk in Lao PDR across the public and the private sectors. With respect to the NRA of 2018, the limited depth, scope and accuracy significantly undermines the assessment and understanding of key risks. Lao PDR's ability to effectively respond to varying levels of risks across sectors and in relation to specific crime types is not well supported by the NRA. Particular concerns relate to weaknesses in understanding risks related to the SEZ and environmental crime, as well as drug trafficking. However, significant concerns relevant to corruption, tax evasion, foreign investment and transnational ML exist which are not well understood. Of particular concern is that there is a very poor understanding of ML risk in the casino sector and an absence of risk mitigation controls. The NCC is continuing to lead the development of institutional frameworks and policy responses, but major challenges exist with operational cooperation to combat ML and PF. While TF risk is assessed as low in Lao PDR, more needs to be done to update the risk understanding and ensure that the private sector is better informed of those risks and any emerging areas of concern stemming from Lao PDR's regional context.

127. **Lao PDR has a low level of effectiveness for IO.1.**

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<sup>84</sup> AML/CFT Strategy 2021-2030 page 19.

## CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

### *Key Findings and Recommended Actions*

#### **Key Findings**

##### ***Use of Financial Intelligence (Immediate Outcome 6)***

1. AMLIO is under the direct supervision and leadership of the NCC and the political and ideological supervision of the Governor of the Bank of Lao which affects its operational independence.
2. AMLIO receives various reports, but the range, number and quality of STRs is low and non-existent for some high risk sectors – in particular casinos. As such, STRs reported do not provide a good basis for AMLIO’s analysis.
3. While some AMLIO disseminations have been used by LEAs to initiate ML investigations, the disseminations are not regularly used to initiate or to support ongoing predicate offence investigations. AMLIO receives limited feedback from LEAs to support improvements to its analytical products.
4. LEAs do not prioritise the development and use of financial intelligence for investigations of predicates, ML and TF. Many LEAs do not integrate financial intelligence with investigations. The five key investigative bodies can access some AMLIO information including on request but do not regularly do so.
5. AMLIO needs additional staff members to more effectively to manage STRs received on the basis risk in order to perform its analysis and operational functions.
6. AMLIO lacks analytical tools and is over-reliant on manual processes, which impedes effective analysis of STRs and other reports to support LEAs to develop evidence relevant to ML, TF and predicate offences. Given the risk context, CBRs are under-utilised in the production of financial intelligence. While AMLIO has access to a wide range of data from REs and government agencies, there are weaknesses with the quality of analysis and the ‘value-added’ to data sets.
7. Most AMLIO disseminations to LEAs are on request. The nature of those disseminations does not reflect the country’s ML risk profile reflecting limitations in AMLIO’s understanding of risk and to a lesser extent its ability to effectively analyse information received.
8. AMLIO has channels to share information with key competent authorities and the private sector, including online reporting, a data sharing system, ad-hoc investigation teams, and MOUs with some domestic and foreign agencies.

##### ***ML Investigation and prosecution (Immediate Outcome 7)***

1. ML investigations so far have focused exclusively on self-laundering. Current investigation strategies do not focus on investigating the criminal organisations behind the offenders, as well as the transnational aspects of crimes by following the money within criminal networks. This reflects the LEAs’ lack of sufficient awareness of the ML offence and the need to strengthen the assessment of transnational crime risk (especially drugs) and corruption, and ML risks outlined in IO1.

2. Some ML investigations are conducted as part of joint agency teams, which support strong inter-agency cooperation in those matters.
3. The General Police Department, in particular, the Counter Narcotics Department (CND) of the MoPS has by far the most financial investigation capacity with trained and relatively experienced investigators.
4. ML investigations have resulted chiefly from narcotics and fraud predicates, but most matters are at a low level and do not reflect Lao PDR's ML risk profile for these categories. No ML investigations have been undertaken associated with proceeds of corruption or environmental crimes. LEAs have not sought international cooperation to conduct ML investigations of proceeds moved outside of Lao PDR or for foreign proceeds laundered in Lao PDR.
5. There have been no ML cases which have commenced as a result of predicate offences committed in a foreign jurisdiction where the proceeds of crime moved to Lao PDR, or cases where domestic proceeds of crime were laundered outside of Lao PDR.
6. Pursuant to the law, a time limit is imposed on the duration of the investigation period (2 months with an extension up to one year for complex cases). Authorities note this presents a potential challenge to complex ML cases.
7. The prosecution of the few ML offences appears to be successful.
8. ML cases are tried and sentenced with the predicate offences, and sanctions cannot be disaggregated. Therefore it is not possible for Lao PDR to demonstrate the effective sanctioning of ML cases.

#### ***Confiscation (Immediate Outcome 8)***

1. Lao PDR does not demonstrate the effective implementation of systems to confiscate proceeds and instruments of crime in keeping with the risks it faces.
2. Lao PDR lacks detailed policies and priorities at the national level to pursue and recover criminal assets. There are fundamental gaps at operational levels within the relevant agencies of policies and procedures to investigate, trace freeze, confiscate and recover proceeds of crime.
3. In practice LEAs are focussed on identifying instrumentalities and LEAs did not demonstrate regular practice to go beyond instruments of crime to trace and restrain proceeds of crime that may have been laundered.
4. The weaknesses with intelligence development and financial investigations (IO.6 & IO.7) and the narrow focus on self-laundering undermines effective targeting and tracing of proceeds of crime, particularly assets laundered through related criminal networks.
5. There is a legal basis to confiscate 'property of equivalent value' in circumstances where direct proceeds cannot be recovered, however this power is considered unfair by authorities and they do not use it which greatly undermines effectiveness.
6. Asset tracing, restraint and confiscation performance is limited because of resources, capacity, and capability at all stages of asset recovery.
7. Effective management of restrained and seized assets was not well demonstrated.

8. Use of tax remedies for the purposes of targeting and recovering the proceeds of crime or pursuing confiscation is not widely used by Lao PDR.
9. Lao PDR has never pursued domestically generated proceeds to a foreign jurisdiction or sought information or evidence from foreign partners to pursue assets in Lao PDR which represent proceeds of foreign offences.
10. Lao PDR's extensive cross-border smuggling risks and resource limitations of border agencies present significant challenges in combatting cash smuggling. The low volumes of declarations and detections of undeclared cash is a concern taking into account the ML risks from the cash intensive casino sector located on borders.
11. Border enforcement agencies lack risk information, intelligence and systems to support detection of cash, in particular in the highest risk areas and associated with the highest risks sectors including casino sectors.
12. There is a lack of data for agencies to monitor and improve the operation of confiscation systems, particular agency specific case data and related statistics.

### ***Recommended Actions***

#### ***Use of financial intelligence (Immediate Outcome 6)***

- A. Amend the Agreement on Organisation and Operations of AMLIO to: (1) ensure that AMLIO is not under the direct supervision-leadership of NCC, and (2) not under the ideological and political supervision-leadership of Bank of Lao PDR.
- B. Lao PDR should set policies and agency-level plans which prioritise LEAs using financial intelligence for investigations of predicates, ML and TF.
- C. Lao PDR should provide the AMLIO with additional personnel resources to cover both AMLIO's analysis and AML/CFT supervisory functions.
- D. AMLIO should prioritise operational analysis relating to key risk areas including drug trafficking, corruption, environmental crimes, and human trafficking to reflect the risk profile.
- E. Provide AMLIO with adequate systems, analytical tools and skills to more effectively respond to the operational needs of competent authorities.
- F. AMLIO should work with supervisors and REs to improve the quality and quantity of reporting of STRs and CTRs, particularly from higher risk sectors.
- G. Strengthen AMLIO's analytical capacity and capability to produce financial intelligence that is able to be actioned by LEAs. This should include improved processes to prioritise analysis of high value STRs.
- H. AMLIO should spontaneously disseminate more financial intelligence to key investigative authorities and these authorities should request financial intelligence as part of investigations into predicate offences.
- I. AMLIO should increase the scope and volume of strategic analysis to support the deployment of supervisory, policy and operational resources and activities to strengthen the resilience of the AML/CFT system to prevent and detect ML/TF.

- J. LEAs and AMLIO should significantly improve international cooperation and information sharing with counterparts in the region and beyond to enhance the use of financial intelligence in investigations of ML, TF and predicate offences, and in particular for investigations of the ML of transnational proceeds of crime.
- K. Increase the resources for LEAs for financial investigations related to predicate offences, ML, proceeds of crime and TF.
- L. AMLIO and Customs should obtain and make use of cross-border reports, prioritise cross-border offences and deepen the analysis of cash declarations.
- M. Prioritise feedback from LEAs to AMLIO on disseminated financial intelligence.

***ML investigation and prosecution (Immediate Outcome 7)***

- A. Amend the ML offence to harmonise it with the requirements reflected in the UN Conventions forming part of R.3 and the extended measures required under R.3.
- B. Prioritise and implement ML investigation policies and procedures for each LEA with a focus on key domestic and cross-border ML risks going beyond the NRA findings to include ML associated with corruption, large-scale transnational drug trafficking, human trafficking, etc.
- C. Make fundamental enhancements to LEA's ML investigation teams in their understanding of ML risk, in particular transnational crime risk (especially drugs) and corruption, and ML risks in order to better target ML investigations (see IO.1 and IO.6), as well as their financial analytical capability to support complex financial investigations. Train LEAs on investigating ML through casinos and other high risk sectors.
- D. Ensure ML investigation capacity is developed in LEAs other than the police and CND.
- E. Raise LEAs awareness of the ML offence and investigation strategies to focus on investigating the criminal organisations behind offenders and transnational aspects of crimes following the money within criminal networks.
- F. Increase the use of ML investigations beyond self-laundering and target ML associated with narcotics, corruption and environmental crimes. Improve awareness and understanding of the importance of investigating ML across all LEAs.
- G. LEAs should prioritise the targeting of third party money laundering and using ML investigations to identify and target criminal networks who benefit and profit from crime.
- H. LEAs should make greater use of AMLIO financial intelligence in the course of ML investigations.
- I. Target ML cases involving transnational elements, in particular proceeds of domestic crime laundered outside of Lao PDR. This should be supported by informal and formal international cooperation (MLA).
- J. Ensure ML trials separately consider sanctioning of ML offences in cases of self-laundering.
- K. Amend the law to address the lack of flexibility for the duration of investigations.

**Confiscation (Immediate Outcome 8)**

- A. Issue and implement prioritised national policies, and agency-level policies and procedures, to guide LEAs to trace, restrain and recover criminal assets, in particular for high risk domestic and cross-border proceeds generating crimes.
- B. Build LEAs capacity and capability to ensure they go beyond a focus on instrumentalities to trace and restrain proceeds of crime that may have been laundered, including through related criminal networks, in particular higher risk crime types.
- C. Ensure risk assessments support effective targeting and tracing of proceeds of crime by identifying sources of proceeds of crime and bulk cash smuggling, and channels for their movement. This should be informed by improved risk assessments as per IO.1.
- D. Authorities should apply relevant legislation to confiscate ‘property of equivalent value’ in circumstances where direct proceeds cannot be recovered.
- E. Increase LEA and AMLIO resources to better support tracing, restraint and confiscation, and related international cooperation, as part of asset recovery.
- F. Greatly enhance systems and resources to properly manage restrained and seized assets to maintain value.
- G. Consider the use of tax remedies for the purposes of targeting and recovering the proceeds of crime, in circumstances where it is not possible to apply the Law on AML/CFT and the Penal Code.
- H. Ensure LEAs and AMLIO increase their focus (and international cooperation) on cases of domestically generated proceeds moved to foreign jurisdictions and on assets in Lao PDR which represent proceeds of foreign offences.
- I. Share further risk information and enhance the implementation of measures to combat cash smuggling, including intelligence led targeting to support detection of cash. A particular focus should be given to addressing risks in the highest risk areas and those associated with the highest risks sectors including casino sectors located in border areas.
- J. Enhance Customs’ capacity to detect smuggled cash, including additional equipment and technology to improve the screening of cargo, mail, vehicles, and people who cross the border and fully implement the cash detection dog programme.
- K. Improve data capture processes to enable more accurate capture of confiscation performance data. This should include a repository for agency specific case data and related statistics.

128. 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.1, R.3, R.4 & R.29-32 and elements of R.2, R.8-9, R.15, R.30-31, R.34, R.37-39 and R.40.

**Immediate Outcome 6 (Financial intelligence ML/TF)**

129. AMLIO is Lao PDR’s FIU and is established within the Bank of Lao PDR under the direct supervision-leadership of the NCC, and under the ideological and political supervision-leadership of the Bank of Lao PDR (TC Annex, c.29.7). Its main roles and tasks are data collection, STR analysis, dissemination of information relating to ML and TF, and coordination with related parties both domestically and internationally. AMLIO has 13 staff responsible for analysis of STRs

and production of financial intelligence. As noted in R.20 at the TC Annex, there are fundamental deficiencies in the STR reporting regime which limits the scope and timing of reporting by REs.

130. AMLIO has powers to access financial and other information sources from domestic and international counterparts. Domestically, AMLIO can access a range of financial information from REs, including STRs, CTRs, wire transfer reports (WTRs), CDD information, and bank statements. AMLIO can also access information from relevant competent authorities such as company registration data from Enterprise Registration and Management Department; land titles data from the Department of Land; customs data from international checkpoints of the Customs Department (CBRs); immigration records from the General of Immigration Department; criminal records from departments in MoPS; and open source information, including the internet and social media. With respect to information from international counterparts, AMLIO receives information from counterpart FIUs including those of the Philippines and Thailand.

131. However, the receipt of limited information from high risk sectors (casinos, real estate, DPMS and banks), and a lack of supporting IT infrastructure and analytical tools to integrate and analyse information impede AMLIO's production of financial intelligence in terms of ML/TF detection and disruption. Despite the publication of annual typologies, the FIU's limited capability to develop strategic analysis products limits the usefulness of its financial intelligence.

#### *Use of financial intelligence and other information*

132. The use of financial intelligence and information by LEAs overall is low compared to the number of predicate offence cases and even the low numbers of STRs received. Of the five LEAs able to investigate ML, the Police makes the most use of AMLIO information for investigations. However, and despite that, the overall numbers are low each year. Other LEAs make negligible use of AMLIO disseminations.

133. AMLIO develops Financial Intelligence Reports (FIRs) for predicate offence and ML investigations, and disseminates these to all relevant investigative bodies. FIRs are disseminated both proactively and on request, however the majority are on request. Table 3.1 below shows that more than 80% of FIRs between 2017 and 2022 were disseminated to MoPS.

**Table 3.1 FIRs disseminated to investigative bodies**

Agencies	2017	2018	2019	2020	2021	2022	Total
Police, MoPS	2	23	25	19	1	3	73
Office of the Customs	0	1	2	2	0	0	5
Office of Forestry	0	2	2	1	0	0	5
Office of Anti-Corruption	0	0	2	1	0	0	3
Military Investigators	0	0	0	0	0	0	0
<b>Totals</b>	<b>2</b>	<b>26</b>	<b>31</b>	<b>23</b>	<b>1</b>	<b>3</b>	<b>86</b>

134. FIRs disseminated to relevant investigative bodies have been utilised in investigations relating to drug production and trading, fraud, forgery and use of forged documents, cheque forgery and use of counterfeit banknotes and associated ML. While these are higher risk predicate offences that align with Lao PDR's NRA, the absolute numbers are very low compared to the number of predicate offence cases. Further, considering the risk and context (see IO.1), higher risk predicate offences including corruption, environmental crimes, and human trafficking are significantly underrepresented, and there have been no STRs relating to tax predicate crimes, despite the high risk nature of those offences to ML.

135. In the period 2018-2020, some investigative authorities have increased their use of FIRs in investigations. Table 3.2 shows that in the period from 2015 to 2020 only the MoPS used FIRs to develop evidence and trace criminal proceeds related to ML and associated predicate offences.



The use of financial intelligence in investigations related to predicate crimes is limited, and not all LEAs use financial intelligence to support their investigation. Apart from information provided to LEAs upon request, Lao PDR did not demonstrate that AMLIO disseminates FIRs related to corruption, environmental crimes or human trafficking and related ML.

**Table 3.2 FIRs used by investigative authorities**

Predicate offences	2015	2016	2017	2018	2019	2020	2021	2022	Total
<b>Drug Control Police Dept. (MOPS)</b>									
Illicit Drug Trafficking	1	2	2	10	15	10	0	0	40
<b>Economic Police Dept. (MOPS)</b>									
Producing / use of illegal cheque or bonds	2	0	0	0	0	0	0	0	2
Producing / using counterfeit banknote	0	0	0	0	0	0	0	0	0
Creating / using document forgery	0	2	0	0	0	0	0	0	2
Fraud	3	3	0	6	5	4	1	3	25
<b>Totals</b>	<b>6</b>	<b>7</b>	<b>2</b>	<b>16</b>	<b>20</b>	<b>14</b>	<b>1</b>	<b>3</b>	<b>69</b>

136. Four FIRs disseminated in 2018 have been used in fraud investigations and led to three ML convictions. No financial intelligence was utilised or sought relating to TF, consistent with Lao PDR's TF risk profile.

137. Whereas MoPS used FIRs as disseminated by AMLIO as mentioned above, LEAs utilise information from other competent authorities and relevant private sector entities to create their own financial intelligence to investigate money trails and suspects. As shown in Tables 3.3 and 3.4, more than 50% of the requests for information are to the public sector.

**Table 3.3 Agencies receiving requests from investigative authorities**

AMLIO Requests for Information	2017	2018	2019	2020	Total
To the public sector	1,532	1,207	1,609	152	4,500
To the private sector	1,031	908	943	146	3,028
<b>Totals</b>	<b>2,563</b>	<b>2,115</b>	<b>2,552</b>	<b>298</b>	<b>7,528</b>

138. No figures were provided by authorities for 2021 and 2022.

**Table 3.4 LEAs' requests to the private sector**

Entities	Predicate Offences	2015	2016	2017	2018	2019	2020
<b>Police, MoPS requests</b>							
Banks	Fraud	223	230	254	219	217	32
	Illegal Asset Trading	130	180	143	185	214	35
	Producing & using counterfeit banknotes or illegal cheques or bonds	325	479	327	282	283	15
NBFI	Fraud	223	230	254	219	217	32
<b>Totals</b>		<b>901</b>	<b>1119</b>	<b>978</b>	<b>905</b>	<b>931</b>	<b>114</b>
<b>Office of Forestry, MOAF requests</b>							
Banks	Environmental Crime	87	115	20	0	6	19
NBFI		87	105	20	0	6	0
<b>Totals</b>		<b>174</b>	<b>220</b>	<b>40</b>	<b>0</b>	<b>12</b>	<b>19</b>
<b>Office of Customs, MOF requests</b>							
Banks	Violation of Customs Regulation	12	4	1	0	0	2
NBFI		11	0	0	0	0	0
<b>Totals</b>		<b>23</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>

Office of Anti-corruption State Inspection Organisation request							
Banks	Bribed and Bribery	2	0	6	1	0	5
	State Embezzlement	0	1	0	1	0	1
NBFi	Bribed and Bribery	2	0	6	0	0	5
	State Embezzlement	0	1	0	1	0	0
<b>Totals</b>		<b>4</b>	<b>2</b>	<b>12</b>	<b>3</b>	<b>0</b>	<b>11</b>

139. No figures were provided by authorities for 2021 and 2022.

#### *Reports received and requested by competent authorities*

140. Five key investigative authorities can access some AMLIO information: Police Investigators, MoPS; Military Investigators, Ministry of National Defence; Investigation Office of Customs, MOF; Investigation Office of Forestry, MOAF; and the Investigation Office of Anti-corruption, State Audit Organisation. Information is shared through formal and informal channels, including AMLIO's online data sharing system and through ad-hoc investigation team meetings. This includes information from REs and FIRs disseminated by AMLIO.

141. Investigative authorities mainly require information from AMLIO for details of financial transactions and routing maps of individuals' financial transactions in order to have sufficient grounds to open cases. However, only MoPS provides feedback on FIRs received from AMLIO. Non-reporting, under-reporting, and incomplete reporting including delayed reporting of STRs and other information limits the quality of AMLIO's disseminations. These issues are known and AMLIO aims to introduce mechanisms to improve the quality of its analysis such as follow up feedback on FIRs in meetings and via informal cooperation.

**Table 3.5 Reports Received by AMLIO**

Reports received	2017	2018	2019	2020	2021	2022	Total
STRs	191	293	403	316	334	202	1,739
CTRs	462,383	357,269	367,661	382,026	445,913	571,000	2,586,252
CBRs		26		19	8	10	63

142. All REs are required to report STRs to AMLIO, however only commercial banks and leasing companies have submitted STRs, with more than 95% coming from commercial banks and the remainder from leasing companies. The numbers of STRs filed is very low. The average number of STRs filed in 2017-2022 was approximately 300 per annum. This does not align with the risk profile in Lao PDR. High risk sectors such as casinos, real estate, and DPMS have not submitted any reports.<sup>85</sup>

143. There are significant issues with the quality of STRs received. On average, more than 45% of STRs received from 2017-2021 from commercial banks submitted to AMLIO were incomplete. AMLIO indicates that it continuously provides feedback to REs to seek correct and complete information including in quarterly meetings with REs, however this does not appear to be resulting in improvement in the quality of STR reporting. There is a need for more detailed guidance, targeted private sector training and support, including risk information, to enable more effective detection and reporting of suspicious activity (see IO.3 & IO.4).

144. FIs submit CTRs for transactions over LAK 100,000,000 (approx. USD 6,129) to AMLIO each month with an average of 450,000 CTRs per annum for 2017-2022. AMLIO receives CTRs from commercial banks, insurance companies, microfinance institutions and leasing companies, with more than 99% of CTRs coming from commercial banks. In practice, AMLIO examines the

<sup>85</sup> Following the on-site visit casinos commenced reporting and have submitted five STRs to AMLIO.

information in CTRs and requests further information from REs if AMLIO detects CTRs with incomplete information.

145. Regarding wire transfer reports (WTRs), REs are required to maintain wire transfer information and submit WTRs to AMLIO upon request. AMLIO did not demonstrate that supervision confirms if WTRs are maintained by REs or WTRs have been requested from AMLIO, AMLIO mentioned that WTRs are used in every in-depth analysis, but this was not demonstrated in practice.

146. Customs Officers at Lao PDR's border checkpoints are required to submit CBRs related to inbound and outbound passengers carrying cash, precious metal, and negotiable financial instruments with the amount equivalent to LAK 100,000,000 (approx. USD 6,129) or above (IO.8) to AMLIO. Since 2019, CBRs have been submitted to AMLIO online. However, the number of CBRs provided is not clear and statistics provided related only to a single border crossing. AMLIO stated that CBRs are used in its analysis but this was not demonstrated in practice.

#### *Operational needs supported by FIU analysis and dissemination*

147. AMLIO provides information upon request and disseminates ML/TF information spontaneously in limited circumstances. Regarding FIU analysis, AMLIO conducts tactical analysis and operational analysis to support individual investigations undertaken by investigative authorities. All STRs received undergo preliminary analysis. If the results of this analysis indicate that there are suspicious acts that may violate the laws on AML/CFT (or other laws) such STRs will be subjected to further in depth analysis. If there are reasonable grounds for believing that an STR is related to ML/TF, AMLIO will file and disseminate that STR to relevant investigation agencies for further investigation. However, there are serious limitations on the numbers and quality of STRs received. The low numbers and (generally) inferior quality of STRs received from REs adversely affects AMLIO's ability to produce quality financial intelligence products.

**Table 3.6: Financial Analysis from STRs**

Stage of analysis	2018	2019	2020	2021	2022	Total
STRs received	293	403	316	334	202	1,548
Preliminary analysis (all STRs received)	293	403	316	300	173	1,485
In-depth analysis	59	20	0	34	29	142
FIR	26	31	23	1	3	84

148. AMLIO's preliminary analysis reviews STRs for indicators including but not limited to; high-volume transactions, unknown source of funds, and inconsistency between the business's size and fund movement. While the statistics confirm that preliminary analysis is done on every STR received, AMLIO's process to prioritise analysis is not clear. In-depth analysis occurs if AMLIO finds that the STRs aligns with the aforementioned indicators but AMLIO did not clearly describe these indicators in any detail. In the period 2017 to 2022, AMLIO responded to every LEA request.

149. The statistics in Table 3.7 show that more than 90% of information provided in response to a request is to MoPS. This reflects MoPS lead role in investigations.

**Table 3.7 Information provided by AMLIO in response to a request**

Agencies	2018	2019	2020	2021	2022	Total
Police, MoPS	19	24	67	85	181	376
Office of the Customs	0	1	2	0	7	10
Office of Forestry	2	1	0	0	0	3
Office of Anti-corruption	0	0	1	0	0	1
Military Investigators	1	0	0	0	0	1
<b>Totals</b>	<b>22</b>	<b>26</b>	<b>70</b>	<b>85</b>	<b>188</b>	<b>391</b>

150. AMLIO lacks supporting IT infrastructure and analytical tools to integrate and analyse information. Consistent with AMLIO's own findings,<sup>86</sup> this impedes effective financial analysis to detect and disrupt ML/TF. AMLIO would benefit from tools that enable it to more effectively respond to the operational needs of competent authorities.

151. AMLIO's strategic analysis of suspicious or illegal activities of individuals and legal entities emerging from STRs are used to develop annual ML/TF typologies. Typologies in the period from 2019 to 2021 involve high-value internal transfers without sufficient reason, complicated transfers, transactions related to money exchange, use of personal accounts for doing business, unknown source of funds, cash withdrawal by ATM card or (debit card) in a foreign country, and cash withdrawal by ATM card via POS in Lao PDR. Analysis found that high-value internal transfers without sufficient reason, transactions related to money exchange, and use of personal accounts for doing business are continuing trends. These typologies are spontaneously disseminated annually to competent authorities such as relevant investigative authorities and BOL's Monetary Policy Department. Regarding an electronic notification from Myanmar's FIU on 12 May 2020, AMLIO disseminated official letters on 17 June 2020 to MOF and MoPS to inform them about measures issued by the Central Committee to Counter Terrorism of Myanmar and the identification of five terrorists from the state's armed forces (United League of Arakan/Arakan Army Armed Group). While AMLIO required MOF to inspect and surveil individuals or legal persons, money, fund, or assets related to those identified in the list that may come through Lao PDR, AMLIO needed MoPS to use the notification as reference information in monitoring as considered necessary.

152. Despite the above, AMLIO did not demonstrate capability or capacity to develop strategic analysis products from information received. Strategic intelligence is important in the context of Lao PDR as it would support the deployment of resources across the system to ensure that they have the greatest impact. Financial intelligence did not appear to be used to support the wider activities of other parts of the system including supervisor activities, policy development or strategic operational deployment. AMLIO's strategic analysis does not focus on proactive issues and trends such as cross-border and transnational crime. Additionally, AMLIO does not provide spontaneous dissemination on a continuous basis to key counterparts aligned with risk.

### *Cooperation and exchange of information/financial intelligence*

153. AMLIO is the central AML/CFT coordinator which exchanges information and intelligence among competent authorities and the private sector. Lao PDR's business registry is online and AMLIO has direct access to this information. In 2020, AMLIO initiated information sharing of beneficial owner information, financial information and financial intelligence with 13 competent authorities including regulators via a secure web-based online 'Data sharing system.'<sup>87</sup>

<sup>86</sup> Strategic Report 2021, p. 13.

<sup>87</sup> A further three agencies joined the Data Sharing system following the onsite visit: Hadxayfong District Police Force (28 September 2022), the Customs Department (4 November 2022), and Naxaythong District Police Force (13 March 2023).

AMLIO reported using the system to share information more than 200 times in 2020 with a total of 411 exchanges.

154. AMLIO has 17 MOU arrangements with domestic counterparts including the Economic Police Department, Customs Department and Anti-Corruption Department. Other mechanisms for cooperation and exchange of information/financial intelligence are implemented under the Decree on Entrust with other key investigative bodies without MOU arrangements.

155. To deal with complex cases, investigative authorities established ad-hoc investigation teams comprising relevant technical agencies including AMLIO. Lao PDR advised that financial intelligence and other information was used by ad-hoc investigation teams in fraud investigations and led to three ML case convictions.

**Table 3.8 Information sharing between AMLIO and investigative authorities**

Outgoing / Incoming Requests	2017	2018	2019	2020	2021	2022	Total
<b><i>Under an MOU</i></b>	10	14	15	72	80	166	357
Outgoing requests	9	12	10	3	23	17	74
Incoming requests	1	2	5	69	57	149	283
<b><i>Without an MOU</i></b>	10	17	32	28	39	44	170
Outgoing requests	4	3	17	6	11	12	53
Incoming requests	6	14	15	22	28	32	117
<b>Totals</b>	<b>20</b>	<b>31</b>	<b>47</b>	<b>100</b>	<b>119</b>	<b>210</b>	<b>527</b>

156. Dissemination of AMLIO's financial intelligence contain a caveat that protects and restricts further sharing to third parties without obtaining permission from AMLIO. Forms for requesting, reporting, or providing information require signatures of authorised persons from both parties, and are submitted either in writing or electronically. Additionally, there are physical systems and processes in place for the security of information within AMLIO. A fingerprint scanner restricts entry to the Analysis Division room and access by other staff or access outside of office hours requires approval from AMLIO's Director General or the Chief of the Analysis Division. The use or installation of devices in the analysis division room also requires approval from AMLIO's Director General. AMLIO staff are also required to store information carefully in a secure location, and save all records.

157. Although various mechanisms for cooperation and exchange of information/financial intelligence exist, there is a gap in coordination and cooperation between the AMLIO and investigative authorities, as most disseminations are on request, and AMLIO receives limited feedback. Beyond information sharing with investigative authorities, AMLIO shares FIRs with supervisors/regulators, and other partners shown in Table 3.9.

**Table 3.9: Information sharing between AMLIO and competent authorities.**

Agencies	Issues	2018	2019	2020	2021	2022	Totals
Commercial Bank or financial institution Supervision Department, BOL	Criminal history for fit and proper checks	0	1	19	38	107	165
Monetary Policy Department, BOL	Currency exchange	1	1	1	2	0	5
Currency Issuing Department, BOL	counterfeit banknote	6	4	5	0	0	15
Payment System Department, BOL	Exploitation of the bank's products	1	1	1	2	0	5
	Crypto currency	1	1	1	2	0	5

Banking Operation Department, BOL	Financial transaction, Other relevant information	1	0	0	0	0	1
Forestry Department, Ministry of Agriculture and Forestry		1	0	0	0	0	1
Lao National Chamber of Commerce and Industry, Ministry of industry and Commerce		1	0	0	0	0	1
Metropolitan Rescue Association, Ministry of Home Affairs		1	0	0	0	0	1
<b>Totals</b>		<b>13</b>	<b>8</b>	<b>27</b>	<b>44</b>	<b>107</b>	<b>199</b>

158. AMILO has MOUs with foreign FIU counterparts, including the Philippines, Thailand, China, Indonesia, Cambodia, Vietnam, South Korea, and Myanmar to exchange information/financial intelligence, which align with Lao PDR's risk profile. Confidentiality and security of information are required by the MOUs. AMLIO received 20 incoming requests in the period 2016 – 2021, 75% of which were from Thailand. AMLIO made nine outgoing requests, eight of which were to Thailand. However, AMLIO would benefit greatly from making many more requests to foreign counterparts and engaging more comprehensively with countries that pose a higher level of ML/TF risk.

#### *Overall conclusion on Immediate Outcome 6*

159. AMLIO collects and analyses various reports, but the range, number and quality of STRs reported is low and non-existent for some high risk sectors. As such it does not provide a strong foundation for the development of financial intelligence. LEAs do not prioritise the use of financial intelligence for investigations of predicates, ML and TF. Many LEAs do not integrate financial intelligence with investigations. AMLIO disseminations are not regularly used to initiate or to support predicate offence investigations. The key investigative bodies can access some AMLIO information including on request but do not regularly do so. Most AMLIO disseminations are upon request, however, the quantum and scope of FIU products disseminated to LEAs do not reflect Lao PDR's risk profile.

160. AMLIO's financial analysis of STRs and other reports reflects weaknesses with its analytical processes, ability to 'value-add' through incorporating information from other government data sets, and awareness of law enforcement methodologies. AMLIO has channels to share information with key competent authorities and the private sector, including online reporting, a data sharing system, ad-hoc investigation teams, and MOUs with some domestic and foreign agencies. There has been no financial intelligence produced or sought related to TF which is commensurate with the risk profile.

161. **Lao PDR has a low level of effectiveness for IO.6.**

***Immediate Outcome 7 (ML investigation and prosecution)***

162. As noted in the TC Annex at R.3, there are significant deficiencies in the ML offences provided in two laws: the Law on AML/CFT and in the Penal Code. These issues seem to impact the effectiveness of Lao PDR's ML law for the purpose of IO.7.

***ML identification and investigation***

163. LEAs designated in Lao PDR to investigate predicate offences which include all criminal offences leading to and including ML in order to further the prosecution of ML/TF cases comprise the Police Investigators (police department is a subsector in MoPS), the Military Investigators (Ministry of National Defence), the Investigation Office of Customs (MOF), the Investigation Office of Forestry (Ministry of Agriculture and Forestry), the Investigation Office of Anti-Corruption (State Audit Organisation). Those designated LEAs have the rights and duties of investigation and interrogation in the case of ML and TF (R.30).

164. ML investigations are conducted almost exclusively by police. ML investigations by Police Investigators are conducted by five specialised areas under the General Police Department within the MoPS: Criminal Investigation Department (CID); Counter Narcotics Department (CND); Human Trafficking Department; Environment Crime Department; and Economic Police Department (EPD). Since its last MER, investigative authorities have built further capacity to enhance understanding and use of financial investigations techniques in parallel with predicate offence investigations. The most common ground for initiating ML investigations is from the receipt of a complaint, a confession, or information indicating traces of ML from an investigation of another criminal offence.

165. LEAs receive FIRs and intelligence disseminations from AMLIO. There have been some instances of successful investigations stemming from AMLIO FIRs (see Case Study 7.1), however these are rarely used to initiate investigations due to the inadequacy of information or analysis contained in these reports. The lack of reliance on AMLIO information and financial intelligence more broadly is hampering the effective identification and investigation of ML cases by LEAs.

166. Table 3.10 shows the number of ML investigations, prosecutions and convictions. It is not clear whether these figures account for the number of 'cases' or the number of 'persons' investigated/prosecuted/convicted. It is also unclear whether the figures include the investigation/prosecution/conviction of foreign offenders. Lao authorities did not clarify this issue.

**Table 3.10: ML investigations, prosecutions and convictions**

Year	ML investigations	ML prosecutions	ML convictions
2018	1	1	1
2019	3	3	3
2020	13	8	8
2021	22	6	6
2022	22	11	11
<b>Totals</b>	<b>61</b>	<b>29</b>	<b>29</b>

167. Despite a number of requests, Lao PDR did not provide further and relevant information in relation to this table, including: how many of the investigations, prosecutions and convictions (separately) involved high risk predicate offences (and which ones); how many, if any, investigations, charges and convictions involved foreign nationals; and how many changes were consolidated in any given case.

168. The low number of ML investigations is attributable to capability of investigators; the absence of dedicated financial analytical support for investigators; and the lack of capacity to undertake proactive investigations into criminal enterprises and the occurrence of transnational ML. This is compounded with Lao PDR's risk assessment that it has only a 'small' domestic drug market.

169. For complex ML cases involving multiple charges, LEAs will conduct joint investigations using multi-agency, 'ad-hoc investigation teams'. This has occurred on a small number of occasions (see Case Study 7.1) and allows for a more diverse skill-set to be utilised, including the experience within the Counter Narcotics Department (CND), financial analysis skills of AMLIO and legal expertise of prosecutors. The use of multi-agency teams has been beneficial in reducing the timeframes for obtaining information from other agencies (e.g. such as vehicle and real estate registration information) through spontaneous information sharing within the team. ML investigations by these teams have chiefly related to proceeds from primarily drug trafficking cases and to a lesser extent fraud cases.

170. These joint agency teams have conducted 15 cases in the period 2020 – 2022 relating to fraud and illegal currency exchange. There were three ML investigations conducted by the joint agency teams, but none have been referred to prosecutors. Lao PDR did not demonstrate that the joint agency teams were able to investigate 3rd party ML cases or complex ML schemes.

171. In relation to single-agency investigations, the CND within the General Police Department of the MoPS is the most experienced ML investigation team. The CND financial investigations have been conducted in parallel with the narcotics. The CND referred 18 ML cases related to narcotics production and trafficking to the prosecutors between 2020 and 2022. Of these, 14 cases resulted in convictions. See table 3.11 below.

172. CND conducts financial investigations as part of its investigation into predicate offences. However, the number of its ML investigations is significantly lower than the number of investigations of predicate offences. CND teams did not demonstrate experience or capacity of investigating 3rd party ML cases or complex ML schemes.

173. LEAs lack sufficient awareness of ML risk, the ML offence and investigation strategies do not focus on investigating the criminal organisations behind the offenders, as well as the transnational aspects of crimes by following the money within criminal networks. This points to fundamental weaknesses in the assessment of transnational crime risk (especially drugs) and corruption, and ML risks (outlined in IO.1).

174. During the on-site visit LEAs explained that most cases of narcotic trafficking do not generate proceeds of crime in Lao PDR because cases of trafficking are organised by criminal organisations outside Lao PDR and the proceeds of crime are accumulated externally. LEAs also maintain that Lao PDR is used only as a 'transit country' and that so-called 'mules' are predominately low-income Lao PDR citizens residing in rural areas who are hired to smuggle narcotics for low profit. LEAs do not consider that the low volume of proceeds of crime in these circumstances warrant committing resources to conduct ML investigations. However, this explanation does not capture the entire narcotics trafficking modus operandi, and minimises the fact that criminal organisations within Lao PDR are involved in the recruitment of mules and the oversight of the trafficking operation within Lao PDR. Furthermore, this approach ignores the fact that Lao PDR faces challenges of drug-use by its citizens within the country and the participation of criminal organisations in narcotics trafficking. This view is supported by credible assessments by UN agencies that highlight extremely large-scale narcotics production and trafficking in and through the golden triangle region of Lao PDR.



175. The Economic Police Department (EPD) has referred 29 ML cases to prosecutors between 2020 and 2022 related to fraud, five of which resulted in convictions. ML investigations conducted by other LEAs concerning other predicate offences have been limited (see table 3.11 below). Financial investigations by EPD have been conducted in parallel with narcotics investigations. But EPD teams do not have the experience or capacity to investigate 3rd party ML or complex ML schemes.

176. The regularity of the conduct of financial investigations by other LEAs remains unclear. The absence of financial investigations and ML cases related to corruption and environmental crimes are particularly notable given the high risks of these crime types in Lao PDR.

177. LEAs advised that the law provides for the use of special investigative measures such as controlled delivery, interception of communication and under-cover investigations, however, as outlined in R.31, there is no clear legal basis for these powers. And the extent to which these investigative methods, if used, is unclear.

178. Pursuant to the law, a time limit is imposed on the duration of the investigation period: two months, with a possible extension of up to one year for complex cases. While the reason for these time limits was stated, ostensibly, to encourage LEAs to conduct investigations expeditiously, authorities themselves noted that these time limits present challenges to successful investigations, in particular, for cases that require evidence or information from other jurisdictions.

#### **Case study 7.1:**

In 2016 the Economic Police received a FIR from AMLIO, as well as complaints from the public regarding the owners of a limited company (abbreviated as 'PS' for this summary). PS was licensed to conduct business in agriculture, forestry, fisheries, industry and processing, trade and retail.

The investigation was conducted by an ad-hoc committee, comprising the BOL, AMLIO, MoIC, MoPS, MoF, MoJ, MoFA, Prosecutor's Office, and Governor of Vientiane. Without approvals, PS essentially operated a pyramid scheme by promising high interest rates including additional returns for referrals from new investors. 33,238 customers invested in the scheme, which raised 938 billion LAK (approx. USD 57.49M). The funds were used to build offices and factories and buy boats, land, gold, personal and company cards, pay salaries to employees and pay interest payments to customers. Once the interest payments became due, the company could not pay back the interest.

12 defendants, all employees of PS, were convicted in November 2018 of fraud of citizens' property and were sentenced to varying lengths of imprisonment and fines. Three of the 12 defendants (the two owners and the vice-president) were also convicted of money laundering, with two sentenced for 15 years imprisonment and fined ~2.85 billion LAK (approx. USD 174,682), with the third sentenced to 12 years and three months and fined 704 million LAK (approx. USD 43,150). Both sanctions were for fraud and ML combined.

#### *Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies*

179. Authorities indicated that investigations and prosecutions of predicate offences and ML are generally intended to follow the risks identified in the NRA. However, this approach is impacted by Lao PDR's incomplete understanding of its own crime-type risks (see IO.1), in particular in relation to tax offences, corruption, environmental crimes, cash smuggling and human trafficking. The focus, scope and number of ML cases pursued by Lao PDR authorities does not reflect Lao PDR's risk profile. LEAs have undertaken some predicate investigations of profit-generating crime; however this is not translating into corresponding ML investigations and prosecutions. The highest number of predicate investigations are for narcotics production and trafficking, followed by fraud and theft. Given the prominence of these crime-types and other

profit-generating crimes, such as tax offences, it is concerning that a wider range of predicate offences are not investigated and the number of ML investigations is low.

180. ML investigations and prosecutions do not reflect the serious risks of transnational crime that Lao PDR faces. No ML investigations have been undertaken involving laundering proceeds of foreign offences or the movement of domestic proceeds outside of Lao PDR. Investigation authorities have not used the legal framework to obtain foreign evidence through MLA to support domestic ML investigations and prosecutions. Efforts have largely focused on domestic cases rather than ML investigation with transnational dimensions.

181. Prosecutors and LEAs demonstrated expertise and experience of ML prosecutions relating to self-laundering and trials being conducted covering both the predicate offences and related ML. Lao PDR did not demonstrate the production of complex briefs of evidence for ML prosecutions.

182. A reasonable number of ML cases that resulted in convictions in the court of first instance have been subject to appeal. From 2018 to 2020, the People's Court received 15 appeals of ML cases and in all cases the original judgements and guilty verdicts were upheld.

183. The casino sector was identified as very high risk in the NRA and LEAs did not demonstrate any capability to undertake ML investigation within this high-risk cash intensive sector. This is a vulnerability given the risk this sector presents to the laundering of foreign illicit income by offenders, third parties and the casino itself (the legal person).

184. Lao PDR's AML/CFT National Strategic Plan 2021-2030 sets out Lao PDR's focus on drug trafficking and other crimes, along with ML, which align with the ML investigations conducted by Lao PDR to date.

#### *Types of ML cases pursued*

185. Lao PDR has conducted a low number of ML investigations considering the significant risks faced in relation to tax offences, drug production and trafficking, and corruption. All ML cases have been for self-laundering. No ML cases have related to ML involving tax offences. And no ML cases involve foreign predicate offences, third-party laundering or stand-alone ML. This is a significant gap especially given high risks relating to transnational organised crime groups in narcotics, human trafficking and environmental crime types in the golden triangle and other parts of Lao PDR.

186. Lao PDR has not utilised international cooperation in its ML investigations, also a significant deficiency with regards to foreign predicate offences and funds laundered outside of Lao PDR.

Table 3.11: ML investigations and prosecutions and their predicate offences and values of proceeds

Categories of predicate offences	Predicate cases	ML investigations	ML prosecutions and convictions	Value of proceeds laundered (where known)
<b>2018</b>				
Producing and Trading of Narcotics	2101	unknown	unknown	unknown
Environmental crime	31	unknown	unknown	unknown
Robbery	465	unknown	unknown	unknown
Producing & using counterfeit banknotes	10	unknown	unknown	unknown
Fraud	211	1	1	unknown
<b>2019</b>				
Producing and Trading of Narcotics	2474	3	3	unknown
Environmental crime	6	unknown	unknown	unknown
Robbery	680	unknown	unknown	unknown
Producing & using counterfeit banknotes	2	unknown	unknown	unknown
Document forgery	29	unknown	unknown	unknown
Fraud	219	unknown	unknown	unknown
<b>2020 (USD at 1 July 2020)</b>				
Producing and Trading of Narcotics	2,115	7	5	LAK 2,223,000,000 (approx. USD 240,910);
Counterfeit cheque or bond	13	unknown	unknown	unknown
Environmental crime	30	unknown	unknown	unknown
Robbery	598	2	2	LAK303,000,000 (approx. USD32,837)
Producing & using counterfeit banknotes	2	unknown	unknown	unknown
Fraud	122	4	1	LAK 3.722,000,000 (approx. USD 403,359)
<b>2021 (USD at 1 July 2021)</b>				
Producing and Trading of Narcotics	unknown	4	4	LAK 54,255,315,000 (approx. USD 5.65M); USD 300; CNY 60.019 (approx. USD 9290); THB 752.480 (approx. USD 23,254)
Counterfeit cheque or bond	unknown	1	0	unknown
Environmental crime	unknown	unknown	unknown	unknown
Robbery	unknown	1	1	LAK 1.950.000 (approx. USD 203)
Producing & using counterfeit banknotes	unknown	1	0	unknown
Fraud	unknown	15	1	unknown
<b>2022 USD at 1 July 2022</b>				

Categories of predicate offences	Predicate cases	ML investigations	ML prosecutions and convictions	Value of proceeds laundered (where known)
Producing and Trading of Narcotics	unknown	7	5	LAK 2,223,000,000 (approx. USD 240,910);
Counterfeit cheque or bond	unknown	1	unknown	unknown
Environmental crime	unknown	unknown	unknown	unknown
Robbery	unknown	2	2	LAK12,000,000 (approx. USD787)
Producing & utilization of document for forgery	unknown	1	1	unknown
Producing & using counterfeit banknotes	unknown	unknown	unknown	unknown
Fraud	unknown	10	3	LAK 12.000.000 (approx. USD 787)
<b>Totals</b>		<b>34</b>	<b>25</b>	

*Effectiveness, proportionality and dissuasiveness of sanctions*

187. The shortcomings in c.3.9 (TC Annex) affect Lao PDR's ability to apply effective sanctions against legal persons because the quantum of fines for natural persons is the basis of fines for legal persons. These sanctions are not at the level that would deter legal persons (in particular, foreign/international legal persons) from engaging in lucrative ML activities and, as such, they not dissuasive. Sanctions have been applied against natural persons but not against legal persons.

188. All ML cases prosecuted were for self-laundering. Punishment for multiple offences on conviction (e.g. punishment for predicate offences and self-laundering associated with them) are rendered in a single sentence by the court. Sentencing decisions are not broken down between the predicate offence sentence and the ML offence sentence. While this is common in most countries, Lao PDR does not have sentencing guidelines or resource materials (such as data on sentences rendered in previous cases) for prosecutors and judges to guide how punishment is allocated when multiple convictions are entered. The courts appear to apply cumulative sentences in some cases.

189. As set out in table 3.12 below, in a number of instances the combined sentences for the predicate convictions and ML convictions exceed the maximum penalty available for ML. Lao PDR was unable to demonstrate effective sanctioning in ML cases.

**Table 3.12: Statistics on ML Offence Sanctions (all cases include convictions for underlying ML offences)**

Offence	Offenders	Fine Value (USD at 23 September 2022)	Sentence
Fraud & ML	2	LAK 810,000,000 (approx. USD 49,646) <b>each</b>	15 years each
Fraud	1	LAK 15,000,000 (approx. USD 920) and USD 423,879	10 years
Fraud	2	<b>defendant 1</b> LAK600,459,000 (approx. USD 36,803) <b>defendant 2</b> LAK 52,000,000 (approx. USD 3,187) and 3% of LAK 1,534,504,000 (approx. USD 2,822)	<b>defendant 1</b> = 8 years <b>defendant 2</b> = 4.5 years
Trading of Narcotic	1	LAK 7,000,000 (approx. USD 430) and 3% of LAK 3,415,703,498 (approx. USD 6,280)	7 years
Trading of Narcotic	1	LAK 500,000,000 (approx. USD 30,646)	18 years
Trading of Narcotic	2	<b>defendant 2</b> fined of LAK 300,000,000 (approx. USD 18,387)	<b>defendant 1</b> death penalty <b>defendant 2</b> 15 years
Trading of Narcotic	10	<b>defendant 3</b> fined of LAK 600,000,000 (approx. USD 36,775) <b>defendant 9</b> fined of LAK 601,000,000 (approx. USD 36,837) <b>defendant 10</b> fined of LAK 522,000,000 (approx. USD 31,995)	<b>defendant 1, 2, 4, 5, 6, 7, 8</b> death penalty <b>defendant 3</b> = 20 years, <b>defendant 9</b> = 19 years <b>defendant 10</b> = 13 years
Trading of Narcotic	1		Death penalty
Trading of Narcotic	1	LAK 510,000,000 (approx. USD 31,260)	7 years
Fraud and ML	4	<b>defendant 1</b> fined of LAK 1,856,000,000 (approx. USD 113,758) and 3% of LAK 1,000,412,000,000 (approx. USD 1,839,518); <b>defendant 2</b> fined of LAK 1,846,000,000 (approx. USD 113,145) and 3% of LAK 1,000,412,000,000 (approx. USD 1,839,518);	<b>defendant 1 and 2</b> = 10 years <b>defendant 3</b> = 8 years and 3 months <b>defendant 4</b> = 7 years and 3 months

Offence	Offenders	Fine Value (USD at 23 September 2022)	Sentence
		<b>defendant 3</b> fined of LAK 6,000,000 (approx. USD 368) and 3% of LAK 1,000,412,000,000 (approx. USD 1,839,518); and <b>defendant 4</b> fined of LAK and LAK 4,000,000 (approx. USD 245) and 3% of LAK 1,000,412,000,000 (approx. USD 1,839,518)	
Trading of Narcotic	1	LAK700,000,000 (approx. USD 42,904)	7 years
Trading of Narcotic & Arms	1	LAK 500,000,000 (approx. USD 30,646)	Life sentence
Robbery	1	LAK 301,000,000 (approx. USD 18,449)	3 years and 3 months
Robbery	1	LAK 303,000,000 (approx. USD 18,572)	3 years and 9 months

### *Use of alternative measures*

190. Lao PDR does not use other criminal justice measures in cases where a ML investigation has been pursued but where it was not possible, for justifiable reasons, to secure a ML conviction.

### *Overall conclusion on Immediate Outcome 7*

191. ML investigations have exclusively focused on self-laundering and have not been sufficiently prioritised in line with the identified crime-type risks. LEAs lack sufficient awareness of the ML offence and investigation strategies do not focus on investigating the criminal organisations behind the offenders, as well as the transnational aspects of crimes by following the money within criminal networks. These points reflect fundamental weaknesses in the assessment of transnational crime risk (especially drugs) and corruption and ML risks. Some ML investigations are conducted as part of joint agency teams, which support strong inter-agency cooperation in those matters Prosecution of the relatively few ML offences have been successful. Lao PDR was not able to demonstrate the effective sanctioning of ML cases as all cases were tried and sentenced with the predicate offences and sanctions could not be disaggregated.

192. **Lao PDR has a low level of effectiveness for IO.7.**

### *Immediate Outcome 8 (Confiscation)*

#### *Confiscation, instrumentalities and property of equivalent value*

193. A legal framework provides authorities with an ability to seize or freeze property pending conviction. Upon conviction, confiscation and disposal of particular property and related instruments can occur. These confiscations are considered part of the overall sentencing outcome.

194. Lao PDR has statutory power to seize and confiscate property of equivalent value but authorities have not used this power on the grounds of ‘unfairness.’ This seriously undermines Lao PDR’s legal framework to mitigate ML and TF risk by pursuing equivalent value proceeds (TC Annex, R.4).

195. Lao PDR has not developed a national policy or strategy to pursue and confiscate proceeds of crime. The AML/CFT Strategy 2021-2030 is silent on any strategic intent to target, pursue and confiscate illicit wealth.

196. There are fundamental gaps at operational levels within the relevant agencies with an absence of policies and procedures that encourage investigative to trace and recover proceeds of crime. LEAs do not have SOPs that require investigators to consider possible restraint and confiscation actions in when undertaking investigations. This hampers recovery efforts. The capacity and capability of competent authorities to trace, freeze, seize and confiscate proceeds and instruments of crime, has resulted in less confiscation action than would be expected in line with Lao PDR’s risk profile, especially in terms of high income generating predicate crimes.

#### *Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad*

**Table 3.13 Proceeds and instruments restrained and confiscated**

Amounts in USD	2018-2019	2019-2020	2020-2021	2021-2022	Total
Proceeds restrained (frozen or seized pending confiscation)	Approx. USD 3,188,691	USD 4,185,765	unknown	unknown	Approx. USD 7,374,456
Proceeds confiscated	0	0	unknown	unknown	0
Instruments seized	0	0	unknown	unknown	0
Instruments confiscated	0	0	unknown	unknown	0

197. Lao PDR did not provide figures on proceeds and instruments restrained and confiscated for 2021 and 2022.

198. Most forfeitures that occur in Lao PDR relate to instruments used in the facilitation of crime. Agencies often face challenges in the identification of proceeds from high threat predicate crimes such as drug trafficking and believe much of the ‘accrued illicit income’ derived from narcotics crime is removed from Lao PDR to nearby jurisdictions. Lao PDR is yet to recover proceeds that have been moved to any foreign jurisdiction using a mutual legal assistance (MLA) process, or any other means. Lao PDR has never domestically pursued proceeds generated through foreign predicate offending, nor has it sought to enforce a foreign generated confiscation order; therefore, Lao PDR has not repatriated foreign generated proceeds back to another jurisdiction.

199. Although Lao PDR has a legal framework to trace assets, authorities reported that often establishing effective control and beneficial ownership of assets can be challenging. Authorities

indicated that criminals are suspected to use third parties and nominees to disguise and conceal their ownership and interests in property to avoid its detection and recovery (see IO.5).

200. Table 3.14 below provides a breakdown of confiscation data according to the six crime types that Lao PDR authorities have reported to have resulted in the highest values in asset restraint and confiscation. The data shows that in the period 2017 – 2020 Lao PDR recorded nearly 11,000 cases across these six categories of predicate offences which resulted in assets being restrained or confiscated. In relation to these same cases a total equivalent of approx. USD 11.55M equivalent was restrained. In total for those same cases a total of approx. USD 10.7M equivalent was confiscated. These are very low figures when taking into account Lao PDR's risk and context and the extremely profitable nature of transnational offences taking place in Lao PDR.

**Table 3.14 Breakdown of confiscation data by crime type**

	2017 <sup>88</sup>	2018 <sup>89</sup>	2019 <sup>90</sup>	2020 <sup>91</sup>	2021	2022	Total
<b>Narcotics</b>							
Cases	2404	2101	2747	unknown	unknown	unknown	7,252
Proceeds restrained	LAK 588.3m THB 1.8m (approx. USD 123,981)	LAK 185.5m THB 17,560 (approx. USD 22,532)	LAK 283.2m THB 7,375 (approx. USD 32,385)	unknown	unknown	unknown	approx. USD 178,898
Proceeds confiscated	LAK 572.3m THB 1.1m (approx. USD 99,242)	LAK 162.4m THB 15,430 (approx. USD 19,716)	LAK 283.2m THB 7,375 (approx. USD 32,385)	unknown	unknown	unknown	approx. USD 151,343
<b>Robbery &amp; Pillage</b>							
Cases	802	514	695	616	unknown	unknown	2627
Proceeds restrained	LAK 3.43b THB 1.9m USD 58,500 VND 2.0m (USD 524,205)	LAK 951.1m RMB 92,000 THB 1.2m USD 1,350 (USD 163,107)	LAK 763.0m RMB 2,150 THB 1.0m (approx. USD 119,360)	unknown	unknown	unknown	approx. USD 806,672
Proceeds confiscated	LAK 2.13b THB 1.5m USD 55,600 VND 1.0m	LAK 906.6m RMB 85,000 THB 0.9m USD 580 (approx. USD 29,823)	LAK 713.1m RMB 1,760 THB 77,000	LAK 36.5m THB 21,000 (approx. USD 4,636)	unknown	unknown	approx. USD 541,523

<sup>88</sup> USD as at 1 July 2017

<sup>89</sup> USD as at 1 July 2018

<sup>90</sup> USD as at 1 July 2019

<sup>91</sup> USD as at 1 July 2020



	(approx. USD 423,368)		(approx. USD 83,696)				
<b>All Fraud</b>							
Cases	200	211	219	122	unknown	unknown	752
Proceeds restrained	LAK 8.58m THB 5.3m (approx. USD 1.18m)	LAK 11.24b THB 13.1m USD 31,520 (approx. USD 1.76m)	LAK 24.21b THB 8.5m USD 263,000 (approx. USD 3.16m)	LAK 20.4m Dong 5.3m THB 9.500 (approx. USD 2,755)	unknown	unknown	approx. USD 6.10m
Proceeds confiscated	LAK 7.3b THB 4.0m (approx. USD 981,944)	LAK 10.06b BAHT 12.0m USD 29,550 (approx. USD 1.58m)	LAK 23.19b THB 7.4m USD 109,000 (approx. USD 3.10m)	LAK 19.9m Dong 4.5m THB 8.000 (approx. USD 2,602)	unknown	unknown	approx. USD 5.66m
<b>Bribery &amp; Corruption</b>							
Cases	12	2	0	11	unknown	unknown	25
Proceeds restrained	LAK 210.8m (approx. USD 25,145)	LAK 23.47b THB 1.1m USD 432,983 (approx. USD 3,245,657)	LAK 2.39b (approx. USD 271,249)	LAK 22.0m Dong 5.3m BAHT 12,600 (approx. USD 3,012)	unknown	unknown	approx. USD 3.55m
Proceeds confiscated	LAK 194.8m (approx. USD 23,242)	LAK 23.27b THB 0.9m USD 404,983 (approx. USD 3.19m)	LAK 2.01m (approx. USD 228,254)	LAK 19.9m Dong 4.5m THB 8.000 (approx. USD 2,602)	unknown	unknown	approx. USD 3.44m
<b>Environmental Crime</b>							
Cases	20			30	unknown	unknown	50
Proceeds restrained	LAK 17.7m (approx. USD 2,114)			LAK 482.6m RMB 2,890 THB 70,500 USD 600 Dong 1.9m (approx. USD 55,664)	unknown	unknown	approx. USD 57,778
Proceeds confiscated	LAK 13.7m (Total approx. USD 1,629)			LAK 428.4m RMB 1,540 USD 200 Dong 1.3m (approx. USD 49,107)	unknown	unknown	approx. USD 51,221
<b>Producing and using of document forgery</b>							
Cases	33		29	22			84
Proceeds restrained	USD 862,200		LAK 23,534,000 (approx. USD 2,671)	Timber 36,666m <sup>3</sup>	unknown	unknown	approx. USD 864,871 & 36,666m <sup>3</sup> of timber

Proceeds confiscated	USD 846,600		LAK 22,840,000 (approx. USD 2,593)	Timber 25,434m <sup>3</sup>	unknown	unknown	approx USD849,193 & 25,434m <sup>3</sup> of timber
Total cases with restraint action						10,790	
Total Restraint						Approx. USD 11.55M equivalent	
Total Confiscation						Approx. USD 10.7M equivalent	

201. Lao PDR did not provide updated data for 2020-2022 on confiscation data by crime type.
202. Lao PDR was unable to provide data for restraint and confiscation for the period 2021 and 2022. Overall the volume and value of restraint and confiscation of proceeds of crime is very low in contrast with the occurrence of predicate crime and Lao PDR's overall risk.
203. Authorities do not maintain comprehensive statistics to monitor the types of property included in confiscation outcomes. This hampers efforts to improve effectiveness of asset forfeiture activities. This lack of robust data affects Lao PDR's ability to develop a foundation for policy and guidance, and to identify opportunities for improvement.
204. No information was provided by Lao PDR on the types or values of property confiscated.
205. Lao PDR has some experience with the seizure and confiscation of different asset types including cash in bank accounts, vehicles, precious metals, and real estate. Lao PDR provided data on seizure and confiscation of instruments of crime across a wide range of offences. Confiscated instruments of crime included, weapons and some valuable items in a small number of cases. Small volumes of timber were confiscated in relation to fraud offences. Real property was restrained (3 pieces of land, 2 pieces of land, including a house) and confiscated (1 piece of land, 1 parcel of land, including house), but the value of that land and houses were not indicated. Use of tax remedies for the purposes of targeting and recovering the proceeds of crime or pursuing confiscation is not widely used by Lao PDR authorities.
206. Lao PDR did not demonstrate effective asset management to ensure the value of seized property is maintained ahead of confiscation action. Property confiscated pursuant to court sentencing outcomes is disposed of in accordance with the Law on Judgment Enforcement, and a Ministerial Instruction which provides a framework for the management and disposal of proceeds and instruments of crime.
207. At the point of confiscation orders, the court routinely orders the return of property back to victims when appropriate. Lao PDR was unable to provide data on the appropriation of confiscated property, including the proportion of property repaid to victims of crime.

*Confiscation of falsely or undeclared cross-border transaction of currency/ bearer negotiable instruments (BNI)*

208. Lao PDR has only 985 staff available for deployment its border crossing sites. Data sought from Lao PDR as to the number of persons who enter and depart Lao PDR each year via formal border crossings was not provided. In addition to controlled border crossing points it is likely many others cross via uncontrolled border crossings. In the case of detection of undeclared cash or BNI, Customs has the authority to seize the cash or BNI for the purpose of further investigation when it is detected or when they suspect ML or TF.

209. A declaration system operates in Lao PDR where persons crossing the border are required to report the carriage of cash or BNI to the value of LAK 100 million (approx. USD 6,129) to Customs authorities. Prior to COVID-19 declaration forms were distributed to passengers on inbound flights and at some future time this practice will be reintroduced. Signage at the border advises passengers and travellers to declare cash or BNI to a value of USD 12,000 (LAK 191 million) which is inconsistent with declaration requirements. Those unfamiliar with the exchange rates may be confused by this signage and this may lead to under-reporting.

210. Lao authorities reported that a recent focus on enforcement of the declaration system has seen an increase in the submission of declarations and the detection of undeclared currency. However, authorities were unable to provide data on the operation of the cross-border declaration system to demonstrate its effective implementation.

211. Lao authorities did not provide any data of the numbers of cross border declarations or their values for any of the years under review.

212. Lao authorities provided data from 2018 and 2019 only in relation to detections of undeclared cash and related sanctions imposed for failure to declare. The data demonstrates that enforcement of the cross-border declaration system had only taken place the Lao-Thai Friendship Bridge 1. No data was provided to demonstrate implementation at any of Lao PDR's other border crossings and, in particular, those crossing in close proximity to casino operations in the Golden Triangle SEZ. As detailed in Table 3.18 sanctions for non-declaration seem reasonable but low levels of detections do not support dissuasiveness in cross-border cash smuggling.

**Table 3.15 Detections of un-declared cash and subsequent confiscation**

Transportation	From	To	Port of entry	Amount detected	Sanctions imposed
<b>2018</b>					
Car	Laos	Thailand	Lao-Thai Friendship bridge 1	THB 1,502,000	LAK 87,750,000
Car	Laos	Thailand		THB 2,050,000	LAK 214,500,000
Car	Thailand	Laos		THB 4,000,000	LAK 1,600,000
Car	Laos	Thailand		USD 230,000	USD 109,127.5
Car	Thailand	Laos		THB 2,000,000	THB 800,000
Car	Thailand	Laos		THB 1,400,000	LAK 135,494,500
Car	Laos	Thailand		USD 170,000 AUS 7,470 EUR 3,145	LAK 714,913,300
Car	Laos	Thailand		USD 72,368	LAK 268,143,100
<b>Totals (approx. USD as at 1 July 2018)</b>				<b>811,790</b>	<b>301,709</b>
<b>2019</b>					
Car	Thailand	Laos	Lao-Thai Friendship bridge 1	THB 1,000,000	LAK 87,000,000
Car	Thailand	Laos		THB 4,600,000	LAK 634,940,000
Car	Thailand	Laos		THB 4,600,000	LAK 634,940,000
Car	Thailand	Laos		THB 3,000,000	LAK 634,940,000
<b>Totals (at 1 July 2019)</b>				<b>USD 428,000</b>	<b>USD 226,093</b>

213. Lao PDR did not provide figures for 2020, 2021 and 2022 of detections of un-declared cash and subsequent confiscation. This is despite Customs authorities confirming that such data is available to them.

214. Lao PDR was only able to provide figures for a single year (2019) breaking down the volume of declarations made at one key border crossing point. This is despite there being a number of border crossing points with neighbouring jurisdictions.

**Table 3.16 Border Cash Reports by location**

BCRs reported by location – detect undeclared cash / BNI	2019
Lao-Thai Friendship Bridge - Inwards	44 reported BCR 5 undeclared detections  Unknown
Lao-Thai Friendship Bridge - Outwards	
Wattay Airport Vientiane - Inwards	
Wattay Airport Vientiane - Outwards	
Thailand border – all others – Inwards	
Thailand border – all others – Outwards	
Cambodia border - Inwards	
Cambodia – border Outwards	
China border – Inwards	
China border- Outwards	
Vietnam border - Inwards	
Vietnam border – outwards	
Myanmar border - Inwards	
Myanmar border - Outwards	
<b>Totals</b>	

215. It is somewhat encouraging that reports are being made and detections for undeclared cash have occurred, however there have not been any declarations or detections involving BNIs.

216. There are significant challenges in protecting the border, given its porous nature and the limited personnel tasked with that responsibility. Equipment and resources are acknowledged as key limitations with the effectiveness of the declaration system, and this is reflected in the modest levels of both declarations and undeclared detections. As indicated, statistics reflect improved recent activities by authorities, however the cash intensive casino operations located near borders, which exclusively cater to foreign clientele present a major risk. Customs is aware of this risk and is developing a strategy to respond to it. This should include the development of a MoU with Myanmar counterparts to support the deployment of resources and to respond to identified risks at the shared border.

217. Lao PDR Customs has a small number of boats to support activities on the Mekong River. The vessels are not currently operational due to running and maintenance costs, authorities also advised that there is an absence of expertise required to operate the vessels safely.

218. Customs have several personnel who have received training as handlers of cash detection dogs, however these handlers are yet to receive dogs that can be used for that purpose. It is important that the cash detection dog programme be fully implemented as that will increase deterrence and improve detection particularly at the high-risk, high volume border crossings.

219. Finally, equipment and technology are required by Customs to support their border duties and responsibilities. This should include modern equipment to improve the screening of cargo, mail, vehicles, and people who cross the border.

*Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities.*

220. Restraint and confiscation performance data is not captured due to the absence of systems and processes. As previously referred (see IO.1), forfeiture statistics prior to 2018 were used to support Lao PDR's understanding of threats, but contemporary data for the years 2020–2022 was not available.

*Overall conclusion on Immediate Outcome 8*

221. Lao PDR did not demonstrate that it employs confiscation to strategically target ML/TF risk. The results of asset restraint and forfeiture actions do not reflect Lao PDR's risk profile and there are very low rates of confiscation overall. The assessment team is concerned about Lao PDR's capability and capacity to respond to cross border risks from cash smuggling and transnational ML that is occurring through the casino sector, which is extremely vulnerable to ML.

222. **Lao PDR has a low level of effectiveness for IO.8.**

## CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

*Key Findings and Recommended Actions***Key Findings*****TF investigation and prosecution (Immediate Outcome 9)***

1. Lao PDR has demonstrated a commitment to combating terrorism and TF, however, the TF offence has significant deficiencies which impedes Lao PDR's ability to target behaviour which amounts to TF and to cooperate internationally.
2. There have been no STRs, prosecutions or convictions for TF in Lao PDR and as noted in IO.1, Lao PDR's TF risk understanding.
3. Lao PDR's preparedness to commence TF investigations faces challenges due to its assessment of TF risk and ongoing monitoring to identify changes to the TF risk environment.
4. Relevant LEAs have, to some extent, demonstrated a readiness to identify and investigate TF activity. Lao PDR has issued general TF investigation procedures, but these do not sufficiently outline the steps and coordination between agencies to be taken during a potential TF investigation.
5. As outlined in IO.2, Lao PDR has pursued limited cooperation with foreign partners to be able to identify and investigate TF cases that may use Lao PDR as a transit country. Lao PDR is proximal to jurisdictions with political instability which may be vulnerable to terrorism activity.
6. There are some strengths but also capability challenges faced by LEA and AMLIO teams responsible for CFT intelligence development and investigations, such as case management systems in LEAs to prepare for potential TF cases.
7. The application of criminal penalties has not yet been tested due to an absence of TF prosecutions. For lower level offences fines for natural persons are not dissuasive and criminal penalties for legal persons are not considered proportionate or dissuasive.

***TF preventive measures and financial sanctions (Immediate Outcome 10)***

1. Lao PDR has established a *de facto* freezing regime for TFS related to TF which applies to all REs, postal enterprises, and natural and legal persons. No assets and instrumentalities related to TF activities have been identified and frozen pursuant to UNSCRs 1267 and 1373, which are consistent with Lao PDR's assessment that TF risk is low.
2. Effective implementation of the TFS regime is hampered by delays of at least 2-3 days for authorities to provide proactive notification of designations to REs, and a lack of notifications to some REs.
3. Larger domestic and internationally exposed FIs appear to apply reasonable sanctions screening through commercial systems. Smaller FIs and DNFBPs have a limited understanding of TFS obligations and conduct sanctions screening manually through the AMLIO. Challenges may arise with a lack of Lao version of the lists and no notification on the AMLIO website when the UNSCR list is updated.

4. Supervision of TFS compliance by smaller FIs is limited to random name match checks against the UNSCR list during onsite examinations and no sanctions were imposed against their non-compliance except warning letters. DNFBPs do not conduct sanctions screening.
5. Lao PDR did not provide guidance to REs on their obligations in taking withholding/freezing actions. Competent authorities do not collect or review the details of preliminary false positive matches by REs which do not result in freezing or reporting.
6. There have been some limited assessments of NPO sectors and the overall findings of low TF risks in these sectors appears to be reasonable. Lao PDR has not yet assessed the features and types of NPOs likely to be at risk of TF abuse. Both local NPOs and INGOs demonstrated no or very limited understanding of the AML/CFT regime.
7. Monitoring and supervision of the NPO sector is project- or activity-based, rather than risk-based. MOHA has indicated some efforts to promote RBA supervision of local NPOs in cooperation with relevant authorities. However, monitoring of MOFA does not cover compliance of AML/CFT obligations and no supervision was initiated for INGOs using the RBA. Moreover, there are associations and foundations still operating in Lao PDR without renewing their registration certificates, using unregulated financial channels, and not submitting their annual reports or responding to data collection forms.
8. There is a lack of incentives and enforcements for such NPOs to cooperate with the competent authorities, and sanctions available for NPO supervisors are not effective, proportionate, and dissuasive.

#### ***PF financial sanctions (Immediate Outcome 11)***

1. Lao PDR established its legal and regulatory framework for TFS for PF in 2020. Lao PDR considers its exposure to PF is low, despite UN reports of potential sanctions evasion. There is no guidance provided to REs on their TFS obligations in taking withholding/freezing actions in relation to PF. These factors contribute to the low level of understanding of PF exposure. There is no case of PF in Lao PDR and no assets have been identified or frozen in relation to the relevant UNSCRs.
2. Lao PDR has some exposure to specific risks of sanctions evasion by persons and entities associated with the DPRK. UN Panel of Experts reports in March and September 2022 highlighted concerns around the presence of DPRK nationals in Lao PDR after the December 2019 repatriation deadline. Lao PDR authorities did not demonstrate an awareness of issues related to the presence of DPRK nationals or awareness of possible sanctions evasion vulnerabilities and implications.
3. Similar to TFS for TF in IO.10, competent authorities do not collect or review the details of preliminary false positive matches by REs which do not result in freezing or reporting. There is a lack of monitoring and supervision of TFS requirements for PF. Supervisory authorities have not yet prepared manuals to support supervision and enforcement of TFS related to PF. Only minor administrative sanctions are available for violations of TFS obligations for PF and no enforcement actions have been taken against REs.
4. Implementation of TFS related to PF has similar challenges to those identified under IO.10, with delays in the notification of designations and over-reliance on an English language-based website. While larger domestic and internationally exposed FIs use screening systems to implement TFS related

to PF, smaller FIs and DNFPBs do not have systems or procedures in place for monitoring the UNSCR list, and use manual screening processes with varying regularity.

### *Recommended Actions*

#### ***TF investigation and prosecution (Immediate Outcome 9)***

- A. Amend the TF offences in the Penal Code and the Law on AML/CFT to bring them into line with the TF Convention and the additional requirements of R.5.
- B. Support the identification of potential TF cases by monitoring threats domestically, regionally and globally and monitoring vulnerabilities within Lao PDR to TF; also remain vigilant against a change in the risk profile to better support frontline investigators consideration of potential TF cases.
- C. Enhance cooperation with foreign partners (FIUs, LEAs, border agencies, security intelligence agencies), including from neighbouring countries, to be able to identify and investigate TF cases that use Lao PDR as a transit country.
- D. Comprehensively criminalise terrorist financing, including the financing of foreign fighters and travel for terrorism training, and ensure that proportionate and dissuasive sanctions are available for relevant offences.
- E. Further clarify and update TF investigation procedures, including focusing on the financing of terrorist networks, and inter-agency and international cooperation regarding TF identification and investigations. In particular, the interpretation of key concepts such as 'terrorism' and related terminology should be provided to frontline officers to be able to accurately identify TF cases.
- F. Continue to build the capacity of LEA teams responsible for CFT investigations and prosecutions to be prepared for potential TF cases, including ensuring the availability of suitable systems and analytical tools.

#### ***TF preventive measures and financial sanctions (Immediate Outcome 10)***

- A. Address technical compliance gaps with R.6 such as implementing TFS for TF without delay, and creating effective mechanisms for communicating designations, and clear procedures to de-list and unfreeze funds or other assets etc.
- B. Provide more practical guidance for REs and the general public to improve their understanding and implementation of TFS obligations and taking withholding/freezing action.
- C. Establish a clear and prompt mechanism for communicating updates to the UNSCR sanctions list to all REs and the general public for better enforcement. These could include publishing up-to-date UNSCR consolidated sanctions lists on the AMLIO website, or developing email subscription updates or a real-time up-to-date online database with further instructions in Laotian.
- D. Raise awareness on TFS obligations for TF among AML/CFT supervisors, LEAs and REs including VASP pilots and share enhanced risk information on transnational TF risks that may be relevant to identify designated persons and entities, and those acting on their behalf or at their direction.
- E. Competent authorities should collect and review the details of preliminary false positives identified by REs on a regular basis for effective enforcement of the TFS regime.



- F. Assess the features and types of NPOs likely to be at risk of TF abuse, including the nature of threats posed by terrorist entities to NPOs. Based on its findings, Lao PDR should identify the sub-set of NPOs at greater risk for TF abuse and tailor its outreach and educational programmes on how at-risk NPOs can be misused for TF.
- G. Provide guidelines to NPOs to raise their awareness of potential TF abuse and to enhance transparency and good governance.
- H. Enhance risk-based supervision or monitoring frameworks for both local NPOs and INGOs, with particular focus on the sub-set of NPOs at greater risk for TF abuse. Enhance the capacity and understanding among supervisors, NPOs and donor community for effective enforcement measures.
- I. MOHA should take steps to ensure that all associations have valid registration certificates and take necessary enforcement actions against those NPOs operating without renewing their registrations.

***PF financial sanctions (Immediate Outcome 11)***

- A. Lao PDR should strengthen its TFS legal and regulatory framework for PF in compliance with R.7 and prioritise the implementation of UNSCR sanctions including TFS obligations.
- B. Lao PDR should implement TFS sanctions without delay relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing through enhanced legal, policy, coordination and cooperation frameworks.
- C. Lao PDR should increase its outreach and awareness raising activities to competent authorities, REs and the general public to improve their understanding of potential domestic and transnational PF exposure, TFS obligations for PF, and TFS implementation best practices.
- D. Lao PDR should develop guidelines on country-specific PF vulnerabilities and exposures, and possible sanctions evasion typologies. This may include transnational PF sanction-evasions vulnerabilities relevant to identifying designated persons and entities, and those acting on their behalf at their direction.
- E. Lao PDR should establish a clear and prompt mechanism for communicating updates to the UNSCR sanctions list to all REs and the general public.
- F. Competent authorities should advance their supervision practices for better enforcing TFS obligations for PF, including issuing supervisory manuals and guidelines for supervisors, and conducting targeted supervision of at-risk sectors and targeted monitoring of sectors beyond REs. Supervisors should enforce compliance with TFS through the application of sanctions.
- G. Competent authorities should collect and review the details of preliminary false positives identified by REs on a regular basis, and create a prompt reporting mechanism of withholding/freezing actions for effective enforcement of the TFS regime.

223. The relevant Immediate Outcomes considered and assessed in this chapter are IOs.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R.1, 4, 5-8, 30, 31 and 39, and elements of R.2, R.14-16, R.32, R.37-38 and R.40.

*Immediate Outcome 9 (TF investigation and prosecution)**Prosecution/conviction of types of TF activity consistent with the country's risk-profile*

224. As noted in the TC Annex at R.5, there are serious deficiencies in the structure of the TF offences provided in the Penal Code and in the Law on AML/CFT.

225. While authorities have assessed TF risk as low in the NRA, there are regional contextual issues not considered in that assessment which call into question the reasonableness of this conclusion including TF linked to narco-terrorism.<sup>92</sup> Authorities based the assessment of TF risk on the absence of identified cases of terrorist activity and the absence of TF cases. The NRA considered TF risk within the context of a funded terror event occurring in Lao PDR, or the raising or laundering of funds for the funding of an external terror event in Lao PDR. While the NRA primarily focuses on domestic cases, Lao PDR's status as a potential transit country, vulnerable to smuggling of illicit commodities and cash, along with instability in some neighbouring jurisdictions, generates risks that are not well understood.

*TF identification and investigation*

226. The assessment team focused on Lao PDR's readiness and ability to detect and investigate possible TF should it occur in its jurisdiction. It is notable that despite the NRA's overall finding of low risk, there was a lack of consideration of the details relating to the following: regional context, the risks associated with a heavily cash-based economy, cross-border threats associated with weak border controls, and other transnational risks, including financing travel to foreign terrorist training or the potential use of Lao PDR as a transit country for TF.

227. Lao PDR has designated the Criminal Investigation Department (CID) within the General Police Department of the MoPS Security's Counter-Terrorism and Prevention Division (also referred to as the 'Vigilance Unit and Undercover Operations Unit') as the authority accountable to identify and conduct TF investigations, in coordination with other investigative authorities and agencies. CID, as the lead on TF investigations, has 212 investigators at a national level, with 19 staff working in the Counter-Terrorism and Prevention Division. This Division is responsible for developing action plans for CT and CFT, and gathering and analysing intelligence relating to terrorism and TF.

228. While the organisational structure to detect and combat TF is clear (see IO.1), there are weaknesses in Lao PDR's assessments of TF risk and its ongoing monitoring of possible changes in the TF risk environment, which undermines preparedness to commence TF investigations.

229. Lao PDR demonstrated active international cooperation on potential TF matters with foreign jurisdictions to exchange TF-related information and intelligence through agency-to-agency channels. Lao PDR is a member of the ASEANAPOL framework, which covers the 'Emergency Response Protocol' on terrorism and extends to cooperation on investigation and use of technical instruments for investigations. Lao PDR is also a member of INTERPOL. Furthermore, Lao PDR has concluded bilateral MOCs with neighbouring jurisdictions. However, Lao PDR has not identified instances of potential and actual TF through intelligence channels or cooperation, or information sharing with foreign counterparts, which makes it difficult to evaluate the effective use of such cooperation schemes. While the mechanisms are in place, challenges with understanding TF risk emanating from other jurisdictions may hinder the effective use of these mechanisms.

<sup>92</sup> U.S. Department of State Office of Justice Programs, *Narco-Terrorism: The Merger of the War on Drugs and the War on Terror, August 2004*, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/narco-terrorism-merger-war-drugs-and-war-terror>

230. AMLIO has not received any STRs related to TF, and has not disseminated any information relating to TF to LEAs. The weaknesses with REs monitoring for suspicion and reporting STRs is outlined at IO.4 and IO.6. AMLIO has not developed any intelligence on potential TF matters in Lao PDR but has received training in relation to possibly developing intelligence related to TF.

231. CID and other relevant LEAs have, to some extent, demonstrated a readiness to identify and investigate TF activity. Lao PDR issued general TF investigation procedures in December 2020, but these do not sufficiently outline the steps and coordination between agencies to be taken during a potential TF investigation.

232. The MoPS issued the Police Order on TF as the principal guideline/action-plan for raising awareness on TF investigations and establishing how CID should develop intelligence and conduct TF investigations. The order has been disseminated nationwide to the police force.

233. The Police Order on TF sets out what terrorism and TF are, relevant sources of information, evidence and investigative techniques for LEAs (Arts. 2-5). The order also outlines the monitoring, coordination, follow-up and investigation responsibilities of LEAs at all levels, to detect TF and identify and monitor the behaviour and activities of listed individuals (Arts. 6 and 8). The Police Order extends to the stages of investigation into individuals and legal entities committing TF offences, and the obligation to investigate associates (Art. 8). Confidentiality of investigations is required in Article 9, and Article 10 sets out procedures for the conclusion of TF cases including correlating Articles of the Penal Code.

234. If the CID Counter-Terrorism and Prevention Division were to detect funds suspected to be for TF, the matter would be forwarded to the Investigation Department to investigate the source of funds and its intended destination. This would be done in coordination with AMLIO.

235. The Police Order on TF requires all levels of investigation authorities to establish, and monitor the factors that the order identifies are associated with combating TF. The CID Counter-Terrorism and Prevention Division cooperates with INTERPOL and ASEANAPOL to monitor for these factors, although this did not result in any investigations of TF cases; and the effectiveness of such cooperation remains to be demonstrated.

236. If a TF case, or a terrorist incident were to occur, Lao PDR can establish a so-called 'ad-hoc investigation team' to bring together the required skill sets from relevant agencies to conduct the investigation. A request would then be made to the prosecutor to proceed with the case. In instances of TF cases, LEAs have the authority to freeze assets related to TF without the need for a court order (Paragraph 4, Art. 52, Law on Criminal Procedure).

237. Investigation staff have participated in training on TF investigations. Twenty training courses relevant to TF techniques were conducted for various LEAs from 2017-2020.

238. With respect to prosecution, there is no specialised area in the PPO that would investigate and prosecute TF, however prosecutors receive training on TF at least once a year in the form of 'dissemination campaigns' which focus on building understanding of the relevant laws and rules. TF cases would be referred to prosecutors of the Criminal Inspections Department of each PPO on an ad-hoc basis. This seems reasonable given that there has not been a TF case thus far and designation of specialized divisions in the PPO would be a low priority. However, PPO needs to be ready to prosecute TF cases and have guidelines in place to handle such cases.

239. Further to the domestic mechanisms in place for implementation, should a TF case arise, there are regional international cooperation arrangements (see IO.2) which Lao PDR notes it would draw on if needed.

*TF investigation integrated with and supportive of national strategies*

240. Lao PDR integrates its overall approach to combating terrorism and TF with broader national strategies on national security. Policies regarding TF investigations are generally in line with Lao PDR's National AML/CFT Strategic Plan 2021-30. The lack of TF cases however, prevents the Assessment Team from drawing any inferences from examples of investigations or prosecutions as to the effectiveness of any strategies or action plans employed by, or coordination between investigative and prosecutorial bodies.

*Effectiveness, proportionality and dissuasiveness of sanctions*

241. Lao PDR has not yet prosecuted a natural or legal person for a TF offence, so has not imposed any sanctions. The level of sanction for TF for natural persons depends on the value of the funds. For TF offences of a value of less than 1 billion LAK (approx. USD 61,292), a natural person can be sentenced to five to eight years' prison, and fined between 5 million and 800 million LAK (approx. USD 306 to 49,034). Natural persons convicted of TF of a value of 1 billion LAK (approx. USD 61,292) or more shall be sentenced to eight to 12 years prison and fined between 800 million LAK to 1 billion LAK (approx. USD 49,034 to 61,292). Where the offence is performed on a regular basis or as part of an organised group, the sanction is imprisonment for a term ranging from 15 years to 20 years and a fine ranging from 800 million LAK to one billion LAK (approx. USD 49,034 to 61,292).

242. The sanctions that apply to natural persons where the TF offence is of a value of less than 1 billion LAK (USD 61,292) (that is, sentences from five to eight years prison and fines between 5 million and 800 million LAK (approx. USD 306 to 49,034) are not proportionate and dissuasive compared to sanctions for terrorism offences in other jurisdictions. The sanctions for natural persons convicted of TF of a value of 1 billion LAK (approx. USD 61,292), and where the offence is performed on a regular basis or as part of an organised group, are proportionate and likely to be dissuasive. Legal persons are subject to a range of administrative sanctions and to fines double that imposed upon natural persons, and therefore the financial penalties share the same shortcomings as sanctions for natural persons.

*Alternative measures used where TF conviction is not possible (e.g. disruption)*

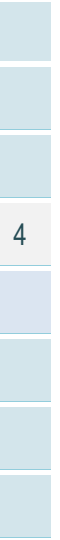
243. Lao PDR does not have or use other criminal justice regulatory or other measures to disrupt TF activities where it is not practicable to support TF convictions.

*Overall conclusion on Immediate Outcome 9*

244. There have been no prosecutions or convictions for TF in Lao PDR, which is generally consistent with their understanding of their TF risk profile. Lao PDR has organisational structures to detect and investigate TF in place, and relevant LEAs have, to some extent, demonstrated a readiness in this regard. However, weaknesses in Lao PDR's TF offence, and its understanding of TF risk and in ongoing monitoring of possible changes in the TF risk environment, undermine Lao PDR's preparedness to commence TF investigations. Similarly, while Lao PDR does have international cooperation schemes, Lao PDR has not pursued sufficient cooperation with foreign partners to be able to identify and investigate TF cases. Lao PDR has recently issued some general TF investigation

procedures, but these do not sufficiently outline the steps and coordination between agencies and with foreign partners to be taken during a potential TF investigation.

245. **Lao PDR has a moderate level of effectiveness for IO.9**



*Immediate Outcome 10 (TF preventive measures and financial sanctions)*

246. Lao PDR has established its legal and regulatory framework to apply TFS related to terrorism and TF, but still needs improvements for effective implementation. Lao PDR has established a de facto freezing regime for TFS related to TF which applies to all REs, postal enterprises, and natural and legal persons (see R.6).

247. The AML/CFT Strategy 2021-2030 states one of its five strategies to increase capacity for prosecuting major TF offences and its action plan aims to improve cooperation and coordination mechanisms for UNSCR and domestic designations, and build capacity on TF proceedings. These developments are positive steps towards strengthening Lao PDR's TFS regime.

*Implementation of targeted financial sanctions for TF without delay**Entry into force and communication of designations and de-listings*

248. Legal obligations to implement TFS apply without delay in the Lao PDR. UNSCR 1267/1989 and 1988 designations enter into force in Lao PDR simultaneous to their designations at the UN.

249. Lao PDR's mechanism for communicating updates to UNSCR designations takes at least 2-3 days which creates some delays. The updates are not brought to the attention of REs until they are communicated as follows: after receiving the updates from the UN, MOFA shall immediately notify the AMLIO and MoPS. Then, updates to UNSCR designations are disseminated by AMLIO and MoPS to REs, postal enterprises and other relevant sectors via notice distribution and publication on AMLIO's website. MoPS REs and postal enterprises are further required to inspect their clients' funds only after receiving notifications from competent authorities and then take withholding actions (freezing). In the case of natural persons, legal entities, and organisations, freezing can be taken immediately after receiving the designations. As a result, effective implementation of the TFS regime is hampered by delays for authorities to provide proactive notification of the designations to REs, as well as the fact that these notifications do not go to all REs.

*Implementation of TFS by REs*

250. Larger domestic FIs and branches or subsidiaries of international FIs demonstrated an awareness of their TFS obligations, while understanding is weak among smaller FIs and especially among DNFBPs. Lao PDR has not provided sufficient guidance to REs on their obligations in taking withholding/freezing actions. Lao PDR authorities have not shared sufficient risk information on transnational TF risks that may be relevant to identify designated persons and entities and those acting on their behalf or at their direction.

251. Most FIs and DNFBPs do not appear to regularly receive updates to UNSCR lists from competent authorities. Lao PDR authorities demonstrated that they notify domestic and foreign banks about the updates to UNSCR lists, however it is not clear that other sectors were regularly informed.

252. Larger domestic FIs and branches and subsidiaries of international FIs use commercial screening systems and do not rely on the notifications of UNSCR list updates from competent authorities. Home supervisor requirements and reputational risk appear to be much more significant driving factors for compliance by these FIs with TFS obligations than requirements from Lao PDR competent authorities or concerns regarding domestic sanctions for non-compliance.

253. Smaller FIs and DNFBPs do not have automated monitoring systems for transactions or accounts. Thus, they implement TFS obligations by manually conducting name match checks through

the AMLIO website during customer on-boarding. The Agreement on AML/CFT Measures and AMLIO's website provide a website link to the UN consolidated list and 1267/1988 sanctions list. The effectiveness of this approach is unclear given that Lao nationals may encounter difficulties navigating an English language website. There is no notification on the AMLIO website when the UNSCR list is updated. Smaller FIs and DNFBPs appear to be unaware of the need to periodically rescreen their customer base.

254. While TFS obligations apply to all natural and legal persons, AML/CFT obligations related to TF apply to most but not all DNFBPs as indicated in IO.4. There is no or very minimal understanding and appreciation of ML/TF risks, both among authorities and obliged DNFBPs. In addition, most DNFBPs demonstrated the application of basic KYC measures with limited implementation of other CDD obligations. These deficiencies impair the proper implementation of the TFS regime and increase TF risk.

255. TFS obligation would apply to VASPs whether or not they are in the pilot programme, as the obligations extend to all natural and legal persons. The Law on AML/CFT does not apply to VASPs, but two pilot projects are underway for crypto mining and trading as discussed in IO.4. One project team indicated delays and gaps in its sanctions screening due to the fact that its system is updated on a quarterly basis and there are manual processes involved. Thus, compliance with TFS obligations may be undermined for these pilot projects.

256. Raising awareness on TFS obligations for TF among AML/CFT supervisors, LEAs, REs including VASPs in the pilot and the situation of dealing with false positives indicates some challenges with the implementation of TFS overall. REs should release funds or assets withheld due to false positive matches against the UN consolidated sanctions list after receiving advice from MoPS and AMLIO as per the Agreement on AML/CFT Measures. Some FIs appear to have detected false positive matches without report these to competent authorities and returned the funds after an internal examination. Competent authorities do not collect or review the details of preliminary false positives identified by REs which do not result in freezing or reporting.

257. Significant weaknesses have been identified with supervising and enforcing compliance with AML/CFT obligations including for TFS (see IO.3 and IO.4). Deficiencies identified in IO.3 regarding the implementation of risk-based supervision and sanctions measures undermine the effective enforcement of TFS obligations. Supervision of REs' compliance with TFS obligations is limited to random name match checks against the UN consolidated sanctions list during onsite examinations. Supervision of the casino sector identified weaknesses in implementing sanctions screening and delays in meeting remedial measures. In addition, examination reports acknowledged that smaller FIs and DNFBPs do not have systems or procedures for monitoring the UNSCR list and no sanctions were imposed for non-compliance except warning letters.

258. There is a lack of understanding and application of sufficient evidence for designating persons and entities pursuant to UNSCRs 1267/1989 and 1373. The Instruction on Procedure of Domestic and Foreign Listing and Delisting stipulates that designation proposals may be on reasonable grounds, not necessarily required for a criminal conviction. However, during the onsite, Lao PDR authorities indicated that designation proposals should be based on criminal proceedings and sufficient evidence refers to a criminal evidentiary standard as per the Law on Criminal Procedure. Thus, it is unclear how the criminal evidentiary standard can be met if not through a criminal proceeding. The effective implementation of Lao PDR's TFS regime is undermined by these gaps.

259. Through its domestic designation mechanism, Lao PDR can designate individuals and entities as terrorists pursuant to UNSCR 1373. Order No.03/PM and The Instruction on Procedure of Domestic and Foreign Listing and Delisting provide a procedure for making designation nominations at the UN and domestically in Lao PDR which is coordinated by MoPS with responsible agencies. Lao PDR has not made any proposal to either UNSCR 1267/1989 or domestically, which is in keeping with Lao PDR's risk profile. In addition, Lao PDR has not received any request for taking freezing actions from foreign counterparts through the UNSCR 1373 mechanism. Thus, the effectiveness of the domestic mechanisms in place has not been tested in practice.

#### *Targeted approach, outreach and oversight of NPOs*

260. Lao PDR has not yet assessed the features and types of NPOs likely to be at risk of TF abuse. There have been some limited assessments of the NPO sector. Lao PDR reported that a total of 143 NPOs meet the FATF definition out of 247 local NPOs operating at the time of the onsite visit. The 2018 NRA provides a very limited risk assessment of the NPO sector. Lao PDR has indicated that risk assessment of local NPOs, not INGOs, was completed only at the central level in August 2022. The assessment report was not comprehensive and only tailored to the application of RBA in the NPO sector. It is not clear if NPOs that meet the FATF definition participated in the assessment and its findings had not been shared with the sector at the time of the onsite visit<sup>93</sup>. The overall risk level of the NPO sector is not assessed. However, Lao PDR considers the TF risk to the sector is low based on 2018 NRA. While this appears to be reasonable, taking into account Lao PDR's context, potential external factors to the TF risk in the sector should not be dismissed.

261. Table 4.1 summarises types of NPOs, legislation governing NPOs, any specific guidance on their incorporation and operation and their registration and inspection authorities in Lao PDR.

**Table 4.1: Statistics on NPOs and INPOs**

NPOs	Laws, regulations and guidelines	Registration & Inspection Authority	Total (to 23 Sep 2022)
Associations	<ul style="list-style-type: none"> <li>Decree on Associations</li> <li>Guideline on the Implementation of the Decree on Associations No.05/MOHA dated 11 October 2017</li> <li>Decision on Department of Administration Development</li> <li>Manual on Association Implementation</li> <li>Template for Rule of Association</li> </ul>	MOHA & Relevant ministerial, provincial and district level agencies	202
Foundations	<ul style="list-style-type: none"> <li>Decree on Foundations</li> <li>Guideline on the Implementation of the Decree on Foundations No.02/MOHA dated 27 April 2012</li> <li>Decision on Department of Administration Development</li> <li>Template for Rule of Foundation</li> </ul>		37
International NPOs (INGOs)	<ul style="list-style-type: none"> <li>Decree on INGOs</li> <li>Guideline on the Implementation of the Decree on INGOs No.1064/AE.OI.3 dated 17 February 2015</li> <li>Guidebook on the Cooperation and Implementation Procedures with INGOs</li> </ul>	MOFA	156

<sup>93</sup> Lao PDR advise the assessment findings were disseminated on 30 September 2022. Information is being collected from the remaining 87 NPOs.



262. In terms of the international movement of funds through the NPO sector, Lao PDR is considered as primarily a recipient, not a sending country. Thus, the primary TF risks posed by the NPO sector are related to the inflow of funds which could then be used for TF. There are no statistics or any estimation of the capital inflows and outflows in the NPO sector. Local NPOs require approval from MOFA for receiving foreign funding over the amount of 500 million LAK (approx. USD 30,646). However, the NPO risk assessment 2022 noted some inconsistencies with the information on foreign funding provided by the MOFA versus that reported by local NPOs. NPOs appear to rely on sanctions screening of foreign funds by banks and international donor organisations.

263. MOHA and MOFA are responsible for the registration and supervision of local NPOs and INGOs respectively. Both local NPOs and INGOs demonstrated no or very limited understanding of the AML/CFT regime and risk-based supervision. In 2018, MOHA required all associations established before 2011 to obtain registration certificates and submit annual reports. However, there are associations and foundations still operating in Lao PDR without renewing their registration certificates and using unregulated financial channels. Also, some local NPOs reported they are not submitting their annual reports to authorities on a timely basis. Lao PDR indicated that the approval process of permits for INGOs is well established and closely monitored by MOFA.

264. Monitoring and supervision of the NPO sector is project- or activity-based, rather than risk-based. MOHA has demonstrated some efforts to promote supervision of local NPOs in cooperation with relevant authorities. These include conducting on-site follow-up inspections on 10 associations covering AML/CFT indicators in 2021 and completing a local NPO sector risk assessment using RBA in 2022. Accordingly, an action plan was developed to conduct onsite supervision of NPOs identified with risks. Moreover, AML/CFT questionnaires are incorporated in the monitoring checklist and RBA form for local NPOs, as well as their rule templates, state that they are subject to implementing the Law on AML/CFT.

265. MOHA cooperates with multiple agencies at the ministerial, provincial and district levels for conducting NPO supervision. There are some challenges with the coordination of supervision in terms of the number of reviews conducted and the specific supervisory actions. Given that AML/CFT is a new concept for both local NPOs and competent authorities, awareness raising on potential TF abuse is necessary. To date there has been no international cooperation related to the potential abuse of the NPO sector for TF purposes.

266. The Decree on INGOs requires INGOs to carry out project activities under the terms of the Memorandum of Understanding approved by Government and submit evaluation reports on their operations on a regular basis or at least once a year. In addition, MOFA organizes monitoring and financial reviews as well as mid-term and end-project evaluations. However, monitoring by MOFA does not cover compliance of AML/CFT obligations and supervision is not risk-based.

267. There are sanctions available for use by NPO supervisors, but these may not be effective, proportionate, and dissuasive. This is reinforced by the fact that there are NPOs operating without renewing their registration certificates, using cash transactions, and not submitting annual reports or data collection forms. Lao PDR indicated that only three associations and one foundation were ordered to be dissolved due to non-compliance with the relevant decrees. No other sanctions were imposed for NPOs that fail to meet requirement for transparency of programmes and finances and related filing requirements.

268. There is no practical guidance to the sector about the potential vulnerabilities of NPOs to TF abuse and TF risks, and the measures that NPOs can take to protect themselves against such abuse.

Guidelines on implementing decrees on associations, foundations and INGOs have been issued, however these guidelines do not specifically address the misuse of NPOs for TF.

269. MOHA, in cooperation with relevant authorities, organised training for local NPOs and government employees between 2016 and 2022 (date of the on-site visit) as shown in the below Table 4.2. An awareness raising workshop covering TF risks and trends, and RBA methods was conducted in five provinces in 2020-2022. However, no outreach and educational programmes were undertaken to raise awareness among INGOs and the donor community.

**Table 4.2: Awareness raising events for local NPOs**

Period	Number of NPOs	Number of participants	Topics	Number of trainings & Locations
2016	17	60	Legislations on social supervision organisations	3 times in 3 provinces (Luang Prabang, Savannakhet & Champasak)
2017	0	0		
2018	29	70	Establishment of associations	3 times in Vientiane
2019	149	4,444	Establishing the associations; Approval for associations & foundations for receiving funds from abroad	20 times nationwide
2020	46	54	Brief overview of TF risks and trends related to NPOs; RBA method on ML/TF	1 time in Vientiane Capital
2021	146	270		2 times in 2 provinces (Savannakhet & Champasak)
13 Sep 2022	72	199	Exchange of lessons learned on NPOs supervision and trend on TF risks associated with NPOs.	4 times in 4 provinces (Vientiane, Luang Prabang, Xiangkhouang & Champasak)

#### *Deprivation of TF assets and instrumentalities*

270. No assets and instrumentalities related to TF activities of designated entities and individuals have been identified and frozen, which is consistent with the low TF risk profile. Lao PDR has established a legal framework sufficient to investigate and prosecute TF offences as discussed in IO.9. However, there have been no cases of TF in Lao PDR to date.

#### *Consistency of measures with overall TF risk profile*

271. Awareness raising workshops on the TFS regulatory framework for TF have been organized for government authorities as well as commercial banks and MFIs in August 2022. There is a limited understanding among REs, except those larger domestic and internationally exposed FIs, on their obligations to take freezing/withholding actions, regular outreach and awareness raising activities should be organized for not only REs and competent authorities, but also the general public.

272. Lao PDR has demonstrated efforts in implementing TFS for TF and preventing NPOs from TF abuse. Even though the NRA assessed TF risk to be low, Lao PDR should monitor potential threats and vulnerabilities to TF and remain vigilant against a change in its risk profile. Thus, above measures are not entirely consistent with Lao PDR's risk profile given their needs for fundamental improvements.

*Overall conclusion on Immediate Outcome 10*

273. Lao PDR has a reasonable legal framework to apply TFS for terrorism and TF. However, fundamental improvements are required for further enhancing the level of understanding about compliance of TFS obligations among both competent authorities and REs as well as the implementation of a risk-based approach to NPO sector outreach and supervision. No assets and instrumentalities related to TF activities of designated entities and individuals have been identified and frozen, which is consistent with the low TF risk profile. There are gaps in the freezing obligations to apply without delay as well as the lack of notifications of designations, lack of guidance on TFS obligations and lack of supervision and enforcement. Moreover, there is a lack of enforcement actions by competent authorities, and available sanctions are not effective, proportionate, and dissuasive.

274. **Lao PDR has a low level of effectiveness for IO.10.**

*Immediate Outcome 11 (PF financial sanctions)*

275. Lao PDR has established its legal and regulatory framework for TFS for PF which applies to all REs, postal enterprises, and natural and legal persons. However, technical deficiencies identified in R.7 need to be addressed for the effective implementation of TFS obligations related to PF. Lao PDR's AML/CFT Strategy 2021-2030 and its action plan also cover PF.

276. Lao PDR has some exposure to specific risks of sanctions evasion by persons and entities associated with the DPRK since Lao PDR has a diplomatic relationship with the DPRK. UN Panel of Experts reports published on 1 March 2022<sup>94</sup> and 7 September 2022<sup>95</sup> highlighted concerns around the presence of DPRK nationals in Lao PDR after the December 2019 repatriation deadline. UN reports stated that while Lao PDR responded to the UN in July 2020 indicating there is no company hiring DPRK workers, they continue to work in Lao PDR as reported by a UN Member State.

277. The context of possible inaction on the wider UNSCR sanctions regime against the DPRK raises serious concerns over the Lao PDR's commitment and willingness to implement the TFS obligations within the UNSCR sanctions. The UN Panel of Experts reports suggest that Lao PDR authorities are not aware of possible sanctions evasion vulnerabilities and implications that could arise from relations with the DPRK. Lao PDR was unable to provide information on possible sanctions evasion and did not respond to the requests by the assessment team regarding the DPRK nationals indicated in the UN reports.

278. Lao PDR was unable to provide statistics and information on trade and investment with DPRK, Iran and Myanmar and on DPRK IT workers and other workers reported to be hosted as foreign workers in Lao PDR.

*Implementation of targeted financial sanctions related to proliferation financing without delay*

279. As with IO.10, PF-related TFS obligations enter into force in Lao PDR immediately, but there are challenges faced with implementation without delay. Implementation of TFS obligations related to PF has similar challenges to those identified under IO.10 with delays in the notification of designations and over-reliance on an English language-based website, which may be difficult to navigate for Lao PDR nationals. Competent authorities do not provide notification letters to all REs to communicate updates to the UNSCR list. This is reinforced by the fact that two notification letters were issued in 2022 to only domestic and foreign banks informing them to closely monitor the UNSCR list, especially the 1718 sanctions list. There is no notification published on the AMLIO website when the UNSCR list is updated.

280. As discussed in IO.10, larger domestic FIs and branches or subsidiaries of international FIs use commercial screening systems to implement TFS requirements related to PF, whilst smaller FIs and most DNFBPs indicated that they manually conduct basic name match checks as part of their CDD procedures with varying regularity.

<sup>94</sup> United Nations Security Council. (01 March 2022). *Final report of the Panel of Experts submitted pursuant to resolution 2569 (2021)*.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/252/09/PDF/N2225209.pdf?OpenElement>

<sup>95</sup> United Nations Security Council. (07 September 2022). *Midterm report of the Panel of Experts submitted pursuant to resolution 2627 (2022)*.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/608/53/PDF/N2260853.pdf?OpenElement>

*Identification of assets and funds held by designated persons/entities and prohibitions*

281. There are clear obligations on all natural and legal persons to screen for any funds of listed individuals and entities in their possession, and to withhold such funds. If the funds were withheld due to false positive matches against the UN consolidated sanctions list, REs should release the funds after receiving advice from MoPS and AMLIO. Similar to IO.10, there were no reported incidents of false positive matches, nor financial transactions related to PF prevented. This undermines effective implementation of the TFS obligations for PF.

282. There has been no case of PF in Lao PDR and no assets identified or frozen in relation to the relevant UNSCRs. There are gaps in the scope of funds and properties that must be frozen, and procedures to coordinate with the UN regarding access to funds have not been tested.

283. Supervisors and REs demonstrated a very limited understanding of PF exposure in relation to dual-use goods and potential links to persons and entities subject to asset freezing under R.7. Lao PDR has prepared a draft decree on dual-use goods which is intended to address PF-related TFS requirements, but this has not been enacted.

*FIs and DNFBPs' understanding of and compliance with obligations*

284. There is no guidance provided to REs on their TFS obligations in taking withholding/freezing actions in relation to PF. Lao PDR indicated that they consider exposure to PF is low despite the UN reports on potential sanctions evasion. This view by competent authorities contributes to the low level of understanding of the exposures of PF sanctions evasion in the country. Lack of information and understanding of country-specific PF vulnerabilities and exposure, as well as possible typologies of sanctions evasion among FIs and especially DNFBPs, impairs the implementation of the TFS regime.

285. Larger domestic FIs and branches and subsidiaries of international FIs demonstrate an awareness of their TFS obligations for PF, while understanding is weak among smaller FIs and especially DNFBPs. Awareness raising campaigns on TFS obligations for PF were conducted for 551 participants from government authorities and REs in 2021-2022 since the adoption of Order No.20/PM in 2020.

*Ensuring and monitoring compliance by competent authorities*

286. Order No.20/PM defines the legal and regulatory framework for TFS for PF in Lao PDR. However, competent authorities responsible for monitoring of TFS compliance for PF by REs were not specified in Order No.20/PM or any other legislations. In general, the obligation to supervise compliance with PF TFS obligations appears to reside with AML/CFT supervisors.

287. There is a lack of monitoring and supervision of TFS requirements for PF and no specific PF supervision manuals or guidance for supervisors. Although the AML/CFT Onsite Inspection Manual issued in 2018 does not cover TFS requirements in relation to PF, supervisors indicated that they conduct random name match checks against the UNSCR list within their scope of onsite supervision.

288. Deficiencies identified in IO.3 regarding the implementation of risk-based supervision and sanctions measures equally undermine the effective enforcement of TFS obligations for PF. Examination reports indicated that smaller FIs and DNFBPs do not have systems or procedures in place for monitoring the UNSCR list. For example, supervision of the casino sector identified weaknesses in implementing sanctions screening, and delays in meeting remedial measures as set out in IO.10.

289. There are administrative or civil, not specific criminal, sanctions available for violations of TFS obligations for PF, but no enforcement actions have been taken against REs. Furthermore, these sanctions are not proportionate and dissuasive in the context of Lao PDR given the non-compliance by REs.

*Overall conclusion on Immediate Outcome 11*

290. Lao PDR has established its legal and regulatory framework for TFS for PF in 2020 and actively organized awareness raising campaigns to enhance effective implementation of TFS obligations which apply to all REs, and natural and legal persons. Larger domestic and internationally exposed FIs demonstrate an awareness of their TFS obligations for PF, while understanding is weak among smaller FIs and especially DNFBPs. No assets were identified or frozen in relation to the relevant UNSCRs. Delays in the notification of designations, reliance on an English language-based website and lack of guidance to and supervision and enforcement of REs impair the effectiveness of the TFS regime for PF. Lao PDR did not demonstrate its commitment and willingness to implement UNSCR sanctions and was not able to respond to the requests by the assessment team regarding potential sanctions evasion by DPRK nationals indicated in UN reports as being hosted by Lao PDR. Thus, the context of possible inaction on the UNSCR sanctions regime indicates a lack of effectiveness which requires fundamental improvements.

291. **Lao PDR has a low level of effectiveness for IO.11.**

## CHAPTER 5. PREVENTIVE MEASURES

*Key Findings and Recommended Actions***Key Findings**

1. Lao PDR has taken steps to strengthen their legal framework for preventive measures since its last mutual evaluation, but technical deficiencies present in the AML/CFT framework (PEPs, CDD, enhanced and specific measures, STRs, etc.) inhibit the effective implementation of preventive measures by REs.
2. Lao PDR's Law on AML/CFT lacks sufficient scope to cover all DNFBPs of concern under the FATF Recommendations. In particular, natural persons who operate as lawyers, real estate agents, and precious metal & stone dealers and not covered. Accountants (whether enterprises or natural persons) are not covered.
3. With the exception of large FIs, REs and VASPs in Lao PDR did not demonstrate a well-developed understanding of their ML/TF risks and AML/CFT obligations. REs did not demonstrate taking action in response to emerging risks that changed the AML/CFT landscape, in particular the Covid-19 pandemic. Many REs appear overly reliant on the findings of the 2018 NRA. The casino sector's complete lack of awareness of ML/TF risk and AML/CFT obligations is the greatest concern.
4. At the time of the onsite, no VASPs had commenced operation under Lao PDR's crypto-trading pilot program.
5. The lack of guidance issued to REs and capability of AML/CFT supervisors, limits the effective implementation of AML/CFT preventive measures by REs.
6. Preventive measures applied by the branches and subsidiaries of foreign banks are influenced by their financial group's AML/CFT programmes. The effectiveness of systemically important domestic banks' preventive measures continues to develop. Given the higher risks associated with banks, the overall implementation of preventive measures is inadequate.
7. In general, FIs implement CDD and record keeping requirements, however only banks appear to apply enhance due diligence (EDD) or specific measures for PEPs, correspondent banking, new technologies, wire transfers, TFS relating to TF, and higher risk countries. Collection, identification and verification of beneficial ownership information is weak overall.
8. Almost all STRs are reported by REs in the banking sector but they are not consistent with Lao PDR's ML/TF risk profile. No STRs that related to narcotics, environmental crime, cash smuggling, casino transactions etc. were reported. REs did not demonstrate effective controls to monitor for, and report, suspicious transactions. Of greatest concern is the casino sector which failed to report any STRs. Further, REs receive little guidance or feedback on how to monitor for unusual transactions or enhance the quality of STRs.

**Recommended Actions**

- A. Lao PDR should address gaps in its AML/CFT framework to cover all DNFBPs (as defined in the FATF Recommendations) and VASPs and technical compliance in relation to preventive measures. In particular for CDD, record-keeping, ongoing monitoring, enhanced/specific measures, PEPs,

correspondent banking, new technologies including requirements on virtual assets and VASPs, wire transfer rules, internal controls, targeted financial sanctions relating to TF, and higher-risk countries identified by the FATF.

- B. Lao PDR authorities should act to ensure that all DNFBPs understand their ML/TF risks and implement risk-based AML/CFT requirements. Action should focus on casinos, real estate agents, and dealers in precious metals and stones and be supported by guidance, outreach and feedback, risk-based supervision and enforcement where appropriate.
- C. Given the high risks associated with the casino sector and the extremely low effectiveness of preventative measures for this sector, Lao PDR should take immediate steps to ensure AML/CFT compliance in the casino sector and the effective implementation of AML/CFT obligations by casinos including: re-assessment of casino-related ML/TF risks for existing casinos; intensive AML/CFT awareness-raising; comprehensive guidance to the sector including specific casino-related red flag indicators of suspicious activities; feedback to the sector as a whole and individually to each casino operator; requirements for casino staff to attend AML/CFT training, etc.
- D. Lao PDR authorities should share the findings of risk assessment reviews and issue updates to REs on emerging ML/TF risks, threats and trends. REs should be required to conduct enterprise risk assessments and strengthen their risk mitigation measures.
- E. AMLIO should actively raise awareness of the need for non-bank FIs to monitor suspicious transactions and report STRs. This should include improving guidance and feedback.
- F. Lao PDR should demonstrate the effectiveness of its countermeasures already taken against the higher-risk countries identified by the FATF, and should ensure the application of enhanced due diligence measures proportionate to the risks arising from such countries.
- G. Supervisors should establish a platform for regular engagement with REs including industry associations and self-regulated bodies, particularly higher risk sectors such as banks, casinos, real estate agents and dealers in precious metals and stones. Such a platform should aim to keep the industry abreast of the latest ML/TF risks, trends and typologies, and AML/CFT obligations. Urgent and effective outreach is a key element here.
- H. Competent authorities should, once TC deficiencies are addressed, issue guidance and conduct training. This should include inter alia implementation of CDD in relation to beneficial ownership and improving quality of STRs.

292. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, R.6, and R.29.

#### ***Immediate Outcome 4 (Preventive Measures)***

293. Findings in this chapter are based on interviews with private sector representatives and public sector officials, statistics and other information provided by BOL PDR, AMLIO and other authorities, and information concerning the relative materiality and risks of each sector (including the NRA). The implementation of preventive measures varies across REs. Given that there is no effectiveness/implementation with respect to VASPs, the assessors were not able to properly assess requirements on AML/CFT obligations of VASPs operating in Lao PDR.



294. Lao PDR has taken some steps to strengthen its legal framework for preventive measures since its last mutual evaluation in 2011, but a number of deficiencies remain. The Law on AML/CFT and the Agreement on AML/CFT Measures lack scope as they do not include all DNFBPs and VASPs, and do not include natural persons who operate as lawyers, real estate agents, and precious metal & stone dealers (see c.22.1). Also, accountants and accounting firms are not covered as they are not included in the definition of DNFBPs in the Law on AML/CFT.<sup>96</sup>

295. The technical deficiencies in Lao PDR's AML/CFT framework, specifically with respect to PEPs, CDD, enhanced and specific measures, and STR reporting inhibit the effective implementation of preventive measures by REs. A lack of on-going education and outreach, guidance, supervision and feedback further weaken the preventive measures employed by REs.

296. Considering the relative importance and ML/TF risks, context and materiality in Lao PDR, the banking sector and casinos were most heavily weighted. Heavy weight was assigned to DPMS, and real estate agents. Implementation issues were moderately weighted for MVTS and foreign exchange bureaus, MFIs and insurance, securities companies and lawyers. Lesser weight was applied to leasing companies, pawnshops, notaries, auditors and asset management companies.

297. There are 38 commercial banks operating in Lao PDR consisting of six types; state-owned commercial banks, specialized banks, joint-venture banks, private banks, subsidiary banks and foreign commercial bank branches. There are five companies providing life insurance and three securities trading companies. Other FIs include MVTS providers, foreign exchange bureaus and MFIs.

298. The casino sector was rated at a high level of ML risk in the 2018 NRA due to its cash intensity, large transaction volumes and 24-hour operation. Of four casinos in Lao PDR, three are foreign owned, and are situated in special economic zones on Laos' territorial borders. One casino, located in the Golden Triangle is particularly exposed to ML risks. Only foreign customers are allowed in casinos and all transactions appear to take place in foreign currencies.

299. With respect to VASPs, the notice on prohibition on giving service on Crypto Currencies prohibits FIs from engaging in Crypto Currency Operations. In November 2021 Lao PDR commenced a three year VASP pilot program. The extent of AML/CFT obligations on VASPs in the pilot project is not clear. No cryptocurrency trading platforms were operating as part of the pilot programme at the time of the onsite visit. Operating a trading platform outside the pilot is prohibited but this does not extend to other types of VASPs and no preventive measures apply to them. At the time of the onsite visit, Lao PDR authorities had not taken steps to identify and sanction unlicensed VASPs.

### *Understanding of ML/TF risks and AML/CFT obligations*

300. Most FIs, DNFBPs and VASPs in Lao PDR do not appear to understand their ML/TF risks. REs are somewhat familiar with the findings of the 2018 NRA, but many lack an understanding of how their businesses are exposed to these risks. REs are overly reliant on the NRA's findings and consequently lack an appreciation of other risks such as those posed by transnational crime and legal persons. REs did not demonstrate taking any action to identify and understand how emerging threats and other factors have changed the ML/TF risk environment, for example, due to the Covid-19 pandemic. REs lack of understanding of a changing risk environment is in part due to authorities not monitoring for emerging risks, threats and trends and not periodically producing updated ML/TF risk assessments.

<sup>96</sup> During the onsite visit, officials indicated that accounting firms are not allowed to carry on activities covered by R.22.

RE's low overall understanding of risk is also in part due to the limited outreach and feedback, supervision and enforcement action by Lao PDR competent authorities.

301. REs and their industry associations' understanding of ML/TF risks and AML/CFT obligations varies widely across sectors and across institutions within a sector. The level of understanding is mixed amongst FIs and is low to non-existent amongst DNFBPs. Only the larger FIs could articulate risks presented by the products and services they offered, and all REs showed little awareness or understanding of changing or emerging risks.

302. There is a better understanding of ML/TF risks and AML/CFT obligations among banks and in particular international banks. These entities appear to implement more effective AML/CFT programmes given that they are typically subject to more rigorous enterprise-wide requirements. Next, systemically important domestic banks implement AML/CFT obligations to a more compliant extent than smaller domestic banks. But overall, there is a mixed level of understanding and implementation of AML/CFT policy among bank in Lao PDR and given the high risk of ML and TF associated with all banks, the current overall level of sector effort, support and implementation is inadequate.

303. Insurance companies demonstrated a sound understanding of risks and an acceptable level of implementation as opposed to the low-medium risk level faced by the industry. Life insurance - a relatively immature sector - is concentrated among five insurance companies who offer a basic range of products with relatively low transaction limits. While there appears to be limitations in the understanding of ML/TF risks and the meeting AML/CFT obligations in other FIs such as securities companies and MFIs, their size and nature of operation, customer base, and market share, reduce their ML/TF risk.

304. The greatest concern is the casino sector as their understanding of ML/TF risks and AML/CFT obligations appears to be negligible. There is a concern that casino compliance staff do not have any AML/CFT compliance experience prior to commencing, including staff in AML/CFT leadership roles.

305. There is a concern that FIs offering services to casinos and other high risk DNFBPs do not sufficiently understand their exposure to ML/TF risks posed by those sectors as evidenced by gaps in STR reporting on predicate crimes such as narcotics, environmental crimes etc. (see Table 5.4).

306. The remaining DNFBPs (DPMS, real estate agents, and lawyers) have only a basic understand of the 2018 NRA and little insight into how these risks apply to the products and services they offer. Further, they have only a basic understanding of their AML obligations, as evident by the lack of STR reporting. Accounting firms are not covered under the definition of DNFBP in the Law on AML/CFT and during onsite meetings it was highlighted that accounting firms are not allowed to conduct activities specified in R.22 for accountants.

307. At the time of the on-site visit, the pilot project on crypto-trading had not commenced. VASPs were still developing their AML/CFT programmes, however they demonstrated little understanding of ML/TF risks.

308. Nearly all banks and MVTS providers have conducted enterprise risk assessments, although in many instances these assessments were limited to simply applying the NRA without appreciation of their own business-related ML and TF risks. During the onsite visit, few banks and MVTS operators commented on the risks posed by their product and service offerings, or how some parts of the NRA were more relevant to their business than other parts. None had updated their risk assessments as a result of Covid-19, neighbouring political instability, or the emergence of payment apps incorporating

electronic payment methods. The lack of updated risk information undermines their risk-based mitigation measures.

309. Apart from banks and MVTs providers, most FIs at the time of the on-site visit had not conducted a proper institution-wide internal risk assessment on ML/TF and had a basic understanding only of the risks faced by their sector/industry some of which was identified in the NRA.

#### *Application of risk mitigating measures*

310. Given the limited understanding of ML/TF risks, technical deficiencies in Lao PDR's AML/CFT framework, and minimal guidance from supervisors, the application of risk mitigating measures by REs is not commensurate with risks faced. Outside the banking sector, most REs demonstrate only a basic level of implementation of preventive measures.

311. Implementation of effective risk mitigating measures by DNFBPs is negligible and it is not evident how their understanding of risk and the products and services they offer influence the deployment of mitigating measures in their businesses. As a result, mitigating measures are largely ineffective. For instance, as demonstrated during the onsite visit, CDD measures applied by DPMSs are limited to mere identification of customers. They do not appear to identify whether a customer is a PEP nor do they apply EDD or specific measures for high risk customers.

#### *Application of CDD, enhanced or specific CDD and record keeping requirements*

312. Record keeping requirements appear to be reasonably well implemented across FIs. Lao PDR did not demonstrate that DNFBPs are properly implementing record keeping requirements.

313. In general, large FIs implement CDD requirements. CDD by small and medium FIs do not appear to be well implemented. Verification of documentation in CDD processes presents some strengths and weaknesses. Identification and verification of identity for natural persons is satisfactory. There are particular challenges in verifying corporate customers, noting the weaknesses with basic information outlined in IO.5. Most FIs do not appear to implement measures to understand the purpose of the customer relationship or the source of wealth.

314. The understanding of beneficial ownership and the risks posed by legal persons varied among FIs with no understanding in relation to legal arrangements (both domestic and foreign). The collection of beneficial ownership information is minimal in relation to legal persons, and does not extend beyond nominal share ownership. It is not clear whether supervisors verify the compliance of FIs with CDD and record-keeping requirements, particularly in relation to beneficial ownership, as there have been few on-site supervision visits and assessments since 2019.

315. DNFBPs demonstrated even less understanding of CDD and beneficial ownership requirements (especially in relation to legal persons and legal arrangements), and collected only basic KYC information from customers. DNFBPs, do not implement CDD to identify and verify beneficial ownership or source of wealth. This is of the most concern with the high risk casino sector.

316. FI and DNFBPs' ability to conduct CDD on entities operating in SEZs may be hindered by the process where the SEZ Authority under the MPI issues enterprise registration certificates. RE may face challenges in mitigating ML/TF risks by having a casino as a customer.

317. In the event that the customer is unable to provide adequate information as required, REs are eligible to cease providing service to the customer or refuse to establish the business relationship with

such customer, and then submit an STR to the AMLIO. Few banks have reported STRs relating to incomplete CDD (Table 5.1). The number of STRs related to refusal or termination of customer relationship owing to reasons other than for CDD issues is extremely low (Table 5.2). No STR has been reported on beneficial ownership information.

**Table 5.1: STRs Statistics driven by incomplete CDD**

Bank	2015	2016	2017	2018	2019	2020	2021	2022
State-owned Commercial Bank	0	0	0	8	4	0	0	0
Joint-Venture Bank	3	1	1	16	1	0	1	0
Private Bank	0	0	0	0	1	0	1	0
Subsidiary Bank	0	58	42	11	17	0	0	0
Foreign Commercial Bank Branch	0	2	0	1	4	15	2	2
<b>Totals</b>	<b>3</b>	<b>61</b>	<b>52</b>	<b>36</b>	<b>36</b>	<b>15</b>	<b>4</b>	<b>2</b>

**Table 5.2: STRs driven by refusal to commence, or termination of, a business relationship (other than for CDD)**

Bank	2018		2019		2020		2021		2022	
	Termination	Refusal	Termination	Refusal	Termination	Refusal	Termination	Refusal	Termination	Refusal
State-owned Commercial Bank	0	3	0	0	0	0	0	0	0	0
Joint-Venture Bank	0	0	0	0	0	0	0	0	0	0
Private Bank	0	0	0	0	0	0	0	0	0	0
Subsidiary Bank	0	0	0	0	1	1	0	0	0	0
Foreign Commercial Bank Branch	0	0	1	4	4	4	2	0	1	0
<b>Totals</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>4</b>	<b>5</b>	<b>5</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>

### *Application of EDD Measures*

318. Only larger banks and more sophisticated FIs apply reasonable EDD measures in high-risk scenarios. It was not demonstrated that other FIs and DNFBPs were well aware of their enhanced due diligence obligations or that they monitored for changing customer risks, or triggers, that would result in the application of enhanced due diligence. These REs failed to demonstrate a good understanding of circumstances that warrant enhanced due diligence measures.

319. Implementation of measures to identify and manage risks posed by PEPs is weak outside of foreign banks. There are no obligations covering domestic PEPs, despite significant ML risks. Domestic FIs and DNFBPs indicated that they undertake necessary checks, including source-of-funds checks, before conducting transactions with PEPs, however this is not well demonstrated or supported by

supervisory findings. Weaknesses with PEP controls are a particular concern with the larger domestic banks and other FIs. Among DNFBPs, this is a particular concern for casinos, real estate and DPMS.

320. The application of enhanced or specific measures within DNFBPs is negligible. Most DNFBPs demonstrated minimal understanding of risk control frameworks, which was limited to generic statements regarding CDD, EDD, and sanctions and PEP screening.

321. Implementation of specific measures to manage risks posed by new technologies, TFS relating to TF, and FATF higher risk countries, appear to be implemented by large banks only. This is evident from the very low number of STRs relating to high-risk scenarios (see Table 5.4). Banks indicated that they undertake necessary audits prior to employing any new technology. Their screening of customers for TFS occurs at on boarding. Further, they appear to screen their customers when the UN designated lists are updated. Apart from large banks with sophisticated screening tools, other REs rely on accessing and manually searching (in English) UNSC lists for TFS reached via hyperlinks published on AMLIO's website (also in English). It was apparent during meetings during onsite visit that there is often a time lag in AMLIO disseminating information on updates to the sanction lists and there is no notification published on the AMLIO website when the UNSCR list is updated.

322. Correspondent banking controls are well implemented by branches of foreign banks but not well implemented by local banks. Controls for wire transfers appear to apply to the account holder rather than the sender and beneficiary. In the absence of supervision of these controls, Lao PDR was unable to demonstrate effective implementation.

### *Reporting obligations and tipping-off*

**Table 5.3: STRs filed with AMLIO**

Reports Received	2018	2019	2020	2021	2022	Total
STRs	293	403	316	334	202	1,739
CTRs	357,269	367,661	382,026	445,913	571,000	2,586,252

323. Large banks have AML/CFT policies in place for STR reporting, but strong monitoring for unusual or suspicious activity was not well demonstrated and very low number of STRs have been submitted to AMLIO. Only the commercial banks and leasing companies have submitted STRs, with more than 95% coming from commercial banks and the remainder from leasing companies. The majority of STRs submitted by commercial banks are related to money transfers and deposit-withdrawal of cash on account of the fact that Lao PDR is a cash-based economy. Except for requests for further information on STRs, REs receive minimal guidance or feedback on how to enhance the quality or number of STRs.

**Table 5.4: STR – reasons for suspicion**

Reasons for suspicion	2018	2019	2020	2021	2022	Total
PEPs	0	0	6	2	3	12
New Technologies	0	3	2	6	0	11
Remittance	76	209	101	223	83	772
High-risk Countries under FATF	0	2	0	0	0	3
<b>Totals</b>	<b>76</b>	<b>214</b>	<b>109</b>	<b>231</b>	<b>86</b>	<b>798</b>

324. No STR has been filed on high-risk DNFBPs, including casinos, to date. No action has been taken against casinos for non-reporting of STRs. This demonstrates their lack of proper understanding of obligation of filing STRs when there is a suspicion.

325. No STRs or CTRs have been reported by DNFBPs. Almost all the DNFBPs the assessors met at the onsite visit mentioned that their customers were trustworthy and they never had any suspicion over them. No steps have been taken by authorities to improve or enhance STR reporting by different sectors. Lao PDR has not issued sector-specific guidance (except to the low risk securities sector) or feedback to FIs and DNFBPs to raise the number of STRs or to enhance their quality of STRs (see R.34).

326. No STRs received by AMLIO have related to attempted transactions.

**Table 5.5: Banks monitoring alerts and STRs submitted**

Type of Bank	2018		2019		2020		2021		2022	
	Alert	STR	Alert	STR	Alert	STR	Alert	STR	Alert	STR
State-owned Commercial Bank	203	114	157	106a	146	114	185	164	89	89
Joint-Venture Bank	4,723	34	3,380	61	2578	44	1,143	39	322	31
Private Bank	5,787	46	2,320	39	10,702	83	30,800	112	8,317	104
Subsidiary Bank	52	46	34	23	13,723	23	16,819	12	51,648	10
Foreign Commercial Bank Branch	4,998	37	30,000	148	11,891	45	9,593	82	12,599	45
<b>Totals</b>	<b>15,763</b>	<b>277</b>	<b>35,891</b>	<b>377</b>	<b>39,040</b>	<b>309</b>	<b>58,540</b>	<b>409</b>	<b>72,975</b>	<b>279</b>

327. AMLIO has not detected any reporting or tipping-off breaches by REs. This may reflect the small number of STRs, lack of supervision and the few instances of LEAs or AMLIO seeking additional information from REs.

328. FIs demonstrated an awareness of tipping-off obligations but the effectiveness of practical measures could not be assessed in FI sectors apart from banks and MVTS providers nor could they be assessed in all DNFBPs (where no STRs were reported). In the absence of STR reporting apart by banks and leasing companies, it is not clear whether other REs understand tipping-off obligations and ready to apply any measures to prevent tipping-off.

329. REs, including banks, did not demonstrate a proper understanding of the legal requirement to postpone a customer's transaction(s) for three days when there is an ML/TF suspicion (Art. 29, Law on AML/CFT) This is evident from the extremely low number of STRs related to the refusal to commence a business relationship with a customer or termination of the relationship. The requirement to postpone the transaction for three days (Art. 29, Law on AML/CFT) may also result in tipping-off of the customer (see Table 5.2).

#### *Internal controls and legal/regulatory requirements impeding implementation*

330. Financial institutions: Almost all banks and some FIs, including some insurance companies, leasing companies MVTS providers, and MFIs, have developed their AML/CFT policies. In general, these policies cover their AML/CFT obligations including customer identification and verification, customer screening, record keeping, risk management and reporting requirements and also policies relating to

training and internal controls. But not all REs have appointed compliance officers or developed internal AML/CFT policies. And with the exception of some foreign banks (as noted earlier), enterprise-wide ML/TF risk assessments do not exist due primarily to an overreliance on the NRA.

331. There appears to be some screening of new employees in larger FIs. Independent audit reviews are common across FIs, however, it is not clear whether they conduct AML/CFT audits. Only a few FIs undertake internal employee training and resource allocation for compliance appears to be limited across FIs. Although internal controls are generally in place in more advanced FIs and FIs with foreign collaboration, many FIs lack sufficient internal controls.

**Table 5.6: Number of REs with internal controls as of 2021**

Sector	REs	AML/CFT Policies	Compliance Officer Appointed	AML/CFT Training Plan	Internal Risk Assessment and Policy	Reporting Mechanism	Internal Auditing
<b>FIs</b>							
Banks	43	42	42	42	38	42	15
MVTS	3	2	2	3	2	2	2
Micro-Financial Institution	122	9	16	1	9	9	0
Leasing	29	9	9	2	7	7	0
Securities	3	0	3	1	0	3	0
Insurance	24	4	6	2	3	4	0
Exchange Bureau	0	0	0	0	0	0	0
Pawn Shop	0	0	0	0	0	0	0
<b>Totals</b>	<b>224</b>	<b>66</b>	<b>78</b>	<b>51</b>	<b>59</b>	<b>67</b>	<b>17</b>
<b>DNFBPs</b>							
Casino	4	2	0	1	0	0	0
Real Estate Trading Agency	0	0	0	0	0	0	0
Auditors	0	0	0	0	0	0	0
Precious Metal traders	0	0	0	0	0	0	0
Public Notary	0	0	0	0	0	0	0
<b>Totals</b>	<b>4</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>

332. **DNFBPs:** DNFBPs lack internal controls, including designated compliance officers. This was reinforced in the preliminary supervisory findings of casinos which identified that there was no appointed compliance officer, and no plan to implement AML/CFT policies and procedures.

333. The lack of internal controls for casinos is the greatest concern, given Lao PDR's risk and context. Casino operators lack AML/CFT knowledge and experience raising concerns over their ability to effectively implement AML/CFT obligations. Further, concerns arise over the past ownership of a casino situated in the Golden Triangle by a person on the United States OFAC sanctions list for drug, human and wildlife trafficking, and who has links to organised crime (according to media reports), prior to transferring ownership to another entity in early 2022.

334. There appears to be no impeding secrecy provisions which adversely impact the implementation of AML/CFT measures by both REs and competent authorities. Concerning the legal profession, the Lao PDR Bar Association reiterated that client-lawyer privileges do not hamper their AML/CFT obligations.

*Overall conclusion on Immediate Outcome 4*

335. Lao PDR has taken some steps to strengthen its legal framework for AML/CFT preventive measures although significant gaps remain which hamper the effective implementation of AML/CFT measures by REs. Apart from large banks, the overall understanding of ML/TF risks, and the implementation of risk mitigation measures, including CDD, EDD, and other AML/CFT obligations, especially among DNFBPs, is in its infancy. Authorities are yet to give necessary support and adequate guidance to ensure effective implementation of preventive measures by FIs and DNFBPs. There were no VASPs operating at the time of the onsite visit.<sup>97</sup> Reporting of STRs is very low and almost all STRs received by AMLIO are from the banking sector. Except for requests for further information on reported STRs, REs do not receive guidance or feedback from AMLIO on how to enhance the quality or number of STRs. Although internal controls are in place in larger domestic and international FIs, many REs lack sufficient internal controls.

336. **Lao PDR has a low level of effectiveness for IO.4.**

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<sup>97</sup> See IO 3 where prior to the onsite visit one VASP licence was revoked during a trial period.



## CHAPTER 6. SUPERVISION

*Key Findings and Recommended Actions***Key Findings**

1. Despite the promulgation of the Law on AML/CFT in July 2014, Lao PDR's implementation risk-based supervision for FIs is only at a preliminary stage and there are fundamental weaknesses with risk-based regulation and supervision of DNFBPs with only limited supervision of casinos happening. There is no AML/CFT supervisor for VASPs, accountants and accounting firms, or for natural persons, as opposed to legal persons, who operate as DNFBPs.
2. AMLIO is the main supervisor for FIs except for insurance and securities companies. Lao PDR reallocated the responsibility for AML/CFT supervision of DNFBPs to sectoral regulators in February 2020, but AMLIO still supervises casinos and provides significant support to the new DNFBP supervisors who are yet to conduct supervisory activities.
3. Fit and proper market entry requirements are established for FIs, however for banks, securities companies and insurance businesses there are no measures addressing associates of criminals and there appears to be no ongoing checks of beneficial owners or when there is a change of ownership or control. Comprehensive fit and proper checks for DNFBPs are not available or implemented by the sectoral regulator. REs in SEZs are not subject to effective fit and proper checks. Regulators have not rejected any applications due to criminal background or criminal associations during fit and proper checking.
4. AMLIO has prioritised supervision of banks and deposit taking MFI, which is generally in keeping with risks, and some aspects of risk-based supervision has been undertaken. This is yet to be extended to many sectors and low-risk institutions.
5. RBA supervision is not well supported due to a lack of overall risk-understanding within their sector and risks associated with individual entities within those sectors.
6. The frequency and intensity of AML/CFT supervision of casinos is not commensurate with the ML/TF risks they present. The few inspections of casinos that have taken place have identified systemic non-compliance. Despite this, only minimal enforcement action was taken and supervisory action was limited to warning letters.
7. There was almost no progress with supervision of other high-risk DNFBPs such as real estate agents and DPMS. The new DNFBP supervisors (taking over from AMLIO) have yet to commence any supervision or monitoring of DNFBPs.
8. Supervisors' actions appear to have limited effect on the compliance of FIs with their AML/CFT obligations as evidenced by low STR reporting volumes. The limited application of sanctions (warning letters) have not been dissuasive. Sanctions available to supervisors are not likely to be dissuasive unless applied at the highest end of the available range. Despite weak implementation of preventive and risk mitigation measures by FIs/DNFBPs, supervisors have only applied a low number of AML/CFT sanctions and these were limited to warning letters to banks and other FIs. Supervisors did not demonstrate that their actions have had a positive effect on compliance by FIs DNFBPs and VASPs.

9. The systemic weaknesses in risk-based supervision and enforcement for cases of non-compliance undermines the quality and scope of AML/CFT implementation overall (see IO.4).

10. Supervisors have organised some training and workshops to promote understanding of ML/TF risks and AML/CFT obligations, however the reach and effectiveness of such training varies and is limited especially for the DNFBPs.

### *Recommended Actions*

- A. Lao PDR should develop a strategic plan to enhance capacity and capabilities of DNFBP supervisors according to risk. This would include enhanced supervisory tools and systems, and a clear enforcement strategy including enforcement steps when there is continuing non-compliance. It should also include processes for coordination and information sharing amongst the various AML/CFT supervisors.
- B. Lao PDR should increase AMLIO's supervisory resources and capabilities to ensure adequate coverage of FIs under its supervision, and to support DNFBP supervisors for effective handover of the supervision mandate.
- C. Lao PDR should strengthen licencing and supervision of REs operating in SEZs. Application processing time limits and implied approvals from non-responses should be abolished.
- D. Supervisors should maintain up-to-date risk profiles and REs by improving and expanding data collection in order to better detect changes in risk profiles and inform on-site and off-site risk-based supervision.
- E. Lao PDR should strengthen and implement fit and proper frameworks to prevent criminals and their associates from holding a significant or controlling interest or a management function in FIs, DNFBPs and VASPs. Regulators should consider higher risk areas and implement comprehensive checks to enforce these obligations and promptly identify apply sanctions for violations of fit and proper requirements as appropriate.
- F. Lao PDR should prioritize higher intensity supervision of higher-risk financial sectors and casinos. Lao PDR should enhance RBA supervision in terms of frequency, depth and focus to ensure adequate supervision and monitoring of higher-risk FIs and DNFBPs, and VASPs.
- G. In relation to the SEZs, competent authorities should comprehensively understand the risks posed by REs in the SEZs and undertake targeted risks-based supervision of REs, especially casinos, to ensure they implement appropriate AML/CFT controls, in-line with demonstrated risks.
- H. DNFBP supervisors should collaborate with AMLIO and industry associations to conduct outreach and awareness-raising workshops in the provinces to inform REs of their AML/CFT obligations and the ML/TF risks they face.
- I. Issue targeted AML/CFT guidance including on TFS requirements which highlights relevant vulnerabilities and implications for non-compliance with obligations for DNFBPs given the low awareness.
- J. Supervisors should provide more detailed feedback to supervised FIs/DNFBPs on supervisory findings and specific weaknesses.

K. Supervisors should use the full range of sanctions available to promote and enforce compliance to AML/CFT regulations, in particular for high-risk REs such as banks and casinos.

337. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.14-15, R.26-28 and R.34-35 and elements of R.1 and R.40.

### *Immediate Outcome 3 (Supervision)*

#### *Institutional Supervision Framework*

338. For FIs BOL is the licensing authority for banks, pawnshops, leasing companies, MFIs, credit unions, MVTS providers and currency exchange bureaus. The Department of State-Owned Enterprise Reform within the MOF and LSCO are the licensing authorities for the insurance and securities sectors respectively.

339. AMLIO is the designated AML/CFT supervisor for FIs other than those in the insurance (MOF) and securities sectors (LSCO). The licensing authorities and AML/CFT supervisors for FIs and VASPs are set out in table 6.1.

**Table 6.1: Supervision and licensing authorities of FIs & VASPs**

Financial Sectors	Licensing authority	AML/CFT Supervisor
Banking	Bank Supervision Department, Bank of Lao PDR (BOL)	AMLIO
Insurance	Department of State-Owned Enterprise Reform, MOF	Department of State-Owned Enterprise Reform (MOF)
Securities	Lao Securities Commission Office	Lao Securities Commission Office
Currency exchange bureau <sup>98</sup>	Monetary Policy Department, BOL	AMLIO
MVTS	Payment Systems Department, BOL	
Micro Finance	Financial Institution Supervision Department, BOL	
Leasing		
Pawnshops		
VASPs	Payment System Department, BOL	Designation of an AML/CFT supervisor for VASPs is unclear <sup>99</sup>

340. For DNFBPs, prior to promulgation of the Decree of Entrust in February 2020, AMLIO was the designated AML/CFT supervisor. The Decree of Entrust transferred AML/CFT supervisory responsibilities to each sector's respective licensing authority as per Table 6.2 below. At the time of the on-site, responsibility for supervision of casinos remained with AMLIO however, authorities indicated this will transfer to MOF, the licencing authority, once the draft Decree on Casino Business Management is promulgated. The Special Economic Zone Promotion and Management Office within the MPI also appears to play a role in casino AML/CFT supervision in the Golden Triangle SEZ<sup>100</sup>. Internet casinos are not licensed in Lao PDR.

<sup>98</sup> In January 2023 BOL issued a notice to 113 currency exchange businesses affiliated with commercial banks to suspend their operations. This follows the banning of currency exchange units associated with commercial banks from selling foreign currency in October 2022.

<sup>99</sup> See R.15.

<sup>100</sup> In February 2022 the SEZ Promotion and Management Office advised the casino it had assessed it a having a high-risk level, required it to make and implement a plan to resolve outstanding AML/CFT compliance issues.

**Table 6.2: Supervision and licensing authorities of DNFBPs**

DNFBPs	Licensing Authority	AML/CFT Supervisor
Dealers of precious metals and stones	Internal Trade Department, Ministry of Industry and Commerce	Internal Trade Department, Ministry of Industry and Commerce
Casinos <sup>101</sup>	- Special Economic Zone, MPI - Department of Mass and Culture, Ministry of Information, Culture and Tourism	AMLIO
Real estate trading agencies	Department of Land, Ministry of Environment and Nature Resources	Department of Land, Ministry of Environment and Nature Resources
Bar Association	Department of Promotion Judicial System, MOJ	Department of Promotion Judicial System, MOJ
Legal firms		
Notary public firms	Notary Department, MOJ	Notary Department, MOJ
External audit firms	Accounting Department, MOF	Accounting Department, MOF
Dealers in precious metals and dealers in precious stones	Heritage Department, Ministry of Information, Culture and Tourism.	Heritage Department, Ministry of Information, Culture and Tourism.

341. Casinos in Lao PDR operate either in a SEZ or special promotion area. A number of the largest casinos are located in some of the highest risk geographic areas of Lao PDR. Four casinos operate in Lao PDR and hold a business license in the form of concessional agreement. An investment license is issued upon signing of the concessional agreement. Any changes to the business operation, shareholders, legal representative, or registered capital must be considered and approved by the licensing authority.

342. Trust and company service providers do not appear to operate as a separate sector, although company services appear to be offered by legal and accounting firms in Lao PDR. In the absence of Lao PDR trust law it does not appear that trust service providers operate in Lao PDR.

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

343. All FIs and DNFBPs in Lao PDR are required to be licensed by the competent authorities listed in Tables 6.1 and 6.2.

344. Comprehensive fit and proper controls are set out for all FIs with the exception of insurers and asset managers. These checks are applied for new applications to shareholders, directors, beneficial owners and CEOs of FIs however criminal associations are not considered. Prior to the issuance of a business license certificate, respective supervisors verify the information submitted including the criminal record of the applicant, shareholders, and CEO. The licensing authorities and respective supervisors have established standard procedures to check and evaluate license applications.

345. Since 2016 BOL has undertaken a number of reforms to statutory instruments and measures to review the fit and proper details of key persons with the existing banks and a number of applicants for bank licences. This included the original source of funds to be invested in the bank, stakeholders' background, criminal record, and BO information for applicant banks. Amongst five recent applications,

<sup>101</sup> Pursuant to the Draft 'Decree on Casino Business' the licensing authority and AML/CFT supervisor for casinos is Ministry of Finance.

two were granted but three were refused on the basis of a failure to meet the enhanced requirements. Lao PDR authorities indicated that they exchange information with foreign supervisors as part of fit and proper background checking in appropriate cases.

346. In general, Lao PDR applies fit and proper checks as part of its licensing/ registration process based on the manual in place for its financial sector. However, to-date no applicants have been rejected for an FI licence due to an association with criminals or AML/CFT concerns.

**Table 6.3: Issuance of license of reporting entities**

Reporting Entities	2015	2016	2017	2018	2019	2020	2021	2022
Banks	0	1	0	1	0	1	0	0
Foreign Exchange Bureau	58	107	6	0	0	106	189	0
MVTS	0	0	0	3	3	3	3	0
Micro-Finance Institutes	23	19	18	14	0	7	19	17
Pawnshops	0	2	4	0	0	4	14	13
Leasing Companies	7	6	3	0	0	0	0	1
Insurance Company	3	4	4	3	0	0	0	0
Auditing Company	9	11	5	4	2	1	2	0
Casino	0	1	0	0	0	0	0	1
<b>Totals</b>	<b>100</b>	<b>151</b>	<b>40</b>	<b>25</b>	<b>5</b>	<b>122</b>	<b>227</b>	<b>32</b>

347. BOL has implemented regular processes for updating fit and proper checks on managers and boards every three years, and whenever there are changes. However, Lao PDR did not demonstrate the fit and proper checks have been done on beneficial owners of existing licences or when there is a change in beneficial ownership or control.

348. There are no fit and proper controls applied to DNFBPs to prevent criminals or their associates from owning or controlling a DNFBP and in the high risk casino sector, supervisors have failed to act despite widespread reports of criminals or their associates holding controlling interests in casinos. While regulatory authorities have powers to obtain information from DNFBPs on beneficial owners prior to or at market entry, there is no indication that this is done in practice. In addition, there is no requirement to declare changes to control/ownership.

349. Two VASPs have been licenced as part of a three year pilot programme and have not been subject to sufficient fit and proper checks. Neither VASP was operating at the time of the onsite visit.

### *Special Economic Zones*

350. Investments in 'financial and banking intermediate services,' 'security market management' 'other lottery and gambling activities' are 'controlled businesses' that must be approved by the Central Investment Promotion and Supervision Committee (IPSC) chaired by the Deputy Prime Minister. Investors in controlled businesses must receive their investment licence and enterprise registration within 25 working days from the date of receipt of the completed application. Enterprise registration certificates are issued by a 'One-Stop Investment Service Unit' within the Special Economic Zone Authority (SEZA) under the MPI. An application need only include the criminal record of the 'investor or company.' Relevant sector authorities such as the BOL or Ministry of Information and Culture have only ten working days from the date of receipt of the application to review and respond to the application. If no response is received within this period, approval is implied. Further, there are no requirements to declare the source of investment capital or for foreign investors to deposit funds into specially nominated accounts.

351. Investments in other types of businesses (other FIs and DNFBPs) are approved by SEZA. Again, relevant sector authorities' approval is implied if no response is received within ten working days. There is no criminal record requirement for applicants and the enterprise registration and investment promotion certificates must be issued within three working days. There are also no checks on sources of investment capital or specially nominated accounts for foreign investors.

352. Particularly in the case of SEZs and more generally, the assessment team holds significant concerns that fit and proper checks do not sufficiently consider systemic ML risks from criminals and their associates seeking to own or control banks, other FIs or DNFBPs, either directly or through beneficial ownership or control. The particular market entry risks facing Lao PDR include close involvement by PEPs and persons associated with high risk industries.

### *Supervisors' understanding and identification of ML/TF risks*

353. Banking dominates the financial services sector and represents an inherently higher ML/TF risk relative to other sectors, which is in keeping with the NRA findings and is weighted accordingly. In addition, there are features of the Lao PDR banking sector that represent particularly high risks. For example, ownership by high net-worth individuals, high-risk PEPs and previous narcotic/ML-related sanctions.

354. Lao PDR's life insurance sector is developing but policy values are low. Similarly, Lao's securities market has only 13 listed entities with daily trading volumes averaging below USD 10,000. Lao PDR supervisors did not demonstrate an understanding of the size and significance of the informal remittance (hawala) sector and the risks it may present. Independent data shows significant value is transferred through formal remittance channels (see Chapter 1). Lao PDR is primarily a recipient on international remittance.

355. AML/CFT supervisors of FIs demonstrate a basic understanding of ML/TF risk associated with their respective sectors. AMLIO demonstrates a higher degree of understanding of risk relative to the LSCO and Department of State-Owned Enterprise Reform however, understanding of risk for all supervisors is mainly driven by the NRA results with no supplementary risk assessment conducted to elevate the understanding of sectoral risks other than RBAs conducted in 2019. The Manual on Risk Based Approach of AML/CFT would support supervisors understanding of sectoral risks and enable differentiation between FIs if data was kept up to date.

356. Supervisors do not demonstrate an understanding of potential TF risks, transnational risks and threats to the financial sector, or respond to changes in the risk environment such as the Covid-19 pandemic or outbreak of armed conflict in a neighbouring jurisdiction. AMLIO's AML/CFT supervisors obtain only limited risk information to guide their risk-based supervision, either from FIs' own enterprise risk assessment or from the FIU's holdings.

357. There are no processes or mechanisms employed by DNFBP supervisors to identify and maintain and understanding of ML/TF risks between sectors, types of entities and individual entities.

358. The casino sector poses significant risks in view of its cash-intensive operations, predominantly foreign customer base, border-town locations and 24-hour operations. Despite a multitude of open source reports, sanctioning by other governments and failure to report STRs, supervisors do not appear to identify or comprehend the significant ML/TF risks and the assessment team applied the highest weighting to this sector.

359. Other DNFBP supervisors demonstrate low understanding of their sectoral risk vis-à-vis financial sector supervisors as they were unable to articulate ML/TF risk with the exception of the international accounting/audit firms. This lack of capability is particularly concerning in the DPMS and the real estate sectors in view of the products/services offered and a significant use of cash.

### *Risk-based supervision of compliance with AML/CFT requirements*

#### *Supervisory capacity*

360. AMLIO is the AML/CFT supervisor for FIs (except for securities and insurance sectors) and casinos but there are only 11 people in the Inspection Division to cover 244 institutions, resulting in varying levels of RBA implementation for the financial sector and scant supervision of casinos. The LSCO and MOF appear sufficiently resourced to supervise the smaller number of entities in these sectors. While the decision to transfer AML/CFT supervision of DNFBPs to dedicated ministries aims to address resourcing gaps, this transfer has yet to be fully implemented. There is no concrete deadline for the handover and no comprehensive capacity building plan for the new supervisors. With the exception of casinos, supervision of DNFBPs has yet to commence and it is unclear if these supervisors have sufficient staff to taken on these new functions.

361. In 2019 Lao PDR, supported by technical assistance from the World Bank, implemented a significant programme of training for AML/CFT supervisors, which included training for over 100 participants from supervising agencies.

**Table 6.4: RBA Training for Supervisors in 2019**

Line-Ministries Concerned	Training on Specific Topics		Training for all Supervisors	
	Times	Participants	Times	Participants
Commercial Bank Supervision Dept., BOL	2	8	2	100
Lao Securities Commission Office, BOL	2	8		
State-Owned Enterprise Management and Insurance Dept., MOF	1	3		
Investment Promotion Dept., MPI	2	8		
Special Economic Zone Office, MPI	2	8		
Cultural Dept., MICT	2	8		
Register and Enterprise Management Dept., MOIC	1	6		
Import-Export Dept., MOIC	1	6		
Domestic Trade Dept., MOIC	1	6		
Department of Land, MONRE	1	6		
Monetary Policy Dept., BOL	1	6		
Financial Institution Supervision Dept., BOL	1	6		
Payment System Dept., BOL	2	6		
Accounting Dept., MOF	1	3		
<b>Totals</b>	<b>20</b>	<b>91</b>		

#### *Conduct of Supervision*

362. AMLIO cooperates with prudential supervisors on cross over issues of supervision. BOL and AMLIO have had an MOU in place since 2021 to support cooperation and information exchange. Prudential supervisors share their examination plans with AMLIO. In some cases AMLIO joins BOL and LSCO supervisors to do combined prudential and AML/CFT onsite supervision. Prudential supervision includes aspects of AML/CFT, which complements and follows on from AMLIO supervision. Prudential

supervisors consider some elements of AML/CFT controls, including sanctions screening, and prudential supervisors monitor progress with remedial actions that have been required by AMLIO as a result of previous AML/CFT onsite supervision.

363. AMLIO's AML/CFT on-site inspection frequency is based on a fixed cycle determined by risk; yearly for high risk FIs, biennially for medium risk and every three years for low risk FIs. This approach does not appear to adequately reflect Lao PDR's risks, provide a framework to more intensively supervise the highest risk FIs, or enable the flexibility to respond to major risk events. Further, supervisors' risk rating of FIs ML/TF risk profiles following on-site assessments are questionable. For example, following an onsite inspection, a systemically important domestic bank with over 100 branches, wide range of products and services, and over 30 correspondent banking relationships was advised that its ML/TF risk rating was low.

**Table 6.5: Off-site reviews conducted by AMLIO on banks**

2019	2020	2021	2022	Total
16	41	54	40	151

364. Given AMLIO's resource constraints and driven by RBA, supervision for the financial sector is focused on banks and deposit-taking MFIs. For the relatively lower risk sectors, i.e. the insurance and securities sectors, the respective supervisors (Department of State-Owned Enterprise Reform and Insurance and Lao Securities Commission Office) incorporate AML/CFT components in the prudential inspection based on the RBA cycle. Frequency of on-site inspection for financial sector is driven by RBA assessments performed in 2019 which comprise of inherent risk indicators and AML/CFT control indicators. However, as demonstrated above, some large banks have not been adequately supervised due to the three-year on-site cycle for low-risk institutions.

365. Prior to conducting its NRA in 2017-2018, AMLIO primarily focused AML/CFT supervision on the banking sector and generally did not take a risk-based approach to select other sectors for supervision.

**Table 6.6: Bank Inspections by AMLIO**

Banks	2015	2016	2017	2018	2019	2020	2021	2022
State-Owned Commercial Banks	3	2	0	1	1	0	0	0
Joint State Commercial Banks	1	4	1	3	3	0	0	1
Private Banks	6	7	2	8	6	0	2	5
Subsidiary Banks	2	7	6	7	2	0	1	3
Foreign Commercial Bank Branches	7	13	6	3	8	0	4	7
<b>Totals</b>	<b>19</b>	<b>33</b>	<b>15</b>	<b>22</b>	<b>20</b>	<b>0</b>	<b>7</b>	<b>16</b>

366. Following the NRA and in keeping with its outcomes, Lao PDR prioritised additional higher risk sectors (insurance, MVTs and foreign exchange bureau) and amended on-site inspection manuals in line with sectoral risk. AMLIO, in cooperation with each RE's supervisor adjusted annual on-site inspection plans.

367. Amongst banks, the NRA identified two high risk banks, 15 medium high-risk banks, eight medium risk banks, nine medium-low risk banks and eight low risk banks.



**Table 6.7: On-site Inspection of Priority Sectors based on ML risk**

Priority Sectors	2018	2019	2020	2021	2022	Total
Commercial Banks	22	20	0	7	16	65
Insurance Company	10	22	0	0	21	53
MVTS	1	0	0	0	3	4
Foreign Exchange Bureau <sup>102</sup>	12	0	0	0	0	12

368. There was no further assessments post-2019 to update the RBA of all institutions, with minimal use of quantitative data from prudential supervisors or AMLIO to further enrich the risk assessments. During the Covid-19 pandemic, planned on-site inspections were replaced with off-site reviews which focused on documents review and monitoring of action plans by institutions, however there are no mechanisms in place to detect changes in the risk level of institutions post RBA implementation.

369. AMLIO in coordination with MPI conducted monitoring and inspection on AML/CFT implementation in terms of on-site and off-site reviews for three casinos.

370. Other than for casinos, supervision of DNFBPs has been stalled since the transfer of new supervisors in 2020. Onsite supervision of casinos has not occurred since responsibility was reallocated to sector DNFBP supervisors.

#### *Quality of supervision*

371. AML/CFT supervisors take a structured approach to determine the intensity of supervision and is based on a manual to guide the conduct of onsite supervision. This manual considers ML/TF risks and policies, internal controls and procedures of FIs.

372. The manual specifies a range of activities including procedures and checklists for AML/CFT examination activities based on AML/CFT obligations such as AML/CFT policies and procedures, CDD/KYC requirements, monitoring (MIS), record keeping, effectiveness of internal audit functions, training, and STR analysis and reporting.

373. It is not clear whether supervision of FIs goes into the full depth of the AML/CFT examination activities outlined in the supervision manuals. Supervisory reports of FIs tend to only include summary level findings. For example, two one-page summary reports were issued to two banks and an insurer's onsite report notes only the appointment of an AML Compliance Officer with no other AML/CFT controls tested. Overall, Lao PDR did not demonstrate that the quality of its supervision of FIs is well developed.

374. Supervision of casinos is infrequent and of insufficient depth relative to the ML/TF risks present. Over the assessment period only three assessments were conducted. In March 2020 AMLIO issued identical examination reports to two casinos following on-site visits. The findings identify an absence of basic measures such as the appointment of compliance officers, risk assessments, an AML/CFT programme, procedure manuals and record-keeping.

375. Supervisors do not provide sufficiently detailed and timely feedback to supervised FIs or DNFBPs to outline and explain supervisory findings and specific weaknesses.

<sup>102</sup> Subsequent to the on-site visit, in 2023 independent foreign exchanges were closed. Those services are now provided by banks.

*Remedial actions and effective, proportionate, and dissuasive sanctions*

376. There are sanctions available to supervisors but these are unlikely to be dissuasive unless applied at the highest end of the available range. Limited supervision resources and capability to rigorously assess REs likely reduces the identification of breaches and their severity, and therefore the need for remedial actions and/or application of sanctions. Currently there is a low number of AML/CFT sanctions applied and these are limited to the issuance of warning letters for breaches of AML/CFT obligations. AMLIO has identified deficiencies during on-site inspections of FIs and required FI to submit a remedial plan in response to the examination findings and recommendations. Remedial plans are subject to assessment under follow-up review but this process has not been fully applied to all institutions as AMLIO has not completed the full RBA cycle, especially for the low risk institutions.

377. AMLIO and BOL have had a focus on follow up letters and remedial actions in response to offsite and onsite supervision. Administrative letters and memoranda issued to the banks and to casinos relate to basic compliance issues and are generally focused on establishing policies and procedures, appointing compliance officers and staff training. The supervisory reports or follow-up letters include some detail of the requirements for remedial actions.

378. No sanctions have been applied to DNFBPs for AML/CFT breaches. Early in the VASP pilot programme BOL cancelled one cryptocurrency trading platform's licence for operating outside of the terms of the pilot programme (not for an AML/CFT breach). No other entities in the VASP pilot programme have commenced offering services and hence no sanctions have been applied.

379. Lao PDR was unable to provide disaggregated data of remedial measures and enforcement actions between prudential and AML/CFT supervision, but it appears that a majority of actions were in relation to prudential or sectoral regulatory failings rather than AML/CFT breaches. This reflects a lack of political will and a minimal structured policy or procedure for pursuing serious enforcement actions for AML/CFT failings by banks or other financial sector entities. Lao PDR authorities indicated that AML/CFT supervisory actions are limited to warning letters for non-compliance with AML/CFT obligations.

**Table 6.8: Administrative Measures for Non-compliance with Prudential / Sectoral Regulations – 2018-2022**

REs	Warning	Fine	Suspension / Dismissal	Revocation of Business License / Enterprise Registration Certificate
Commercial Bank	77	11	0	0
Foreign Exchange Bureau	84	18	3	296
Financial Institution	27	0	0	4
Pawnshop	12	0	0	13
Leasing Company	34	0	0	1
Securities	5		0	0
Insurance	3	0	1	1
Bar Association or Law Enterprise	0	0	0	0
Auditing Company	0	0	6	6
Casino	0	0	1	0
<b>Totals</b>	<b>239</b>	<b>29</b>	<b>11</b>	<b>321</b>

**Table 6.9: Warning Measures Issued by Supervisory Authorities**

REs	Warning Measures							
	2015	2016	2017	2018	2019	2020	2021	2022
Commercial Bank	47	31	12	3	24	4	24	22
Foreign Exchange Bureau	0	0	6	11	12	23	27	11
Financial Institution	9	1	3	11	2	8	3	3
Pawnshop	6	3	0	6	0	3	1	2
Leasing Company	9	5	1	9	2	3	14	3
Securities Company	0	0	3	1	3	1	0	0
Insurance Company	0	0	0	3	0	0	0	0
Bar Association or Law Enterprise	0	0	0	0	0	0	0	0
Auditing Company	0	0	0	0	0	0	0	0
Casino	0	0	0	0	0	0	0	0
<b>Totals</b>	<b>71</b>	<b>40</b>	<b>25</b>	<b>44</b>	<b>43</b>	<b>42</b>	<b>69</b>	<b>41</b>

**Table 6.10: Fines Issued by Supervisory Authorities**

REs	2016	2017	2018	2019	2020	2021	2022
	<b>Amount LAK approx. USD as of 1 July for year referenced ( Number of counts)</b>						
Commercial Bank	3,000,000 Approx. USD 370 (3)	16,000,000 Approx. USD 1909 (4)	17,080,000 Approx. USD 12023 (1)	6,000,000 Approx. USD 681 (6)	1,000,000 Approx. USD 108 (1)	10,000,000 Approx. USD 850 (1)	20,000,000 Approx. USD 1,300 (2)
Foreign Exchange Bureau	0	0	39,000 Approx. USD 4 (8)	43,000,000 Approx. USD 4881 (7)	0	0	15,000,000 Approx. USD 900 (3)

**Table 6.11: Suspension from Managerial Post by Supervisory Authorities**

REs	2015	2016	2017	2018	2019	2020	2021	2022
Foreign Exchange Bureau	0	0	0	0	0	0	3	0
Insurance Company	0	0	0	0	1	0	0	0
Auditing Company	0	0	0	0	0	6	0	0
Casino	0	0	0	1	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>6</b>	<b>3</b>	<b>0</b>

**Table 6.12: The Supervisory Bodies Applied Revocation of Business License Measures**

REs	2015	2016	2017	2018	2019	2020	2021	2022
Foreign Exchange Bureau	0	0	0	7	4	2	134	149
Financial Institution	1	1	1	0	1	2	1	0
Pawnshop	0	6	0	2	1	2	3	5
Leasing Company	0	0	1	0	0	0	1	0
Insurance Company	0	0	0	0	0	1	0	0
Bar Association or Law Enterprise	1	0	0	0	0	0	0	0
Auditing Company	6	0	0	0	2	0	2	2

<b>Total</b>	<b>8</b>	<b>7</b>	<b>2</b>	<b>9</b>	<b>8</b>	<b>7</b>	<b>141</b>	<b>156</b>
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### *Impact of supervisory actions on compliance*

380. The impact of supervisory actions has not been significant as sanctions applied to-date are limited to warning letters. Suspensions, removal of licences and low value fines are the result of prudential supervisory actions. Even though there is some monitoring of remedial actions by AMLIO, the progress has been slow as a result of the Covid-19 pandemic and may not be consistently applied across the financial sector given the RBA cycle ranges from one to three years. Common remedial actions implemented by REs include an enhancement in AML/CFT policies, staff training, reporting obligations and the introduction of Compliance Officers.

381. The better AML/CFT controls established by international banks were more likely driven by requirements of parent bank/head offices which have more stringent AML/CFT regulations, rather than as a result of actions taken by Lao PDR supervisors.

382. Given the risks presented by the casino sector and its high risk rating in the NRA, the limited supervisory actions taken to date are inadequate and show little effect on compliance. For example, in September 2021 AMLIO conducted a half day meeting with a casino that employs almost 900 people. AMLIO's report identified there was no appointed Compliance Officer and no plan to implement AML/CFT policies and procedures. This is despite these obligation being required by law since July 2014 and a March 2020 Examination Report that found the same issues and required remediation within two months. Of greater concern, despite sanctioning by a foreign government and credible open source reports of suspected drug, human and wildlife trafficking, when inspected, the casino operating in the Golden Triangle had no AML/CFT preventative measures in place. Despite this, no enforcement action was taken. It is a fundamental shortcoming that casinos have never reported an STR or CTR. No supervisory activities have been undertaken on other DNFBPs. There has been no supervision of VASPs as VASPs in the pilot programme are yet to commence trading.

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

383. While the 2018 NRA indicates broad involvement of relevant stakeholders, REs have demonstrated varying degrees of understanding of ML/TF risks with DNFBPs' understanding being the lowest.

384. Supervisors have organised some training and workshops to promote understanding of ML/TF risks and AML/CFT obligations with limited effectiveness. In 2018-2020, AMLIO in collaboration with each RE's supervisor undertook 16 dissemination sessions across relevant REs with 475 participants, in order to raise awareness and a build better understanding of the NRA outcomes, and put in place each sector's risk mitigation plan. REs and VASPs awareness of the findings of the 2018 NRA varies with more sophisticated entities showing the greatest understanding. However, many REs and VASPs are not aware of how these ML/TF risks intersect with the products and services their businesses offer or how they influence the preventive measures they employ.

385. Post the NRA, supervisors have not communicated new or emerging risk ML/TF risks to REs and VASPs and there is an absence of guidance on how to implement AML/CFT obligations. The lack of STR reporting by most FIs and all DNFBPs is demonstrative of their understanding of ML/TF risks and AML/CFT obligations.

386. Further education and outreach and issuance of guidance is required to improve REs' understanding of risk and compliance with AML/CFT obligations, particularly for the DNFBPs.

### ***Overall conclusion on Immediate Outcome 3***

387. Risk-based supervision is still at an early stage of implementation for the financial sector and casinos, and has been delayed for the remainder of Lao PDR's DNFBPs. AMLIO (as the main AML/CFT supervisor for the financial sector) and other supervisors need to expand the scope and depth of their AML/CFT supervision as well as the supervisory resources applied for high-risk sectors. There are mechanisms in place to prevent criminals, but not their associates, from entering the market through the respective licensing authorities' licensing or registration regimes, and these are not sufficiently implemented for FIs and are not implemented for DNFBPs or VASPs. In the case of SEZs, these processes are ineffective. Supervisors have a basic understanding of ML/TF risks in their sectors with DNFBP supervisors demonstrating a low level of understanding. There have been no dissuasive and proportionate sanctions imposed to date other than issuance of warning letters to casinos.

388. **Lao PDR has a low level of effectiveness for IO.3.**

## CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

*Key Findings and Recommended Actions***Key Findings**

1. Competent authorities have not identified and assessed, nor do they understand, the ML/TF risks associated with all forms of legal persons (particularly with nominee arrangements) and legal arrangements that operate in Lao PDR. The ML/TF risks associated with foreign enterprises operating and investing in Lao PDR (which is increasing) are not understood nor are those risks appreciated.
2. Basic information on the creation and types of legal persons in Lao PDR is publicly available with additional information available on request. The accuracy of basic information on the enterprise registrar has not been demonstrated, with verification only occurring against taxation information. While the legal framework is in place to provide for proportionate and dissuasive sanctions against non-compliance of the basic ownership information registration requirements, no enforcement action has been taken.
3. Competent authorities do not have timely access to beneficial ownership information on legal persons and legal arrangements. The main source of beneficial ownership information on legal persons is from REs, but there are deficiencies in the quality and scope of the information held. There is no information available on legal arrangements.
4. AMLIO and LEAs did not demonstrate that they obtain basic and beneficial ownership information from companies, the registry or from FIs/DNFBPs as part of their investigations or intelligence collection work.
5. Lao PDR permits bearer shares, bearer share warrants, nominee shareholders and nominee directors. However, there are no measures in place to mitigate the associated ML/TF risks of those instruments and arrangements.
6. The sanctions for failure to comply with information requirements are not effective and dissuasive as they have never been enforced.
7. Authorities have not sought or provided international cooperation in relation to transparency of legal persons or arrangements.

**Recommended Actions**

Lao PDR should:

- A. Assess the ML/TF risks of all types of legal persons and legal arrangements, and develop as well as implement a strategy to mitigate those risks.
- B. Implement a compliant FATF definition of beneficial owner for civil legal arrangements established under the Civil Code and applicable to foreign trusts.
- C. Improve the availability of information on legal persons and legal arrangements to competent authorities. This should include adopting a FATF compliant definition of beneficial ownership for legal persons and legal arrangements, ensuring that REs are complying with their obligations to collect accurate and up-to-date beneficial ownership information, and requiring licensing

authorities to verify beneficial ownership information, including for foreign businesses and investors.

- D. Implement measures to immobilise or prohibit bearer shares and bearer share warrants and implement controls on nominee shareholders and nominee directors to ensure they are not misused for ML/TF.
- E. Target international cooperation to obtain beneficial ownership information and control information on legal persons and arrangements with countries with shared risks, especially those jurisdictions most used for incorporation related to companies in at risk sectors.
- F. Strengthen sanctions for breaching beneficial ownership information collection obligations for legal persons and legal arrangements.
- G. Ensure proportionate and dissuasive sanctions are applied to non-compliance of the basic information registration requirement.

7

389. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25, and elements of R.1, R.10, R.37 and R.40.<sup>103</sup>

### *Immediate Outcome 5 (Legal Persons and Arrangements)*

#### *Overview of legal persons*

390. Table 7.1 outlines the types of legal persons that can be established and the numbers that have been established in Lao PDR from 2017 to 2022 (date of the on-site visit). The TC Annex outlines the statutory framework for the establishment of each of these legal persons.

**Table 7.1: Types of legal (juristic) persons registered in Lao PDR**

Legal person types	2017	2018	2019	2020	2021	2022
Limited companies	471	620	1,188	936	968	813
Public companies	2	2	2	1	3	9
Cooperatives	4	9	14	15	22	1
Limited partnerships	12	17	289	49	50	5
State Enterprises	12	11	12	22	17	8
Mixed Enterprises	3	1	0	4	1	0
Foundations	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Associations	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
<b>Totals</b>	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown

391. All domestic and foreign legal persons in Lao PDR must be registered with the ERO. The most common form of corporate business vehicle used by foreign investors in Lao PDR is a limited company. The Law on Enterprises and the register of enterprises is available on the ERO website, with additional information available upon written request (with a fee for the private sector). The ERO was unable to

<sup>103</sup> The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

provide full statistics in relation to the number of legal persons established or formed within the range of dates in the table above.

392. Lao PDR has not risk-assessed the full range of legal persons.

#### *Overview of legal arrangements*

393. Legal arrangements in the form of third-party conditional donation and bailment contracts, similar to trusts (Art. 2 of the Hague Convention) can be established in Lao PDR pursuant to the Civil Code and are discussed at length in the TC Annex at R.25. Although authorities maintain that foreign trusts cannot be established, recognised or operate in the country, the law does not prohibit their establishment or operation.

394. Authorities were unable to provide any information on the number of legal arrangements in the country and, although not a technical requirement of R.25, Lao PDR authorities have not risk-assessed the types of legal arrangements that may be formed or may operate as a foreign arrangement in Lao PDR. Foreign trusts can open bank accounts in Lao PDR as a customer and FIs must perform the CDD measures in accordance with the Agreement on AML/CFT Measures (Arts. 19, 26, and 28).

395. No governmental authority is responsible for regulating and/or supervising legal arrangements.

#### *Public availability of information on the creation and types of legal persons and arrangements*

396. The ERO website includes information on the process for registering legal persons under the Law on Enterprises, and the appropriate application forms. Foundations and associations are established under the Decree on Foundations and the Decree on Associations. There are also foreign or international NPOs (defined as International Non-Governmental Organisations (INGOs)) that operate in Lao PDR under the Decree on INGOs.

397. The laws relevant to the establishment of legal persons and arrangements are publically available, however, other information for public access is limited for legal persons and non-existent for legal arrangements. No reported court cases were cited in relation to legal arrangements.

#### *Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities*

398. As noted in the TC Annex (c.24.2) authorities have not identified and assessed the different types of legal persons and their vulnerabilities for misuse for ML/TF. Moreover, and apart from the NRA, during the on-site visit, competent authorities did not demonstrate an understanding of those risks and vulnerabilities.

399. Over the past five years, AMLIO has received 31 STRs relating to legal persons, but there have been no ML-related LEA investigations relating to legal persons.<sup>104</sup> The lack of understanding of the ML/TF risks and vulnerabilities is a concern given the steady growth in the number of enterprises. While there are relatively few publicly-listed companies, the number of other domestic enterprises operating in Lao PDR has increased over the past five years, evidenced by the more than ten-fold increase of company registrations.

<sup>104</sup> Case Study 7.1 in I07 involved investigations only against the principals and employees of the company, 'PS' (12 in all), not against the company.



400. The number of foreign-owned businesses incorporated overseas and registered to operate in Lao PDR has more than tripled over the past five years. In 2018, there were 377 companies from Lao PDR, and overseas, investing in the SEZs with a total registered capital of US\$8 billion.<sup>105</sup> Authorities did not demonstrate an understanding of the varying risks associated with different types of legal persons, including foreign legal persons, operating in the SEZ. With the increase in registrations, the potential ML/TF risks increase, however this did not seem to be appreciated by authorities. The lack of understanding of the vulnerabilities associated with Lao PDR's exposure to foreign investment is a significant concern. According to authorities, foreign businesses represent around 7.5% of registered enterprises in 2021. Foreign direct investment in Lao PDR has also increased, reaching USD 1,072M in 2021.<sup>106</sup> This includes large scale investment in infrastructure projects by Asian investors

**Table 7.2: Register of legal persons owned or controlled by non-residents**

Foreign legal persons	2016	2017	2018	2019	2020	2021	2022
Legal persons owned or controlled by non-residents	308	402	484	1,422	914	1,007	Unknown

401. During the on-site visit, authorities demonstrated limited awareness of risks posed by bearer shares and bearer share warrants (discussed in more detail below under mitigating measures). However, with respect to nominee shareholders and nominee directors there was no understanding demonstrated by authorities of their inherent risks. Indeed, authorities considered that these nominee arrangements do not pose any ML/TF risks, on the assumed basis that nominees are from foreign companies subject to foreign licensing checks.

402. There was also a mixed understanding of the ML/TF risks and vulnerabilities of legal persons in the private sector by REs. While larger banks had a better understanding compared to other REs, banks still had only a limited understanding. The general lack of understanding in the private sector is partly a function of the lack of understanding by competent authorities and the absence outreach to REs to better inform them of ML/TF risks.

403. Finally, with respect to legal arrangements, authorities were of the view that trusts cannot be formed or operate in Lao PDR. There was no understanding of the structures that can be established under the Civil Code that reflect the definition of a trust in the Article 2 of Hague Convention on Trust Recognition, namely conditional donation contracts and conditional bailment contracts. There was also a lack of understanding in relation to foreign trust arrangements in Lao PDR.

404. In conclusion, the understanding among the public and private sectors relating to ML/TF risks and vulnerabilities of legal persons and legal arrangements in Lao PDR is at a very low level.

<sup>105</sup><https://laotiantimes.com/2018/04/29/specialspecific-economic-zones-laos-top-incubator-of-economic-growth/#:~:text=About%20377%20companies%20from%20Laos%20and%20overseas%20have,already%20been%20spent%2C%20according%20to%20a%20government%20report>

<sup>106</sup> [https://unctad.org/system/files/official-document/wir2022\\_en.pdf](https://unctad.org/system/files/official-document/wir2022_en.pdf)

***Mitigating measures to prevent the misuse of legal persons and arrangements****Mitigating measures - legal persons*

405. There are limited measures in place to prevent the misuse of legal persons, and these measures do not appear to be informed by an understanding and appreciation of ML/TF risk. The centralised Enterprise Register of basic information, and the access to beneficial ownership information collected by REs and competent authorities are the two main measures. All domestic and foreign enterprises operating in Lao PDR are required to be registered and a range of basic information on legal ownership is collected as part of the registration process, but there are some gaps (R.24). Public companies and limited partnerships only have to provide limited information on application for registration in the by-laws. Basic regulating powers are not provided. Limited companies are the only type of legal person required to maintain a register of shareholders/members, but no information on the nature of any associated voting rights is required to be maintained. Significantly, foreign enterprises, as well as state-owned and mixed enterprises, operating in the SEZ are not required to register with the ERO. There are also no regulations governing the operation of state-owned/mixed enterprises.

406. The Law on Enterprises does not require information on shareholders for enterprises (apart from state-owned and mixed enterprises) to be provided at the time of registration, the registration forms for limited partnerships, limited companies, and public companies require this information but there is no enforceable obligation to provide this information. Information on beneficial ownership and voting rights associated with categories of shares is not collected as part of the registration process.

407. The accuracy of the information on the register was not demonstrated. The ERO has responsibilities to check the accuracy of documents received, but this appears to be limited to ensuring the completeness of the information on forms. Limited verification of some information appears to occur through cross-referencing with tax information for tax compliance purposes only. The ERO checks the completeness of new applications for enterprise registration and conveys completed information electronically to the TaxRIS system. The TaxRIS will automatically generate a tax identification number for inclusion in the registration certification. Once the applicant receives the registration certification, they must report their tax obligations to the Tax Office within 90 days, otherwise the ERO will suspend the use of the enterprise registration certificate.

408. However, there is no verification of beneficial ownership information as part of the above-referenced process.

409. Most enterprises are obliged to update information on the register within one month or less from the date the information changes, but Lao PDR did not demonstrate that enterprises are complying with this requirement and no sanctions have been applied for non-compliance. Limited companies are required to maintain a register of shareholders at the company office, and have an annual declaration requirement. There are no other provisions under the Law on Enterprises that require other legal persons to maintain basic information, including information on shareholders and partners, within Lao PDR at a location to be notified to the company register.<sup>107</sup> Regionally-based trade officers do check businesses are registered and operating within the terms of their licence, but no sanctions have ever been applied for non-compliance with requirements to keep information up to date.

<sup>107</sup> Lao PDR reported that the Law on Enterprises (Amendment) No. 33/NA (29 Dec 2022), which entered into force in April 2023, will impose an obligation to update information.

410. Bearer shares and bearer share warrants are permitted in Lao PDR but no measures are in place to mitigate their associated risks. Authorities maintain that there are no bearer shares and bearer share warrants in practice, but did not demonstrate how authorities know this.

411. Lao PDR did not demonstrate the implementation of controls to prevent the misuse of nominee arrangements. There appears to be some confusion amongst competent authorities on the presence of nominee shareholdings and directors in Lao PDR. Most competent authorities (incorrectly) indicated that nominee shareholders and nominee directors are not permitted, but one authority indicated that nominee directors are permitted to represent the interests of foreign banks.

#### *Mitigating measures - legal arrangements*

412. The assessment team considers that domestic trusts established under the Civil Code pose high ML/TF risk on the basis of a number of factors including anonymity of 3<sup>rd</sup> parties (in effect, beneficiaries) who benefit from those arrangements; the anonymity of persons who have effective control over the disposition of assets in legal arrangements formed under the Civil Code; the lack of information on assets held in those arrangements; the lack of understanding by REs of these structures and their lack of ML and TF risks associated with them; and finally (noted below) the lack of any mitigating measures to address the risks associated with them.

413. As noted in the TC Annex at c.10.11(a), Article 19 of the Agreement on AML/CFT Measures requires FIs to collect information on parties to a trust including the trustee, settlor, protector, beneficiaries and other necessary information through the trust deed or equivalent. Article 28.1 further requires collection of information on, and verification of, the person who exercises ultimate effective control over the trust. However, that law makes no reference to the actual arrangements that can be formed in Lao PDR, referring problematically to ‘trusts’ ‘settlors’ ‘protector’ etc., which are not legal terms in the law. Moreover, because authorities were of the view that trusts cannot be formed or operate in Lao PDR, the Agreement on AML/CFT Measures does not align with Laos PDR’s general legal framework. In discussions with FIs (bound by the measures in the Agreement on AML/CFT Measures) during the on-site visit, the assessment team formed the view that the measures were not understood and were not being applied.

414. Competent authorities have not issued clarifications or guidance on the proper application of the law to legal arrangements.

415. There are no mitigating measures in place to address the risks posed by legal arrangements in Lao PDR.

#### ***Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons and arrangements***

##### *Basic information*

416. Some basic information for legal persons registered with the ERO is publicly available and easily accessible to competent authorities through the online Enterprise Register in Lao and in English.<sup>108</sup> This includes the enterprise number, business name, name of person registering the enterprise, registration date, status and location to the village level. Some enterprises have their tax information number and tax status on the online register. Additional information is available upon written request to the ERO for a fee, including shareholder information for limited companies (but not public companies), by-laws and regulatory powers for partnerships (but not the contract on

<sup>108</sup> <http://ned.moic.gov.la/index.php/en/>

partnership with details of the principle place of business, shares and partners). Such requests take between 3-5 days to complete. Information on state-owned and mixed enterprises are not currently required to register with the ERO, so this information is not collected by the ERO or available on the register.

417. Concerns remain about the accuracy of available basic information as no verification is conducted as part of the registration process, and only limited information is verified from time to time as part of cross referencing with tax information for tax compliance purposes (see above). Enterprises have an obligation to provide the registrar with updates to information within one month of the change, however Lao PDR did not demonstrate that the ongoing accuracy of information is checked, and that filing obligations are complied with in a timely way. No sanctions have ever been applied for a failure to update information in accordance with the law since the establishment of the register in 2014.

418. The Ministry of Home Affairs (MoHA) has custody of the central register for local NPOs. The register is not currently available publicly and MoHA indicates that LEAs that wish to have access to information on the register can call or message the MoHA via WhatsApp. The MOHA reports that it responds to such requests within a day. The MoHA reported that it is currently working to improve the accessibility of the register.

419. There is no information from authorities on timely access to basic information on the parties to a legal arrangement formed under the Civil Code or Lao PDR or on foreign trusts formed or operating under Lao PDR law.

#### *Beneficial ownership information*

420. While there are deficiencies in the quality and scope of beneficial ownership information held by REs, competent authorities do have adequate powers to gain access to the information held (although, because of the flawed statutory definition of 'beneficial owner' in the trust context, it is limited in scope). Authorities demonstrated a mixed understanding of the difference between legal ownership and beneficial ownership information. Most authorities conflated the two and heavily relied on fit-and-proper-person checks and source-of-funds checks performed by domestic and foreign licensing authorities as a means to verify beneficial ownership information.

421. The FIU, LEAs and other competent authorities did not demonstrate an awareness of, or regular use of, mechanisms to obtain information to identify beneficial ownership of legal persons. Competent authorities indicate that they use the ERO register to secure information on beneficial ownership, however, the register predominantly holds information on legal ownership.

422. The FIU has power to obtain CDD information collected from FIs and DNFBPs in order to understand the beneficial ownership or control of a legal person or arrangement, however, this occurs infrequently in practice. LEAs did not demonstrate a regular or consistent practice of obtaining beneficial ownership information of customers of REs in the course of financial investigations. And while authorities state that in some cases they pursue beneficial ownership information of legal persons, in almost all cases requests for information on legal persons is a request for basic information.

423. With respect to legal arrangements, competent authorities have powers to access beneficial ownership information held by REs as part of their CDD obligations. However, in practice, beneficial ownership information has never been sought by competent authorities (likely as a result of their misunderstandings about legal arrangements). Moreover, the failure by REs to comply with CDD obligations for legal arrangements means that even if competent authorities had sought beneficial ownership information it would not have been available.

*Effectiveness, proportionality and dissuasiveness of sanctions*

424. Lao PDR has a range of sanctions available for breaches of information-disclosure requirements relating to the transparency of beneficial ownership information of legal persons. However, none of these sanctions have been applied to natural or legal persons that have failed to comply with requirements to register and inform the registrar of any updates within one month. As such, the dissuasiveness of the available sanctions is unclear.

425. The Law on Enterprises has a general provision that provides for sanctions to be applied to any natural or legal person for breaches of requirements, which include the requirement to update information (Art. 209). The quantum will depend on the serious or non-serious category of the offence, which is determined under the Penal Code. Penalties under the Penal Code range from public criticisms, fines and re-education to imprisonment depending on the level of culpability (i.e. whether the offence is categorised as minor or major offence, or a crime.) Re-education sanctions can include garnishing 5-20% of a person's total salary. The Penal Code does not specify a maximum fine that could be applied. Lao PDR reported statistics in relation to registration certificates with 2,497 enterprises under temporary suspension and 55 enterprises permanently suspended. However, authorities did not demonstrate that these suspensions largely related to enterprises trading outside of the terms of their licence.

426. The scope of the fine for operating an enterprise while unregistered is not sufficient to be dissuasive<sup>109</sup> and there does not appear to be an offence for providing false or misleading information to the ERO registrar.

427. The Decree on Associations which enables the establishment of associations provides for sanctions where an NPO fails to comply with requirements to register with the MoHA and renew registration annually, which range from warnings, suspensions, and dissolutions, to prosecution. It is not clear how this range of penalties is applied in practice according to circumstances of the contraventions. Similarly, a range of sanctions apply to foundations that fail to comply with relevant licensing requirements and co-operatives that fail to comply with registration requirements. An INGO that breaches the decree can be warned or suspended depending on the nature of the transgression. The dissuasiveness of the available sanctions has not been demonstrated. Lao PDR indicated that three associations and one foundation have been ordered to be dissolved due to their non-compliance with the relevant decrees, but Lao PDR did not demonstrate that these sanctions related to requirements to update registration information.

428. Supervisors are also able to apply a range of sanctions under the Law on AML/CFT to REs for failing to comply with their CDD and record-keeping obligations, but it is not clear whether the maximum sanction available or applied for serious failures are dissuasive or proportionate. In practice, none of these sanctions have been applied to REs.

429. There are no proportionate and dissuasive sanctions whether criminal, civil or administrative available under Lao PDR law for trustees or representatives by contract (under the Civil Code) who fail to grant competent authorities timely access to information regarding Lao PDR legal arrangements or foreign trusts.

<sup>109</sup> Maximum of LAK10million (around USD610).

***Overall conclusion on Immediate Outcome 5***

430. Lao PDR authorities and the private sector demonstrated a poor understanding of the ML/TF risks associated with legal persons and legal arrangements. Some basic information on legal persons is collected as part of registration and licensing requirements, and made publicly available. REs are the main source of information on beneficial ownership of legal persons for competent authorities but the adequacy, accuracy and currency of this information is weak across FIs and DNFBPs; and authorities did not demonstrate that they obtain such information in the course of their duties. Competent authorities have not sought beneficial ownership information in relation to domestic legal arrangements under the Civil Code nor do they appear to be doing so with respect to foreign trusts. The specific lack of transparency of beneficial ownership, and in particular associated with foreign businesses, working in the SEZ has been given significant weighting. Sanctions available for non-compliance with information requirements are not dissuasive for legal persons, and in any event no sanctions have been applied. Sanctions in relation to legal arrangements do not appear to exist and, in any event, if they do they have not been applied.

431. **Lao PDR has a low level of effectiveness for IO.5.**

## CHAPTER 8. INTERNATIONAL COOPERATION

*Key Findings and Recommended Actions***Key Findings**

1. Lao PDR rarely uses its legal framework to obtain foreign evidence through MLA to support domestic ML investigations and prosecutions. Efforts have largely focused on domestic cases involving predicate offences, rather than ML investigation and prosecution with transnational dimensions in keeping with the assessed risks.
2. Lao PDR is responsive to requests for formal international cooperation through bilateral and agreements, and treaties, and on the basis of reciprocity. There is a reasonable legal framework for providing such cooperation.
3. There are clear processes for dealing with incoming and outgoing MLA requests. The authorities have a discretion to refuse MLA in the absence of dual criminality, but dual criminality is satisfied if both jurisdictions criminalise the conduct underlying the offence.
4. There is a manual case management system in place and while the timeliness and quality of responses to requests from ASEAN MLAT parties appears reasonable, the timeliness and quality for non-ASEAN MLAT members is less clear. Only one MLA request has been refused, and this was on the grounds that the established procedure was not followed.
5. Lao PDR use of outgoing international cooperation is very limited and focused on predicate offences, with the relevant authorities working on Lao PDR's first outgoing MLA requests at the time of the onsite. The lack of outgoing MLA requests is inconsistent with Lao PDR's risk profile and likely to be the product of a limited understanding of transnational crime risks, and the low level of domestic investigative and law enforcement activity in relation to ML/TF. No MLA requests have been made to freeze and confiscate proceeds of crime.
6. Since 2017 Lao PDR has started to make extradition requests, two of which have been refused due to the lack of a bilateral agreement.
7. Competent authorities are generally responsive to requests for assistance, particularly from neighbouring foreign counterparts, and some regional neighbours report timely assistance of satisfactory quality. However, the number of requests made by the Lao PDR competent authorities is substantially fewer than those received, which is not consistent with risk profile.
8. The number and nature of LEA requests to foreign counterparts are inconsistent with Lao PDR's risk profile. While there have been no outgoing requests relating to TF, this is consistent with the risk profile.
9. AMLIO has made very few informal cooperation requests which is inconsistent with Lao PDR's ML risk profile and the transnational nature of Lao PDR's key proceeds-generating crimes.
10. There has, in general, been very little international cooperation from AMLIO and other AML/CFT supervisors with their foreign counterpart AML/CFT supervisors.
11. Prudential regulators demonstrated some exchange of information with foreign counterparts on fit and proper information.
12. While competent authorities have the ability to exchange BO information formally and informally, the extent and quality of such exchanges is unclear.

**Recommended Actions**

- A. Prioritise and pursue formal and informal international cooperation (possible agency-level directives) consistent with risk profile to support domestic ML/TF investigations, particularly for ML and associated predicates that have transnational elements in line with its risk profile;
- B. Enter into MOUs with a broader range of foreign jurisdictions and prioritise MOUs on the basis of ML/TF risk.
- C. Prepare manuals and guidelines for LEAs on MLA processes, implement a suitable case management system to monitor the progress of requests as the number of outgoing and incoming MLA requests increases, and establish more formal processes for seeking feedback on the quality of MLA Lao PDR provides.
- D. Training and capacity building should be provided to competent authorities on how to leverage international cooperation to pursue domestic ML, and associated predicates, which have transnational elements.
- E. LEAs, including Customs, should operationally prioritise a follow-the-money approach that extends beyond Lao PDR's borders and make routine international requests for information and evidence from foreign jurisdictions in keeping with the risk profile.
- F. Prioritise cooperation with immediate neighbours to address shared ML risks, in particular in relation to large-scale casinos, narcotics trafficking and the movement of funds through other businesses and trade.
- G. AMLIO should use FIU-to-FIU MOUs to request intelligence to facilitate its STR analysis and dissemination and Supervisors should pursue international cooperation with foreign counterparts targeting key risks, particularly in relation to supervisory findings and enforcement actions.

432. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, R.15, R.24-25 and R.32.

**Immediate Outcome 2 (International Cooperation)***Background and context*

433. Lao PDR has a legal framework and mechanisms for formal and informal international cooperation, with most international cooperation involving regional neighbours. Lao PDR's assessments of ML and TF risks have not sufficiently considered the main geographic and significant transnational risks to inform priorities for international cooperation (see IO.1). National and agency-level policies insufficiently focus on priority threats and shared risks with foreign counterparts. This is equally true of criminal justice and financial regulatory areas.

434. Few jurisdictions have law enforcement attachés or liaison officers stationed in Lao PDR to support cooperation with Lao PDR authorities. This may decrease the opportunities for timely direct engagement with foreign counterparts.

*Providing constructive and timely MLA and extradition*

435. Lao PDR's investigative efforts have largely focused on domestic cases rather than investigation and prosecution of ML, TF and predicate offences with transnational dimensions in keeping with the assessed risks. Consequently, Lao PDR has rarely used the legal framework to



obtain foreign evidence through MLA to support domestic ML. Lao PDR has used MLA to obtain information from foreign countries to support predicate offence investigations and prosecutions. The lack of outgoing, ML related MLA requests, and the range of outgoing MLA requests related to predicate offences is inconsistent with risk profile. Lao PDR is generally responsive to incoming MLA requests.

436. Lao PDR provides MLA and extradition through bilateral and multilateral agreements, treaties and on the basis of reciprocity. There is a sound legislative framework for providing such international cooperation and clear processes for dealing with incoming and outgoing requests. Lao PDR authorities have a discretion to refuse MLA requests in the absence of dual criminality, but dual criminality is satisfied if both jurisdictions criminalise the conduct underlying the offence. Where a requesting jurisdiction is a party to an agreement or treaty with Lao PDR, requests are and coordinated by the Office of the Supreme People's Prosecutor (OSPP) as the central authority. Where there is no agreement or treaty in place, requests are made through diplomatic channels, and coordinated by the OSPP.

437. The OSPP is reasonably resourced to perform the role of central authority, with five dedicated officers and an additional ten that can be drawn upon to assist on an as needed basis. The OSPP does not have a case management system, and cases are manually recorded in a log book and in an Excel spreadsheet, but there are some statistics available on international cooperation. All countries are able to specify on incoming requests a preferred timeframe for completion of a request, which allows OSPP to understand the urgency of the request and prioritise accordingly.

438. The OSPP has jointed efforts to support MLA through associated informal cooperation. OSPP is a member of the SEAJust Network, established in 2020. The SEAJust Network is a UNODC supported judicial cooperation network that serves as an informal platform facilitating direct contact and communication between MLA central authorities. The network is supported by the ASEAN MLA Treaty Secretariat. Members of the network are nationally appointed contact points in 12 jurisdictions.<sup>110</sup> OSPP joined in March 2020.

439. Lao PDR is able to respond to requests by foreign countries to freeze, seize or confiscate the proceeds of crime, but cannot confiscate assets on the basis of foreign confiscation orders that are non-conviction based or related to property of corresponding value.

#### *MLA requests received*

440. Lao PDR can ensure that relevant contact details and request requirements are clear and available to requesting jurisdiction to support successful MLA requests. The Department of Planning and International Cooperation is a designated unit with six employees within the OSPP that implements MLA requests, and has the main duties of researching requests for cooperation foreign counterparts. The unit has a designated coordinator, as does the MOFA in terms of making MLA requests through diplomatic channels. Lao PDR's membership of SEAJust assists information cooperation and information exchange ahead of MLA requests, but Lao PDR is not yet a member of ARIN-AP. Material are note readily available online with the OSPP or foreign ministry to assist foreign partners to prepare quality

441. The ASEAN MLAT is the predominant multilateral agreement under which MLA is provided with 12 countries. Eleven of Lao PDR's regional neighbours are parties to this agreement, including the five countries with which it shares a land border and similar transnational crime risks.

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<sup>110</sup> Members as of 2022: Australia, Brunei Darussalam, Cambodia, Lao PDR, Malaysia, Maldives, Myanmar, Singapore, the Philippines, Thailand, Timor-Leste and Viet Nam

442. Lao PDR has received 182 MLA requests from 2017 to September 2022, with the majority of requests (159) coming from two countries that are party to the ASEAN MLAT. MLA for the remaining (23) requests was provided through bilateral and agreements, and SEAJust Network. None of these requests related to ML or TF. The requests predominately relate to predicate offences, including drug (44), fraud (18), human trafficking (1), environmental (4) and theft (28) offences, which is reasonably consistent with risk profile. A range of assistance was provided under these requests. Lao PDR is responsive to requests for MLA and has only refused one request in the past five years. The request was refused and the foreign jurisdiction advised that the request should be submitted in accordance with established procedures. This was done by the requesting party.

**Table 8.1: Incoming MLA Request**

	2017	2018	2019	2020	2021	2022 <sup>111</sup>	Totals
Receiving request	25	50	39	24	22	22	182
Withdrawing request	0	0	0	0	0	0	0
Outstanding request	0	0	0	0	0	0	0
Fulfilling request	25	50	39	24	22	21	182
Rejecting request	0	0	0	0	0	1	1
<b>Total 2017-2022</b>							<b>182</b>

443. Lao PDR did not clarify whether the figures in Table 8.1 refer to requests fulfilled in the years stated or whether the figures refer to requests received in previous years or a combination of both. The majority of requests sought witness testimony, the collection of evidence, information on the address and/or identity of an alleged offender or a person of interest.

#### **Case study 2.1: International cooperation on the illegal importation and exportation of wood**

On 26 April 2018, a foreign jurisdiction requested Lao PDR to verify the authentication of import-export documents to cross check the accuracy of documentation. This followed the seizure of wooden furniture in November 2017 by the foreign jurisdiction's customs authorities following their identification of inconsistencies in the documentation. The OSPP coordinated the gathering of evidence from a number of relevant authorities, which demonstrated the documents had been forged. The authorities provided the evidence to the foreign jurisdiction to support their investigations, completing the request within six months from the date of receipt.

444. The competent authorities indicate that the time-frame for handling incoming MLA request varies depending on the complexity of the case, but usually such requests take between 6-10 months to fulfil, with less complex requests being fulfilled within one to two months. Three case studies were provided by Lao PDR to demonstrate the timeliness of the completion of requests. These requests were completed within two months, six months and 12 months respectively. Incoming requests most commonly related to narcotics, theft, fraud, environmental crime, murder, forgery, and human trafficking offences, which is generally consistent with the nature. The OSPP has established a framework to prioritise inward MLA requests base on ML/TF risk identified in NRA. This is intended to focus on 1) the 7 threats identified in the NRA; 2) offenses associated with ML; 3) inward request from the high-risk third country; and 4) neighbouring jurisdictions.

445. As part of the ME process consultation with the global network, very limited feedback was provided from foreign jurisdictions on the quality and timeliness of Lao PDR's MLA. One foreign jurisdiction provided positive feedback, indicating that Lao PDR authorities adopt a constructive approach to providing assistance, communicating regularly with their foreign central authority to discuss issues – sometimes in advance of the submission of the request – to

<sup>111</sup> Figures are up until the end of the onsite on 23 September 2022.

resolve any foreseen issues and ensure prompt responses. Feedback on the timeliness of responses by only one other foreign jurisdiction is inconsistent with the data provided by Lao PDR, citing lengthy delays in responding to requests of up to 22 months. However, Lao PDR provided statistics on data on the average time taken to complete different types of assistance. This data from Lao PDR indicates that most of the inward MLA request are fulfilled within 6-10 months (95%), except for the more complex cases. One of the case studies matched the average time for the type of assistance, and the other two cases were slightly longer than the average (by a matter of months).

446. While OSPP indicated that it has a formal process or procedure to seek feedback on MLA, no evidence was provided to demonstrate how this occurs.

447. There are mechanisms in place for the repatriation of confiscated assets, and Lao PDR has used these mechanisms once.

#### **Case study 2.2: MLA to repatriate proceeds of crime**

On 9 September 2019, a foreign jurisdiction submitted a MLA request through diplomatic channels to the OSPP asking the Lao PDR authorities to freeze the Lao PDR bank account of two of the foreign jurisdiction's citizens.

On 18 July 2018, a defendant was sentenced in the foreign jurisdiction to prison for 14 years and a second defendant for 12 years for fraud offences. A freezing order on the accounts had been issued previously by the Lao PDR authorities in 2017 in response a request from the foreign jurisdiction. The OSPP processed the request, advising the people's Vientiane Capital Prosecutor Office on 7 January 2020 to inform the People's Vientiane Capital Court to acknowledge the foreign court judgement. On 2nd July 2020, the court ordered the funds in the accounts to be transferred to the foreign jurisdiction. The funds in the account totalled LAK 431,322,271.98 (approx. USD 1,116,425.58).

The OSPP handed the letter of authorization to the foreign jurisdiction through the MOFA on 24 August 2020, completing the request within 12 months of the date of receipt.

#### *Extradition requests received*

448. Since the 2011 MER, Lao PDR has implemented a legal framework for extradition that applies to all persons living inside or outside of Lao PDR that commit an offence in Lao PDR or in a foreign country. Extradition requests are submitted through diplomatic channels to the MOFA and transferred to the OSPP for coordination. There are statutory timeframes attached to each step in the extradition process and procedures in place that provide for the timely processing of requests. Lao PDR does not extradite Lao PDR citizens, but foreign jurisdictions can request Lao PDR authorities to prosecute Lao PDR citizens domestically on their behalf. There have been no requests for extradition of Lao PDR citizen to date.

449. Lao PDR has received nine extradition requests from 2017 relating to narcotics, fraud, forgery, murder, and gambling offences. None of these requests have been refused, but one is delayed pending completion pending court action. None of the requests relate to ML or TF.

#### **Case study 2.3: Extradition request related to fraud**

On 20 November 2018, a foreign jurisdiction made incoming request to OSPP through the MOFA, for the extradition of a foreign national. On 17 February 2020, the OSPP responded to the request through the MOFA to inform the foreign jurisdiction that the foreign national was currently being prosecuted for fraud and money laundering in the Lao PDR. On this basis, the execution of the extradition request was postponed. The foreign national was convicted of fraud and money laundering by the Lao court.

On 25 November 2020, the Vientiane Capital People’s Prosecutor Office prosecuted the case to Vientiane Capital People’s Court for further consideration on the extradition request. At the time of the onsite, the extradition of the foreign national was still underway.

450. Lao PDR has received nine extradition requests from 2017 relating to narcotics, fraud, forgery, murder and gambling offences. None of these requests have been refused, but one is delayed pending completion pending court action (see case study 2.3). None of the requests relate to ML or TF.

**Table 8.3: Incoming extradition request procedure**

Requests	2017	2018	2019	2020	2021	2022 <sup>112</sup>	Totals
Requests received	0	3	2	2	0	2	9
Requests withdrawn	0	0	0	0	0	0	0
Requests outstanding	0	0	0	0	0	0	0
Requests fulfilled	0	3	1	2	0	2	8
Requests rejected <sup>113</sup>	0	0	1	0	0	0	1

451. Lao PDR authorities did not demonstrate that they process extradition requests in a timely way. However, the assessment team notes there are statutory timeframes for completion of each step in the extradition process which are reasonable, noting that complex cases may take more time. The authorities are required to secure a conviction of the offender domestically before they can extradite the offender.

452. Nine incoming extradition requests were received over the past five years from eight different countries. No feedback was provided from the foreign jurisdictions on the quality and timeliness of Lao PDR’s international cooperation. Lao PDR only provided one case study on extradition, which indicated that the request was completed within 10 months of receiving it. In that case study, the subject of the request turned themselves in to their embassy in Lao PDR to be returned home to face trial, which did not amount to extradition.

453. Lao PDR does not have any examples of where extradition requests have been expedited.

### *Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements*

#### *MLA requests sent*

454. Lao PDR rarely uses its legal framework to obtain foreign evidence through MLA to support domestic ML investigations and prosecutions. The focus of the authorities on predicate offences, and the lack of understanding of transnational crime risks, means that there is no clear commitment and direction to pursue MLA to support domestic ML investigations and pursue the proceeds of crime.

455. Lao PDR has made outgoing MLA requests relating to predicate offences. From 2015-2020, Lao PDR made 56 requests relating to predicate offences, including fraud, human trafficking and embezzlement. This is inconsistent with risk profile, particularly the lack of requests relating to drug offences.

456. Lao PDR’s efforts to seek MLA for ML have only just commenced, with the first MLA ML-related request made on 30 May 2022. A second outgoing request was being prepared at the time

<sup>112</sup> Figures are up until the end of the onsite on 23 September 2022.

<sup>113</sup> Consideration of request was delayed rather than rejected pending completion of domestic criminal proceedings.

of the onsite visit. These requests related to ML associated with the proceeds of narcotics and fraud offences. The low number of outgoing requests relating to ML is inconsistent with Lao PDR's risk profile and the transnational threats it faces, including drug trafficking, cross-border smuggling of goods, environmental crime and human trafficking.

457. There have been no requests relating to TF. While this is consistent with Lao PDR's assessment of TF as low risk, the assessment team considers that the Lao PDR authorities' understanding of TF risks is not properly informed by regional context, and the potential impact of Lao PDR's status as a transit country for a range of illicit commodities. As noted in Chapter 4 (10.9), Lao PDR has demonstrated active operational international cooperation on potential TF matters, but not identified instances of potential and actual TF through intelligence channels or cooperation, or information sharing with foreign counterparts.

#### *Extradition requests sent*

458. Lao PDR's ability to seek extradition is also nascent, but the number of extradition requests has steadily increased in recent years. Since 2017, Lao PDR has made 12 extradition requests. These requests related to predicate offences, including narcotics, theft, and fraud, traffic offence, and embezzlement. Two of these requests were refused on the grounds that no bilateral agreement was in place.

**Table 8.4: Outgoing Extradition Requests**

Requests - outgoing	2017	2018	2019	2020	2021	To June 2022	Total
Total amount of requests	0	0	2	1	5	4	12
Requests withdrawn	0	0	0	0	0	0	0
Requests outstanding	0	0	0	1	5	0	6
Requests fulfilled	0	0	0	0	0	0	0
Requests rejected	0	0	2	0	0	0	2

#### *Providing and seeking other forms of international cooperation for AML/CFT purposes*

459. The competent authorities in Lao PDR are able to seek cooperation from foreign counterparts under MOUs, and through membership of multi-jurisdictional organisations regionally and internationally. Authorities have not made sufficient use of requests for international cooperation to understand and respond to foreign risks.

#### *AMLIO*

460. AMLIO is able to provide international cooperation for the exchange of information on AML/CFT through bilateral and multilateral agreements with foreign countries or under international treaties and agreements to which Lao PDR is a party. AMLIO has MOUs with 20 foreign FIUs: Vietnam; Cambodia; South Korea; Thailand; Indonesia; Japan; China; Russia; Myanmar; Bangladesh; Brunei; the Philippines; Singapore; Malaysia; Papua New Guinea; Timor-Leste; and Fiji. Under these MOUs, AMLIO indicates that it can request cooperation with foreign FIUs once suspicious transactions occur, or makes requests on behalf of investigative authorities.

461. AMLIO has only made outgoing international cooperation requests on behalf of the Criminal Proceedings Office, with no outgoing requests made to support its own work. During 2015-2021, AMLIO made nine such outgoing requests relating to fraud and corruption. Five of these related to one foreign counterpart.

**Case study: 2.4 Corruption**

On 26 August 2019, AMLIO received a proposal from the Government Inspection Organization to check the bank account and transaction of a Lao national named Mr. A who is suspected of document forgery and embezzlement of Company D, on which the Government Inspection Organization is currently in the process of conducting an inspection.

On 4 September 2019, AMLIO has submitted a request on behalf of the CPO along together with documents to the Anti-Money Laundering Office of Thailand (AMLO) to investigate the person's financial transactions. On 31 October 2019, AMLIO received a notification from AMLO which they found transactions from Mr. A's account transfer to bank account in Thailand. On 19 November 2019, AMLIO has notified the Government Inspection Organization to submit those documents received from AMLO to proceed further with the criminal proceedings. The request took approximately 2 months to complete.

462. AMLIO is responsive to incoming requests for cooperation from foreign counterparts. Over a five year period from 2016 to 2020, AMLIO provided responses to requests for information with five foreign counterparts 38 times – Thailand (15), Cambodia (2), China (1), Vietnam (2) and South Korea (1). All requests were fulfilled within three months of receipt of the request. AMLIO is not a member of the Egmont Group of FIUs, but was in the process of applying Egmont Membership and preparing for Egmont On-site visit at the time of the APG onsite.<sup>114</sup> There was some positive feedback from a few jurisdictions that AMLIO's responses to requests were timely and useful. AMLIO also collaborates at a regional level through membership of the Financial Intelligence Consultative Group (FICG) – a multilateral forum consisting of the FIUs of all ASEAN countries, New Zealand and Australia – and engages with a number of jurisdictions on capacity building activities.

**Case study 2.5: Incoming Request on illegal gambling and foreign exchange**

On 15 May 2018, AMLIO received a letter of request from a foreign FIU asking to verify the bank information of one natural person and 12 legal persons that were believed to be involved with illegal gambling, foreign exchange and money value transfer activities. Initially, AMLIO searched its databases for information on STR, CTR and CBR and other available sources, before reaching out to commercial banks across the nation to search for any bank accounts opened in the name of the targeted natural and legal persons. One of the legal persons had opened six accounts in two commercial banks in Lao PDR. On 20 July 2018, AMLIO provided information and evidence related to the entities to the foreign FIU. The request was completed in a two-month time frame.

**Case study 2.6: Incoming request on narcotics**

On 24 June 2020, AMLIO received a request made by a foreign FIU asking to identify and verify the bank statements of three natural persons and two legal persons believed to be involved in the exportation of illegal drugs to a third country. AMLIO searched information on STR, CTR and CBR in its database and other available sources, before reaching out to commercial banks across the country to search for bank accounts opened under the name of the natural and legal persons. One account in the name of one of the suspects was identified at a commercial bank in Lao PDR, and the information was provided to the foreign FIU on 1 August 2019, completing the request within a month and a half.

*Investigative authorities*

463. Investigative authorities are able to cooperate internationally through bilateral and multilateral agreements established under Lao PDR law, MOUs, membership of multi-jurisdictional organisations, including INTERPOL, and on the basis of reciprocity. Investigative authorities include authorities with police officers, military officers, customs officer, forestry

<sup>114</sup> The two sponsor jurisdictions for Lao PDR's Egmont membership application conducted the on-site visit at the end of October 2022, completing 6 of the 8 steps for membership.

officer, corruption officers and officers from other sectors as provided by the law (Art 46, Law on Criminal Procedure). INTERPOL's global police communications system, I-24/7, is used to communicate and cooperate with foreign law enforcement officers, predominately to identify alleged offenders who have fled the country. Feedback from a number of jurisdictions confirm that Lao PDR cooperates internationally through this channel.

464. The number and nature of outgoing requests for international cooperation from investigating officials to foreign counterparts is low and inconsistent with Lao PPR's risk profile. During 2017-2021, investigative authorities made 39 requests to foreign counterparts for cooperation. These requests predominately related to fraud (12), murder (5), narcotics (3), forgery (3) and human trafficking (1). No outgoing requests have been made relating to ML. There have been no outgoing requests relating to TF. . As noted above, it is not clear that this is consistent with the risk profile.

465. Lao PDR also participates in peer to peer cooperation with foreign counterparts to combat illegal logging and illegal wildlife trafficking, including combatting illegal tiger farms (through the Forestry Inspection Department, Ministry of Agriculture and Forestry). Lao PDR has not demonstrated through case studies and statistics that this cooperation is consistent with Lao PDR's risk profile for these transnational offences.

466. The investigative authorities in Lao PDR are responsive to incoming requests for international cooperation. Over the five year period from 2015 to 2020, investigative authorities received 135 requests from foreign counterparts. The most common offences associated with the requests include fraud, narcotics and murder. No incoming requests related to ML or TF. There is no legal basis for investigative authorities to conduct joint investigations with foreign counterparts.

#### **Case study 2.7: Outward request for assistance on Cyber Crime**

On 1 March 2016, INTERPOL issued an Investigation Order relating to the transfer of funds to the incorrect account in a foreign jurisdiction in circumstances where company was deceived by a hacker sending a fake email asking for the transfer of USD 163,800. On 1 July 2016, Lao PDR INTERPOL made an outward request asking for information to identify and verify the account to where the funds were sent in order to find the owner of the account in the foreign jurisdiction. On 1 June 2017 the foreign jurisdiction detained the offender, who was convicted on 5 June 2017 and ordered to pay compensation to the company.

#### *Supervisors*

467. The BOL, LSCO, MOF, and AMLIO and most other supervisors are able to enter into bilateral or multilateral agreements for international cooperation, and can share information on the basis of reciprocity. There are 15 bilateral and multilateral MOUs signed, consisting of 10 ASEAN countries, and the ASEAN plus six jurisdictions - Australia, China, Japan, India, New Zealand and South Korea. The Department of Stated-Owned Enterprise Reform and Insurance, MOF has signed MoUs with five countries: Cambodia, Indonesia, Myanmar, Singapore and Japan). The Banking Supervision Department of BOL signed MoUs with three countries: Thailand, Vietnam and China. LSCO signed MoU with six countries: Thailand, South Korea, Vietnam, Cambodia, Myanmar and China. Lao PDR has only made use of these MOUs to make outward requests for technical assistance for AML/CFT training, with no supervisory information exchanged with foreign counterparts. Supervisors can also exchange on the basis of reciprocity.

468. AMLIO (AML/CFT supervisor for FIs): The supervisory arm of AMLIO does not have bilateral and multilateral agreements in place with supervisory counterparts. However, AMLIO can exchange supervisory information indirectly with foreign counterparts using foreign FIUs as

an intermediary where there is an FIU to FIU MOU in place. However, AMLIO has not shared the findings of the supervision with a foreign counterpart or received supervisory information from a foreign counterpart using this mechanism to date.

469. BOL: Since 2017, BOL has made 19 outgoing requests to foreign counterparts and received six incoming requests. While 17 of the outgoing requests have been fulfilled, it is not clear that the incoming requests have been accepted and fulfilled. The majority of requests were related to commercial bank branches established and operated in Lao PDR, and focused on gathering information on the background of the board of directors of a particular branch. There were also bilateral workshops and training conducted. BOL participates in an annual, regional meeting of officials from central banks. BOL did not demonstrate that it cooperates with regional partners on AMLIO's behalf on AML/CFT matters.

470. LSCO: Since 2017, LSCO has engaged in training activities with foreign counterparts on 42 occasions but no international cooperation requests have been made relating to supervision of foreign branches and subsidiaries, and no incoming requests have been received.

471. MOF: Since 2017, MOF has not made any requests for international cooperation relating to supervision of foreign branches and subsidiaries, and no incoming requests have been received. MOJ Department of Promotion Judicial System and the MOJ Notary Department have not shared information with foreign counterparts on DNFBP supervision. International MOUs have largely been used to make requests to foreign counterparts relating to training.

472. Other DNFBP supervisors: The Department of Land, Ministry of Environment and Nature Resources; the MOIC Internal Trade Department and the MOF Accounting Department have not shared information with foreign counterparts in their capacity as DNFBP supervisors.

473. Customs: Customs officials are able to provide international cooperation through the WTO Trade Facilitation Agreement and bilateral or multilateral agreements. The ASEAN MLAT is the main multilateral agreement used to share information with foreign counterparts, but Customs also has MOUs for international cooperation with China, France Cambodia and Vietnam. A bilateral MOU was under negotiation with Thailand at the time of the onsite. Customs officials provided anecdotal information about cooperation with foreign counterparts, including regular informal cooperation with Thailand and Vietnam through email and telephone calls, and the periodical sharing of information with Myanmar. One jurisdiction provided comment on international cooperation with Lao PDR Customs officials, giving positive feedback on a number of timely and useful exchanges of information. Lao PDR did not provide any case studies or statistics to demonstrate the extent to which Customs officials are providing international cooperation. One case study was provided on intelligence received from foreign authorities. In view of Lao PDR's geographical position and the porous borders with five countries, the assessment team is concerned that Lao PDR could not demonstrate extensive cross-border cooperation with the neighbouring jurisdictions to address shared crime ML/TF risks.

**Case study 2.8: Rhino horn seized.**

In 2017 the Lao authorities received intelligence from a foreign country suggesting that two travellers from Africa to Lao PDR were smuggling wildlife. Customs officers were alerted and contacted the airlines to prepare for an inspection. Customs officers questioned the suspects, and x-rayed and searched their checked-in baggage. The Customs officers found five pieces of rhino horn concealed using foil and carbon paper, which were seized. The suspects were referred to police for further investigation.



*International exchange of basic and beneficial ownership information of legal persons and arrangements*

474. Foreign jurisdictions are able to access basic information about legal persons operating in Lao PDR through the ERO's online enterprise register.

475. There are mechanisms in place for Lao PDR authorities to respond to basic and BO information with foreign jurisdictions through formal MLA requests, agreements or information arrangements between competent authorities. However, fundamental deficiencies in the BO information collection framework for REs, legal persons and legal arrangements impedes Lao PDR's ability to effectively respond to such requests.

476. Three case studies provided to demonstrate the exchange of BO information related to an outgoing request to a foreign jurisdiction to identify the owner of a bank account which appears to be a natural person, and two incoming requests for information on bank accounts held by legal persons. The case studies do not indicate whether any BO information was exchanged. The deficiencies in collecting and verifying BO information (see Recs 10, 24 and 25), and in understanding the distinction between legal and BO fetters the ability of competent authorities to provide timely MLA or other forms of international cooperation relating to BO information.

477. No information on the BO of legal arrangements has been exchanged between Lao PDR and foreign jurisdictions, noting that the authorities maintain that there are no foreign trusts operating in Lao PDR.

*Overall conclusion on Immediate Outcome 2*

478. Lao PDR has a reasonable framework for international cooperation and generally provides constructive MLA and extradition assistance when requested. The OSPP, as the central authority, does not have a formal case management system in place, but works constructively with jurisdictions to promptly deal with incoming requests and prioritise based on urgency, as indicated in the requests. Outgoing requests have been made in relation to predicate offences, although not in line with risk profiles. No incoming extradition requests have been refused and the number of outgoing extradition requests is steadily increasing, although not in line with the risk profile. No TF requests have been made or received and it is unclear whether this is consistent with risk profile given the Lao PDR authorities do not appear to have a good understanding of the TF risks associated with the region and the transiting of illicit commodities across its borders. There is some limited evidence to demonstrate the timeliness of responses to MLA and extradition requests.

479. In terms of shortcomings, while there is a manual case management system in place, the timeliness of responses to requests and how they are prioritised, is unclear. Lao PDR made its first outgoing ML-related MLA request in 2022, which is inconsistent with Lao PDR's risk profile. This is likely to be the product of a limited understanding of transnational crime risks, and limited domestic investigative and law enforcement activity in relation to ML/TF and confiscating the proceeds of crime. Some LEAs are engaging in other forms of international cooperation, although incoming requests exceed outgoing requests. Investigative authorities do cooperate through INTERPOL's, I-24/7, and exchange information informally with counterparts from some neighbouring countries. Lao PDR did not provide any evidence to demonstrate that supervisors are engaging in international cooperation on supervision. Lao PDR was not able to demonstrate the extent to which authorities engage in international exchanges of basic and BO information of legal persons.

480. **Lao PDR has a moderate level of effectiveness for IO.2.**

## TECHNICAL COMPLIANCE ANNEX

1. This annex provides detailed analysis of the level of compliance with the Recommendations of Lao PDR in their 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.

### *Recommendation 1 - Assessing Risks and applying a Risk-Based Approach*

2. R.1 is a new requirement and was not assessed as part of the last ME.

3. *Criterion 1.1.* Lao PDR has assessed its ML/TF risks through its first NRA published in December 2018. An additional risk assessment for VASPs was conducted in September 2022 (the month of the on-site visit). Lao PDR's first *NRA Report on National Money Laundering and Terrorist Financing Risk Assessment of the Lao PDR* was developed using the World Bank methodology to analyse threats, vulnerabilities and sectoral risk. The NRA assessed some sectoral risk, but did not assess accountants, trust companies and financing companies as they do not currently operate in Lao PDR.

4. The findings of the 2018 NRA are partly reasonable. The NRA did not sufficiently identify and assess very significant threats and vulnerabilities for profit-driven crime in the golden triangle region including corruption and bribery, transnational organised crime associated with narcotics production and trafficking, human trafficking and environmental crimes. The casino sector was correctly identified as very high risk, noting they are cash intensive, located on borders with weak AML/CFT measures, and provide gambling services to the citizens of those jurisdictions. One casino is owned by a corporate group which also operates a commercial bank.

5. The NRA reviewed TF risk based mainly on qualitative analysis. The analysis collated information from departments involved in countering terrorism, including AMLIO, Ministry of Public Security (MoPS), Department of Administration Development, and the Ministry of Home Affairs (MOHA), identifying sources and channels of TF, and identifying the TF threats faced by Lao PDR. The analysis also assessed regulatory and legal vulnerabilities to prevent and respond to TF.

6. *Criterion 1.2.* The National Coordination Committee for Anti-Money Laundering and Counter-Financing of Terrorism, which operates as a National Coordination Committee (NCC) is the mechanism responsible to coordinate actions to assess risks. The NCC consists of eight working groups with membership from 13 relevant Ministries together with the Bank of Lao PDR and the State Audit Organization. Each working group, supported by technical staff, was assigned a specific responsibility such as an assessment of predicate crime, sector risk assessments, and to review legal frameworks to identify vulnerabilities and terrorist financing. The NRA is a product of collaboration by the workgroups.

7. *Criterion 1.3.* There are no measures in place to require Lao PDR authorities to update the NRA on a regular basis or as circumstances affecting risk change. Nor has Lao PDR taken steps to keep the current 2018 assessment of risk up to date. Lao PDR completed a risk assessment of VAs and VASPs and an Action Plan Review on National Risk Assessment Report however neither document adequately assesses ML/TF risks in Lao PDR.

8. *Criterion 1.4.* Upon its completion, the NRA, which included private sector engagement, was disseminated to the public and private sectors. The NRA was made available to government departments and FI/DNFBPs via the AMLIO website. In addition, AMLIO undertook a series of workshops to inform competent authorities and REs of the NRA's findings.

The results of the NRA were also shared with the public via social media, newspaper, radio and television to increase community awareness of ML and TF risks. While these documents were shared, they were not shared through a formal mechanism as provided in this sub-criterion.

9. *Criterion 1.5.* Lao PDR developed an Action Plan in response to the findings of the NRA. The Action Plan was updated in June 2022. In response to the Action Plan, resources were in part deployed into three target areas; strengthening and enhancing the legal frameworks in Lao PDR; improving, to some extent, capability and capacity to investigate and prosecute ML and TF; and the development, in part, of a risk-based supervisory model to target the supervision of sectors presenting risk as informed by the NRA.

10. However, the absence of focus on the very high risk casino sector reflects a limited application of a risk-based approach, given the identified risks in the NRA.

11. *Criterion 1.6.* Lao PDR does not exempt FIs nor DNFBPs from any of the activities outlined in the Recommendations.

12. *Criterion 1.7.* Article 20 of the Law on AML/CFT requires FIs and DNFBPs to apply risk-based management principles on ML and TF to their customers. Further in assessing risk, the Agreement on AML/CFT Measures requires consideration of the outcomes of the NRA (Art. 8).

13. Lao PDR has not issued notices requiring FIs and DNFBPs to take certain actions or avoid certain activity in relation to identified high risks activities. For example, Lao PDR has not issued notices requiring specific enhanced measures in the cash intensive high risk casino sector. The Bank of the Lao PDR requires some REs (banks, the Securities Commission Office and the Department of State Owned Enterprises and Insurance Management to implement risk based mitigation as informed by the NRA, this requires that enhanced measures are implemented to manage higher risk customers and activities.

14. *Criterion 1.8.* Article 23 of the Agreement on AML/CFT Measures, allows FIs and DNFBPs to apply simplified measures to customers assessed as low risk. Outcomes of the NRA must be considered in this process but there is no requirement that simplified measures be consistent with the NRA.

15. *Criterion 1.9.* The Decree on Entrust requires that ML/TF supervisors ensure that REs are implementing their ML/TF obligations under this Recommendation. However, limited supervision of these requirements has taken place with FIs, and less so with DNFBPs.

#### *Criterion 1.10*

16. *Criterion 1.10(a).* FIs and DNFBPs are required to assess the risks presented by their customers and the services provided to them, and to implement risk-based management of their ML/TF risks (Art. 20, Law on AML/CFT). The Agreement on AML/CFT Measures requires that risk assessments be documented and submitted to AMLIO (Art. 8.4). The assessment should consider risks presented by customers, products and services, delivery channels and geographic areas.

17. *Criterion 1.10(b).* FIs and DNFBPs are required to consider ‘the main’ risk factors, the level of risk and mitigating measures to be applied (Art. 8.2, Agreement on AML/CFT Measures). The requirement does not require that all relevant risk factors be considered before determining what is the level of overall risk and the appropriate level and type of mitigation.

18. *Criterion 1.10(c).* Article 8.3 of the Agreement on AML/CFT Measures requires risk assessments by FIs and DNFBPs to be reviewed and kept up-to-date.

19. *Criterion 1.10(d)*. Article 8.4 of the Agreement on AML/CFT Measures requires the risk assessment be submitted to AMLIO. There is no requirement to provide risk assessment information to a competent authority other than AMLIO or a Self-Regulatory Body.

#### *Criterion 1.11*

20. *Criterion 1.11(a)*. Article 8 of the Agreement on AML/CFT Measures requires senior management's approval of ML/TF mitigating policies, controls and procedures.

21. *Criterion 1.11(b)*. Article 8 further requires these controls be monitored and enhanced if necessary.

22. *Criterion 1.11(c)*. Article 8 also requires taking enhance measures to manage and mitigate risks where higher risks are identified.

23. *Criterion 1.12*. Following the risk assessment in Article 8 of the Agreement on AML/CFT Measures, simplified due diligence measures may be applied where the customer is assessed as presenting a low ML/TF risk. If suspicion exists, the RE is required to undertake enhanced measures including re-identification of the customer and suspicious transaction reporting.

#### *Weighting and Conclusion*

24. Lao PDR assessed ML/TF risks for the first time in 2018. The NRA is only partly reasonable. The NRA did not sufficiently identify and assess very significant threats and vulnerabilities for profit-driven crime in the Golden Triangle including corruption and bribery, transnational organised crime associated with narcotics production and trafficking, human trafficking and environmental crimes. Lao PDR authorities are not required to update the NRA on a regular basis or as circumstances affecting risk change. Lao PDR has not updated the 2018 NRA. Lao PDR has implemented an Action Plan but limited risk mitigation measures have been implemented. Limited supervision of FIs and DNFBPs has occurred to ensure that they are implementing their ML/TF obligations under this Recommendation. Supervisory deficiencies were identified as a risk, which have not been addressed.

**Recommendation 1 is rated partially compliant.**

#### *Recommendation 2 - National Cooperation and Coordination*

25. In the second round, Lao PDR was rated non-compliant on national coordination (formerly R.31). The rating reflected the absences of high level policy coordination and direction, and a lack of effective operational coordination to progress AML/CFT requirements including the AML Decree 55 mandate.

26. *Criterion 2.1*. In October 2016, the Prime Minister of Lao PDR directed the establishment of the NCC to lead and implement AML/CFT strategies and policies. Alongside the NRA, Lao PDR developed an Action Plan for activities to be undertaken during 2019-2021 to mitigate identified risks. The Action Plan identified six sources of risk comprising the absence of an AML/CFT policy and strategy, legislation deficiencies, investigation and prosecution capability, supervisory deficiencies, and the need for domestic and international cooperation mechanisms. The Action Plan demonstrates an acknowledgement of weakness, and included a plan to mitigate risk. The Action Plan was updated within AML/CFT Strategy 2021-2030 and will remain subject to periodic review. From this Action Plan has emerged the Decree on Entrust which formalises the roles and responsibilities of the various ministries and REs in response to risk. The Action Plan was refreshed when the AML/CFT Strategy 2021-2030 was endorsed by

the President on 9 September 2022. The refreshed strategy provides a framework to comprehensively strengthen the work on AML/CFT, recognizing this as one of Lao PDR's tools to maintain peace and public order and to promote sustainable socio-economic development.

27. *Criterion 2.2.* The NCC, established by Article 53 of the Law on AML/CFT, is the authority responsible for the development of AML/CFT policy and the implementation of that policy across ministries and agencies with AML/CFT roles and responsibilities. The NCC also has the role of evaluating the performance of the AML/CFT regime, advising the Government on legislative reform and administering relevant AML/CFT legislation. The NCC is headed by a Vice Minister of Public Security and the membership comprises the Deputy Head of the Office of the Supreme Public Prosecutors Office (OSPP), the Vice Governor of the Bank of Lao PDR, the Vice Minister of Finance, the Vice Minister of the Government Inspection Authority and the Vice Minister of the Ministry of Industry and Commerce (MOIC).

28. *Criterion 2.3.* The NCC, chaired by the Deputy-Prime Minister, comprises representation from the financial regulatory authorities, LEAs, judiciary foreign affairs departments, and other competent authorities. AMLIO performs the role of secretariat for the NCC. The NCC meets quarterly and is responsible for assessing the national ML/TF risk, developing national AML strategies, guiding principles, and policies. The work of the NCC is regulated by the Decree on Implementing and Operations of National Coordination Committee on Anti-Money Laundering and Countering-Financing Terrorism No.350/PM dated 14 October 2016.

29. In 2016 the NCC established the AML/CFT Working Group, which has a membership of senior officials from 35 relevant departments across ministries with AML investigation and prosecution responsibility. The Working Group meets every three months and provides a forum for cooperation and coordination of policy development and operational activities across Lao PDR. At an operational level, 'Focal Groups' have been established which meet monthly to coordinate law enforcement activities across Lao PDR.

30. *Criterion 2.4.* Since 2019 Lao PDR has had a limited coordination mechanism to combat PF.

31. *Criterion 2.5.* Lao PDR's cooperation and coordination mechanisms ensure the compatibility of AML/CFT requirements with the limited data protection and privacy rules applicable in Lao PDR.

### *Weighting and Conclusion*

32. Lao PDR lacks a mechanism for national cooperation and coordination in order to combat PF.

**Recommendation 2 is rated largely compliant.**

### *Recommendation 3 - Money laundering offence*

33. In its 2011 MER, Lao PDR was rated partially compliant for R.1 and 2 (ML offence). The main shortcomings were the absence of a comprehensive ML offence, a lack of criminal liability for legal persons, and other technical shortcomings with the Vienna and Palermo Conventions.

### *Relevant Money Laundering Laws in Lao PDR*

34. After the 2011 MER, Lao PDR enacted two statutes which establish ML offences: The Law on AML/CFT issued in 2015 and the Penal Code issued in 2017. Both statutes are issued under Article 53 of Lao PDR's National Constitution of 1991 and have equal status under Lao PDR law, and operate independently of one another, despite a statement in Article 2 of the Penal Code that it '...is the compilation of provisions related to criminal offences and punishments into a single law.' There does not appear to be an interpretation statute or other law to determine whether one statute has overriding precedence to the other when there are discrepancies between the two laws (these discrepancies are outlined below). This is reflected in the inconsistent explanation by Lao PDR authorities. Lao PDR maintains that both statutes operate at the same time and separately but during the face-to-face meeting, authorities explained that the Penal Code is the primary statute that applies to ML offences except for some articles that have been expressly repealed by the Penal Code – i.e. Article 425 of the Penal Code appears to repeal Articles 66 to 70 of the Law on AML/CFT which provides for the range of criminal sanctions for offences including ML.<sup>115</sup> Notwithstanding the inconsistencies, Lao PDR has been able to present a number of ML cases that have been prosecuted and convicted on the basis of these two statutes. Moreover, the legality of the application of these two statutes is brought into question concerning the term 'predicate offences.'

35. The Penal Code does not provide a definition of the term 'predicate offence' (Art. 130). And while Lao PDR authorities maintain that the definition of the term 'predicate offence' is found in Article 8 of the Law on AML/CFT – and hence that statute would be referred to in conjunction with Article 130 of the Penal Code – that interpretation seems to be barred by the Penal Code itself. The Penal Code defines the term 'Penal Law' as 'the Penal Code and other related laws that define criminal offences and punishments' (Art. 1). But it then defines 'other related laws that define criminal offences and punishment' as 'those laws that were promulgated after the Penal Code became effective' (Art. 3.2). The Law on AML/CFT was issued in 2015 prior to the Penal Code of 2017 and, therefore, according to the Penal Code, the Law on AML/CFT does not (and cannot) operate together with the Penal Code in relation to ML offences. While Lao PDR authorities explained that Article 8 of the Law on AML/CFT is still active because Article 425 does not repeal Article 8 of the Law on AML/CFT, that explanation does not address the question raised in relation to Article 3.2 of the Penal Code. These issues may not have come to light so far in the practice of Lao PDR.

36. *Criterion 3.1.* ML is defined in the Law on AML/CFT at Article 2 (with supplementary examples of money laundering at Art. 6) and the Penal Code at Article 130. The two definitions are not consistent with Article 6 of UNTOC and, as between themselves, they are inconsistent. For instance:

- UNTOC requires that ML can be either 'conversion or transfer' of illicit property whereas the Law on AML/CFT requires the 'conversion and transfer' of that property (Art. 6(1) of the Law on AML/CFT). Lao PDR's law unnecessarily restricts the scope of the required offence.
- The ML offence under UNTOC is a specific intent offence, i.e., 'knowing that such property is the proceeds of crime for the purpose of concealing or disguising the illicit origin of the property or helping any person which is involved in the commission of the predicate offence to evade legal consequences.' The Law on AML/CFT, on the other hand, adds another element to the offence, namely: '...in order to make such funds or properties legitimate.' This additional element creates a further stumbling block to the proof of the less stringent UNTOC offence. Moreover, and by way of internal comparison,

<sup>115</sup> In the Law on AML/CFT, the ML definition and the list of acts constituting ML at Article 6 remain effective.

Lao PDR's Penal Code ML offence at Article 130 provides that the acts outlined in the relevant Article must be 'aimed at legalizing the funds or properties' (also not in the UNTOC offence).

- UNTOC Article 6(1)(b)(2) requires that ML ancillary offences include conspiracy. However, conspiracy is not included in the list of examples at Article 6(4) of Lao PDR's Law on AML/CFT. The only ancillary offences in the Law on AML/CFT are: 'accomplice in planning, attempting to or aiding, encouraging, facilitating or giving advices on offences.' Nor is conspiracy included in the Penal Code offence. The only ancillary offence to ML in the Penal Code is 'attempt or planning to commit' (Art. 130, last sentence). While the Penal Code includes a list of ancillary offences for definitional purposes at Articles 26 – 30, the only applicable ancillary offences as mentioned for the ML offence is 'attempt or planning.' All other ancillary offences required by the FATF standards are excluded.
- The examples of acts of money laundering at Article 6 of the Law on AML/CFT are not consistent with the definition at Article 2 of the same instrument. Article 2 of the Law on AML/CFT defines ML as including 'a genuine ownership transfer of funds' whereas the examples at Article 6 exclude the term 'genuine,' opting instead for only 'ownership transfer', creating confusion as to the *actus rea* element on any transfer of funds.

37. *Criterion 3.2.* Article 8.1 of the Law on AML/CFT defines predicate offences in broad terms as 'all criminal offences which are the causes of money laundering including offences committed outside the territory of Lao PDR that incurs proceeds.'

38. With respect to the Penal Code, the ML offence at Article 130 uses the phrase 'predicate offence' as the underlying proceeds-generating offences, but that term is not defined nor is there a list of primary offences applicable to Article 130 that operates to inform what a predicate offence is for the purposes of a prosecution under Article 130. Hence, the Penal Code does not use a list approach or a threshold approach for predicate offences (see c.3.3). Notwithstanding this, and while it is not clear, Lao authorities have interpreted the phrase 'predicate offence' to mean those offences listed in the Law on AML/CFT as predicate offences.<sup>116</sup> While all of those offences are covered in the Penal Code at various articles, some of which use different names than the FATF glossary list as designated offences, this interpretation, from a technical perspective, does not conform to the Penal Code which clearly provides that 'Penal law' refers to the 'Penal Code and other laws that were issued after the Penal Code.' Article 7 of the Penal Code further provides that the general provisions of the Penal Code shall apply to offences as provided in other laws (i.e., those laws issued after 2017). Hence, on a technical reading of the law, the Penal Code cannot refer to the definition of 'predicate offences' in the Law on AML/CFT to determine what a predicate offence is for the purpose of the Penal Code. As a result, Lao PDR law contains only a partial list of predicate offences to ML, i.e., those contained in the Law on AML/CFT.

39. Despite these serious technical deficiencies, Lao PDR authorities treat the Penal Code as having a full list of predicate offences for the purposes of the assessment of

<sup>116</sup> Article 8 defines predicate offences all crimes that cause ML including 'frauds, robbery or theft, murder and battery, kidnap, detention and hostage taking, trading of illegal properties, currency counterfeiting including cheque counterfeiting, or use of counterfeited currency or cheque or bond, document forgery or use of forged documents infringement of intellectual property rights, corruption including a taking and giving bribery, adult and child prostitution, human trafficking, people smuggling, production and trafficking of narcotics, trading of war arms or explosives, participation in an organized criminal group and racketeering, terrorism including financing of terrorism, environmental crime, tax crimes, insider trading and market manipulation, violation of customs and tax regulations, extortion, piracy, and others.'

effectiveness (however, that is a separate issue). For R.3, the cascading of issues into other Recommendations are noted.

40. *Criterion 3.3.* The Law on AML/CFT refers to ‘predicate offences’ as ‘all criminal offences that are the causes of money laundering’. While the phrase ‘all criminal offences’ seems to refer to an ‘all crimes’ approach, this is undermined by the additional wording ‘that are the causes of money laundering’ which is undefined. This phrase appears to restrict an all crimes approach to a specific number of offences that *cause* money laundering. Lao PDR authorities did not explain the meaning of this strict ‘causal’ requirement.

41. Additionally, the Penal Code ML offence at Article 130 does not define the term ‘predicate offence’ as noted in c.3.2. There is no list provided of what constitutes a predicate offence nor can it be assumed or inferred from the Penal Code that the term ‘predicate offence’ refers to all crimes that generate criminal proceeds.

42. *Criterion 3.4.* Articles 8.2 and 8.5 of the Law on AML/CFT defines the term ‘proceeds of predicate offences’ as ‘funds or properties derived directly or indirectly from the predicate offences, properties transformed or changed, wholly or partially, to other forms of properties including returns of investment.’ The term ‘funds’ is defined as ‘tangible and intangible funds or properties, movable or immovable assets and all financial documents or bearer negotiable instruments of all forms either in electronic or digital format, and certificates of ownership, or benefits from such funds or properties.’ The FATF definition, however, requires the inclusion of ‘corporeal or incorporeal’ as part of the definition in addition to ‘tangible and intangible assets.’ It is not clear that the Lao PDR definition extends to all forms of legal documents or instruments evidencing title to or interest in such assets. Moreover, the Penal Code does not contain any definition of the term ‘funds’ or ‘property’ applicable to its ML offence and it cannot be assumed that the scope of the FATF definition of designated offences applies.

43. *Criterion 3.5.* The definition of ML in the Law on AML/CFT provides that ML can be demonstrated from ‘an event or evidence that proves the funds or properties are derived from the predicate offences without the necessity for a court ruling’ (Art. 6). All ML prosecutions have been for self-laundering and have all been tried with the relevant predicate offence. However, the ML offence in the Penal Code does not contain such a provision and, in the absence of such a provision, a conviction on the predicate offence is necessary for a prosecution on the ML offence at Article 130.

44. *Criterion 3.6.* Article 9 of the Penal Code extends to conduct committed by Lao PDR citizens (but not legal persons) outside Lao PDR’s territory for all penal offences, including ML, under Article 160. Article 13 of the Law on AML/CFT applies to natural and legal persons both foreign and local, including those involved in ML outside of Lao PDR (Art. 13).

45. *Criterion 3.7.* The ML offences in the Penal Code and the Law on AML/CFT apply in self-laundering cases.

46. *Criterion 3.8.* Article 12 of the Penal Code states that ‘the subjective component of an offence refers to the characteristics of the attitude and state of mind of the offender regarding his act of offence as expressed externally through the behavior that constitutes the offence’. Lao PDR authorities stated that the term ‘factual circumstance’ is used in criminal litigation as a general principle. However, the statute unnecessarily restricts those objective facts to ‘behavior’ of the offender. This restriction unnecessarily excludes other objective facts (documents, behavior by other parties, statements by other parties, etc.) in the proof of intent and knowledge which, as a consequence, unduly restricts to manner of proof of intent and knowledge.



47. There is no similar provision in either the Law of AML/CFT or the Law on Criminal Procedure. While Article 44 of the Law on Criminal Procedure provides generally that evidence must be examined and evaluated ‘comprehensively based on thorough and objective consideration with confidence’ this does not address this criterion.

48. *Criterion 3.9.* Under Article 130 of the Penal Code, offenders are subject to imprisonment from 3 to 7 years and the same fine as per above (for laundered property under USD 6,283), or 7 to 10 years for laundering property over LAK 1 Billion in addition to a fine from LAK 500,000,000 to 700,000,000 (approx. USD 30,646 to 42,904) and to confiscation of their property. For organised groups, the penalty is 10 to 15 years and a slightly higher fine.

49. *Criterion 3.10.* Article 89 of Penal Code establishes criminal liability for legal persons. Article 90 provides that fines for legal persons are double those prescribed in natural person (i.e., up to approx. USD 61,292). There are also administrative penalties, such as dissolution of the business, licence revocation, and restrictions on business activities (Arts. 91-94). The quantum of fines for natural persons is the basis of fines for legal persons. The sanctions for legal persons are not at a level that would deter legal persons (in particular, foreign legal persons) from engaging in lucrative ML activities, and as such they are not dissuasive.

50. *Criterion 3.11.* The Penal Code defines a number of ancillary offences at Articles 22 to 30, and provides for the criminalization of ‘participation in’ (Art. 26) ML offences, namely, the ‘author’ (Art. 27 covers association or conspiracy to commit), ‘implementers’ (Art. 28), ‘inciters’ (Art. 29 covers aiding and abetting) and ‘accomplices’ (Art. 30). Moreover, under the Law of AML/CFT at Article 6, while ancillary offences covered are ‘accomplice in planning, attempting to or aiding, encouraging, facilitating or giving advices on offences’, conspiracy is not included.

### *Weighting and Conclusion*

51. Lao PDR enacted the Law on AML/CFT in 2015 and the Penal Code in 2017 to criminalise ML. The application of these two statutes remain unclear and each has deficiencies: the Law on AML/CFT is seriously deficient in its list of predicate offences, linking all crimes to those that ‘cause ML’; and the Penal Code has serious deficiencies in that it lacks a definition of ‘predicate offences’ and thus has no underlying offences to its ML offence. There are also shortcomings in relation to the quantum of penalties for both natural and legal persons in relation to ML. In particular the penalties for legal persons in the Penal Code are too low and therefore not dissuasive. Moreover, there are limitations on the application of the ML offence to offences committed outside of Lao PDR.

**Recommendation 3 is rated partially compliant.**

### *Recommendation 4 - Confiscation and provisional measures*

52. Lao PDR was rated partially compliant for the former R.3 in the 2011 MER. The identified limitations included the scope of qualifying forfeiture offences associated with ML, the absence of a TF offence, inconsistent legal definitions of ‘property’ and limitations with freezing property; and an absence of statistics on confiscation performance.

53. The legal framework in Lao PDR to meet this Recommendation is contained in two instruments:

- The Law on AML/CFT, which contains provisional freezing and seizing measures at Articles 38-40, and confiscation measures at Article 41; and
- The Instruction on Application of Provisional Measures for ML/TF. Article 1 provides that this law elaborates Article 38 of the Law of AML/CFT (seizing and freezing).

*Criterion 4.1:*

54. Before each sub-criterion is analysed, R.4 requires that confiscation measures should extend to proceeds or property laundered and held by third parties, not just the criminal defendant. Neither the Law on AML/CFT nor the Instrument contains any provisions to that effect. However, the Penal Code provides at Article 53 that:

53. Items belonging to other individuals used to commit the offence shall be confiscated by the State when the owner of the items gave them to the offender in bad faith or if the confiscation of those assets is deemed necessary for the safeguard of the society.

55. R.4 requires that property laundered can be confiscated from third parties. The Law on AML/CFT provision relates to a third party who transfers property to the offender to use in the commission of an offence. For the purpose of the analysis to follow, it is the view of the assessors that property held by third parties is not covered in Lao PDR and each rating below is adjusted for that deficiency.

56. *Criterion 4.1(a).* Article 41 of the Law on AML/CFT provides the legal framework for the confiscation of funds ‘derived from predicate offences’, ML and TF. The term ‘funds’ is defined in Article 8.5 of the Law on AML/CFT (see R.3), and the term ‘proceeds of predicate offences’ is defined to mean ‘funds or properties derived directly or indirectly from the predicate offences, properties transformed or changed, wholly or partially, to other forms of properties including returns of investment’ (Art. 8.2 Law on AML/CFT).

57. However, as outlined in R.3, there are significant issues with the meaning of predicate crimes in Lao PDR. In particular, predicate crimes are crimes that ‘cause’ ML as well which is not a requirement of the FATF. Also the serious definitional issues in predicate crimes in the Penal Code and the limited number of predicate crimes in the Law on AML/CFT (see c.3.2) adversely affects this criterion. Hence, property laundered may not include the proceeds of most underlying predicate crimes for the purposes of the FATF standards. The deficiency noted in R.3 is taken into account in this sub-rating.

58. *Criterion 4.1(b).* Articles 41.1 and 41.3 of the Law on AML/CFT extends to proceeds, including income or other benefits derived from such proceeds. However, while Articles 4.2 and 4.4 provide that confiscation extends to ‘funds to be used in committing the offences’ this is not broad enough to include funds already used in the commission of offences. Moreover, confiscation of ‘financial instruments relating to offences’ at Article 4.3 is restricted only to instruments of a financial nature and not to other instrumentalities of crime such as chattels, real estate, etc. The deficiency noted at the beginning is taken into account in this sub-rating.

59. *Criterion 4.1(c).* Article 41 of the Law on AML/CFT also provides the legal framework for the confiscation of property that is ‘related to the financing of terrorism.’ However, confiscation does not extend to property that is the proceeds of, or used in, or intended or allocated for use in terrorist acts or terrorist organisations. Moreover, as noted in c.5.1, the TF offence in Lao PDR is restricted to ‘attempts’ to finance only and not to a substantive offence or actual TF offence (Art. 3, Law on AML/CFT). The deficiency noted at the beginning is taken into account in this sub-criterion.

60. Hence, overall Lao PDR's legal framework for the confiscation of property for TF, terrorist acts or terrorist organisations, is severely restricted to confiscating funds that were used in an attempted TF offence only.

61. *Criterion 4.1(d)*. Article 41.1 of the Law on AML/CFT enables the confiscation of funds of corresponding value related to predicate offences. However, the range of terrorist related offences is too narrow (c.4.1(c)). The deficiency noted at the beginning is taken into account in this sub-rating. Notwithstanding the clear power to seize property of equivalent value, Lao PDR authorities have stated that they cannot and do not use this power as it is inherently unfair.

*Criterion 4.2:*

62. *Criterion 4.2(a)*. It is not clear whether authorities have measures to identify, trace and evaluate property that is the subject of confiscation. Apart from general criminal investigation powers (Arts. 43, 108 and 121- 128, Law on Criminal Procedure) the Instruction on Application of Provisional Measures on ML/TF at Article 4 provides that authorities can use investigative techniques to 'identify and monitor' properties during investigations. These provisions, however, do not include 'evaluating' property that is subject to confiscation.

63. *Criterion 4.2 (b)*. Article 38 of the Law on AML/CFT provides for the application of provisional measures to seize or freeze funds suspected of ML or TF. Article 2 of the Instruction on Application of Provisional Measures on ML/TF provides further that provisional measures mean 'suspension of activity, transactions, withholding, seizure or freezing on properties relating to money laundering or terrorist financing.' Provisional measures apply for 30 days during which time the investigative authorities are required to prepare and serve a formal order that then remains effective until the resolution of the prosecution (Art. 6, Instruction on Application of Provisional Measures on ML/TF).

64. *Criterion 4.2(c)*. Lao PDR did not demonstrate that authorities have the ability pursuant to the law to examine, and when required, prevent or void actions that prejudice their ability to freeze or seize or recover property that is subject to confiscation.

65. *Criterion 4.2(d)*. The investigation measures for tracing assets are those set out at R.31. The strengths and deficiencies in those powers are as per the findings of R.31.

66. *Criterion 4.3*. It is unclear whether the rights of all *bona fide* third parties, other than victims of crime, are protected in Lao PDR law where it is identified that a third party has an interest in any property that could be subject to confiscation. Article 103 of the Law on Criminal Procedure which was relied on by authorities applies only to victims of crime and not to other bona fide persons. An owner or a person in association with seized or frozen properties affected by a freezing order can appeal the seizure or placement of a provisional measure over property with supporting evidence of the grounds for appeal within seven working days of the seizure (Art. 6, Instruction on Application of Provisional Measures on ML/TF). Subject to an outcome a third party may seek a judicial review of any decision made by the People's Prosecutor (Art. 67, Law on Criminal Procedure).

67. *Criterion 4.4*. Article 7 of the Instruction on Application of Provisional Measures for ML/TF requires authorities to store and manage property seized to ensure the value of property is maintained. The Order on the Registration of Property Sentenced by the Court to Confiscate to the State No 7/PM dated 5 April 2017, outlines a disposal process which includes the establishment of a 'Fund for Drug Control and Prevention' to receive 70% of the proceeds from the sale of confiscated criminal assets to fund drug crime prevention initiatives along with other disposal initiatives. Where a criminal judgement imposes a civil compensation payment (reparation to a victim) and a fine together with the confiscation of property, the priority of

payment is to the civil compensation (victim) then the fine and the remainder forfeited to the benefit of the state (Art. 39, Law on Judgement Enforcement). These regulations are silent on any obligation on authorities to manage property so as to preserve and maintain value pending confiscation.

68. In the event that property is not managed in accordance to the regulations or is dealt with in a way that reduces value and causes loss, the state is required to compensate any affected party, and, in turn, those expenses can be recovered from the individuals who mismanaged and violated the regulations.

### *Weighting and Conclusion*

69. Lao PDR has a framework for restraint and conviction-based confiscation of instruments and proceeds of crime. And while there is a legislative measure that enables confiscation of property of corresponding value, Lao PDR authorities do not use this power on the basis that they consider it unfair. Moreover, while there are powers to protect the rights of *bona fide* third parties, there are no powers to examine, and when required, prevent or void actions that prejudice their ability to freeze or seize or recover property that is subject to confiscation. There are deficiencies in the mechanisms for managing and, when necessary, disposing of property frozen, seized or confiscated. The deficiencies in the coverage of property of corresponding value are given particular weight given Lao PDR's risk and context.

**Recommendation 4 is rated partially compliant.**

### *Recommendation 5 - Terrorist financing offence*

70. Lao PDR was rated non-compliant for SR.II in the 2011 MER, as there was no law criminalising TF in line with the TF Convention. Lao PDR revised its Penal Code in May 2017 to include the TF offence.

71. *Criterion 5.1.* The Penal Code and the Law on AML/CFT establish TF offences:

- The Penal Code, Article 131, defines TF as 'an intentional act, both direct and indirect, committed by a natural person, a legal person or an organisation, that attempts to give, collect or acquire funds or properties, legally or illegally, wholly or partially, to supply funds to terrorism, whether or not the funds or properties are actually used for terrorism.' This definition is not consistent with the TF Convention for the following reasons: (1) the term 'terrorism' defined at Article 120 of the Penal Code is not consistent with the TF Convention – financing acts 'intended to cause death', for instance, is required by the Convention at Art. 2(1)(b) but is not listed as an act of terrorism in the Penal Code at Art. 120 for which the TF offence at Art. 131 encompasses; and (2) the offence at Art. 131 restricts the prohibited acts to 'attempts to give, collect or acquire funds...to terrorism' as opposed to the Convention which requires, in addition to attempts (Art. 2(3)), that a person must 'provide or collect funds with the intention that they should be used...etc.' (Art. 2(1)). The Convention does not delimit the scope of the offence only to attempts. While it may be possible to interpret that the term 'attempts' in the Lao statute includes the actual giving, collecting or acquiring funds or properties (because a successful act may follow an 'attempt'), credible explanation was not provided by Lao PDR authorities in this regard. Moreover, the TF Convention is not limited to providing funds for acts of terrorism.
- The Law on AML/CFT, Article 3, defines the TF offence differently than the Penal Code. It requires that it is an 'attempt to give, consolidate and mobilize funds or properties to finance terrorism or activities, to fund terrorism, or terrorist[s], or activities linked to a

specific terrorist act...’ Like the Penal Code, this offence is unduly restricted to ‘attempts’ to provide funds. Moreover, the TF offence relates only to the offences listed as acts of terrorism at Article 7 of the Law on AML/CFT which do not encompass all the acts in the Conventions annexed to the TF Convention. The TF Convention requires criminalisation of all conduct in the annexed Conventions. Also, while Article 7.8 of the Law on AML/CFT references the treaties annexed to the Convention, Lao PDR law does not incorporate all treaties into domestic law through legislation. Therefore, not all acts listed in those Conventions are criminalised in Lao PDR creating a significant gap in its criminal justice framework relating to TF.

72. *Criterion 5.2.* The Law on AML/CFT is restricted (as noted above) to ‘attempts’ to give funds or property. There is no section in the law similar to the requirement to ‘wilfully provide’ funds or property. And, in addition, the acts of terrorism outlined in the Law on AML/CFT do not fully cover the alternate list of acts at Article 2(b) of the TF Convention. The Penal Code is similarly restricted in scope to attempts but also does not cover the actions provided in the TF Convention at Articles 2(a) and (b).

73. *Criterion 5.2bis.* Article 7 of the Law on AML/CFT does not cover the financing of travel of individuals to another state for the purpose of perpetrating, planning, preparing, or participating in, terrorist acts or providing or receiving terrorist training. Under Article 7.6, it is an offence to ‘participate, or attempt to participate in the organisation, teaching and training of individuals’ but this does not criminalise the financing of travel for that purpose or purposes and therefore does not meet the requirements of this criterion. The Penal Code does not criminalise the financing of travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.

74. *Criterion 5.3.* Article 3 of the Law on AML/CFT provides that (as seen earlier) the attempt to give, consolidate and mobilize funds or properties, legally or illegally, wholly or partially, to finance terrorism...’ The terms ‘legally or illegally’ do not appear to modify the words ‘funds or properties’ but to qualify or modify the transactions referred to immediately prior. In addition, while there is a definition of the term ‘funds’ (at Art. 8.5) there is no reference in that definition to the manner in which funds are acquired.

75. Article 131 of the Penal Code is similar to the Law on AML/CFT in that TF refers to ‘attempts to give, collect or acquire funds or properties, legally or illegally, wholly or partially...’ funds or properties’. However in this Article ‘collecting or acquiring legally or illegally’ do extend to legitimate or illegitimate funds for TF. But it is not clear that the ‘giving’ (as opposed to collecting or acquiring) of funds would necessarily include the giving of illegitimate funds – the modifying words would mean the ‘legal or illegal giving’ which do not appear to mean the giving of ‘legal or illegal funds.’ The statute is unclear and is confusing on this point.

76. *Criterion 5.4.* Article 3 of the Law on AML/CFT defines TF to include that the acts of financing be ‘linked to a specific terrorism act regardless such funds [sic] or properties are used to finance the actual action.’

77. Article 131 of the Penal Code does not require that the funds or other assets be linked to a specific terrorist act as it applies to terrorism and terrorists, even in the absence of a link to a specific terrorist act(s). Article 131 criminalises TF whether ‘the funds or properties are used in action or not.’ The law does not specifically require that the funds or properties were used to carry out or attempt a terrorist act(s).

78. *Criterion 5.5.* Like c.3.8 with respect to ML, Article 12 of the Penal Code states that ‘the subjective component of an offence refers to the characteristics of the attitude and

state of mind of the offender regarding his act of offence as expressed externally through the behavior that constitutes the offence'. Lao PDR authorities stated that the term 'factual circumstance' is used in criminal litigation as a general principle. However, the statute unnecessarily restricts those objective facts to 'behavior' of the offender. This restriction unnecessarily excludes other objective facts (such as documentary evidence, behavior by other parties, statements by other parties, etc.) in the proof of intent and knowledge which, as a consequence, unduly restricts to manner of proof of intent and knowledge.

79. There is no similar provision in the Law of AML/CFT or the Law on Criminal Procedure. While Article 44 of the Law on Criminal Procedure provides generally that evidence must be examined and evaluated 'comprehensively based on thorough and objective consideration with confidence' this does not address this criterion as an 'objective consideration of evidence' does not mean 'a consideration of objective evidence.'

80. *Criterion 5.6.* Under Article 131 of the Penal Code, any natural persons convicted of TF involving a value of less than LAK one billion (approx. USD 61,292) shall be sentenced to five to eight years prison, and fined between LAK 500 million and 800 million (approx. USD 30,646 to USD 49,034). Natural persons convicted of TF for a value of LAK one billion or more shall be sentenced to eight to 12 years prison and fined between LAK 800 million to 1 billion (approx. USD 49,034 to USD 61,292). Where TF is committed as part of a criminal organisation, or on a regular basis (habitual offenders), a natural person can be sentenced from 15-20 years prison and fined between LAK 800 million to one billion (approx. USD 49,034 to USD 61,292). Sanctions for TF are higher than that of ML. In comparison to other jurisdictions, a prison sentence of five to eight years as a starting point, is at the lower end of the scale, with fines of less than USD 62,000 not considered dissuasive. Sanctions imposed for TF valued at LAK one billion (approx. USD 61,292) or more are considered proportionate and dissuasive in comparison with other jurisdictions.

81. *Criterion 5.7.* The maximum fine available for legal persons convicted of TF is LAK 1.6 – 2 billion (approx. USD 98,000 to USD 122,600). Articles 88 to 96 of the Penal Code provide penalties for legal persons and allow for parallel criminal, civil and administrative proceedings. Article 90 provides that fines are the principal penalty for legal persons and shall be twice what they are for natural persons. However, the maximum penalty for natural persons is LAK one billion (approx. USD 61,292) which in the context of legal persons (including foreign or international persons) is not proportionate and dissuasive. The administrative sanctions for legal persons, which include confiscation, revocation, dissolution of business, bans on operating as a business, mobilising funds or using cheques or credit cards, seem generally proportionate but these sanctions are not at the level where they would deter legal persons (in particular, international legal persons) from engaging in TF, and, as such they are not dissuasive.

82. *Criterion 5.8.* Article 131 of the Penal Code make it an offence for any person to attempt to commit a TF offence. Article 26 of the Penal Code criminalises the intentional participation in an offence by two or more persons, including as an accomplice. Article 27 criminalises the planning and organisation of the offence, including those who give instructions to commit the offence. However, all of the ancillary offences relate to attempts (the substantively defined offence) – i.e., it is an offence to be an *accomplice to an attempt*, plan an attempt etc.

83. The Law on AML/CFT defines the substantive TF offence as an attempt offence. Article 7 spells out a number of related offences to terrorism however those acts are related only to natural persons, organisations or terrorist organisations, who *receive* finances to conduct acts of terrorism. The related list of acts in Article 7 do not apply to persons or organisations who *provide* finances.

84. For the above reasons the TF offences relating to ancillaries is seriously flawed on a structural basis.

85. *Criterion 5.9.* For the reasons outlined at c.3.2 and the deficiencies noted, TF is not clearly listed as a predicate offence to money laundering.

86. *Criterion 5.10.* Articles 8 and 9 of the Penal Code and Article 7 of the Law on AML/CFT provide that TF offences apply both within, and outside of the territory of the Lao PDR. However, Lao PDR law does not provide that TF offences that occurred in other countries apply in Lao PDR.

### *Weighting and Conclusion*

87. The Penal Code and the Law on AML/CFT define the TF offence differently and inconsistently with the TF Convention; and both define the offence in terms only of 'attempts' to provide funds. Lao PDR has established a legal framework against TF, however, serious deficiencies exists in the structure and application of the offence. It is not clear under the Penal Code whether TF is a predicate offence to ML (see c.3.2). The available sanctions for both natural and legal persons are not wholly dissuasive.

**Recommendation 5 is rated non-compliant.**

### ***Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing***

88. Lao PDR was rated non-compliant with Special Recommendation III in the 2011 MER. There was no freezing mechanism in place and no legal powers to implement UNSCR 1267 and 1373. Also, the rating reflected a lack of communicating actions to the financial sector and a lack of awareness raising. Since then, in order to implement the targeted financial sanctions (TFS) related to terrorism and TF, Lao PDR has enacted the Order No.03/PM on the Withholding, Freezing or Seizure of Funds Relating to Terrorists or Financing of Terrorism (revised version) dated 11 February 2016 (Order No.03/PM) as well as the Instruction on Procedure of Domestic and Foreign Listing and Delisting.

#### *Criterion 6.1:*

89. *Criterion 6.1(a).* The Ministry of Foreign Affairs (MOFA) is the designated authority to propose persons or entities pursuant to the UN1267/1989 Committee and 1988 Committee (Article 3.5.3 of the Order No.03/PM).

90. *Criterion 6.1(b).* The Ministry of Public Security (MoPS) leads the mechanism to coordinate with the MOFA, AMLIO and relevant ministries to consider proposing UN designations to the NCC (Art. 3.1, Order No.03/PM). Articles 3.1, 3.2 and 3.5 of the Order No.03/PM provide a mechanism for identifying targets for designation based on the designation criteria set out in the relevant UNSCRs.

91. *Criterion 6.1(c).* Proposals for designation are not conditional upon the existence of a criminal proceeding. Articles 3.2, 3.53 and 3.54 of Order No.03/PM apply an evidentiary standard of 'sufficient evidence' for the NCC to consider a proposed designation. Lao PDR has indicated that sufficient evidence is a criminal evidentiary standard as referred in the Articles 27-28 of the Law on Criminal Procedure. Even though the determination of sufficient evidence may be on reasonable grounds, namely on the balance of probability and not necessarily that required for a criminal conviction (Art. 5, Instruction on Procedure of Domestic and Foreign

Listing and Delisting), it is unclear how the criminal evidentiary standard can be met if not through a criminal proceeding.

92. *Criterion 6.1(d)*. Article 3.5 of the Order No.03/PM provides procedures for designations and requests for listing and requires that the MOFA, in proposing names to the UNSCR Committee, to use the standard forms for listing as adopted by the relevant Committee.

93. *Criterion 6.1 (e)*. Order No.03/PM requires the MoPS, in consultation with MOFA, AMLIO and relevant ministries, to seek evidence (on behaviour and/or activities) on the proposed designation. Article 3.5.3 requires the use of standard UN forms in proposing names to the UNSCR Committee and this extends to include a detailed statement of case to support the designation. No proposals for UNSCR 1267 designation have been made to-date.

*Criterion 6.2:*

94. *Criterion 6.2(a)*. The NCC is the competent authority responsible for designating persons or entities that meet the specific criteria for designation under UNSCR 1373 (Art. 3.2, Order No.03/PM). This can be at Lao PDR's own motion or, after examining and giving effect to, if appropriate, the request of another jurisdiction (Art. 3.1, Order No.03/PM).

95. *Criterion 6.2(b)*. Lao PDR has a mechanism under Order No.03/PM and the Instruction on Procedure of Domestic and Foreign Listing and Delisting for identifying targets for designation based on the designation criteria set out in UNSCR 1373 (Arts. 3.1, 3.2 & 3.5, Order No.03/PM and Art. 5, Instruction on Procedure of Domestic and Foreign Listing and Delisting). MoPS acts as a key player in coordinating with MOFA, AMLIO, relevant ministries and organisations of the government in proposing to the NCC the inclusion or removal from the domestic and foreign list of natural persons, legal entities or organisations relating to terrorists or financing of terrorism for NCC's consideration and approval.

96. *Criterion 6.2(c)*. The MoPS is in charge of coordinating with the MOFA, AMLIO, other relevant ministries and organisations in considering requests for designations of persons or entities by a foreign jurisdiction (Arts. 3.1 & 3.6, Order No.03/PM). Any proposed designation must be presented to the NCC for consideration (Art. 3.2, Order No.03/PM) and NCC shall make a prompt determination but subject to the necessary due process (Art. 5, Instruction on Procedure of Domestic and Foreign Listing and Delisting). As indicated in the Criterion 6.1(c), the evidentiary standard of 'sufficient evidence' may be on reasonable grounds for the NCC to consider a proposed designation but it is unclear how the evidence can be determined if not through criminal proceedings. Once a determination is made, MOFA is responsible for providing a response to the requesting foreign jurisdiction. However, to date, there has been no request from foreign jurisdiction on any designation or delisting.

97. *Criterion 6.2(d)*. As set out in c.6.1(c), proposals for designation are not conditional upon the existence of a criminal proceeding. Designations require 'sufficient evidence' under Article 5 of the Instruction on Procedure of Domestic and Foreign Listing and Delisting. However, according to Lao PDR authorities a criminal evidentiary standard is actually used for designations (beyond doubt). Hence, even though sufficient evidence may be on the civil standard of 'reasonable grounds' (Art. 5, Instruction on Procedure of Domestic and Foreign Listing and Delisting), i.e., on the balance of probabilities and not necessarily that required for criminal conviction, it is unclear why Lao authorities insist on a criminal standard.

98. *Criterion 6.2(e)*. The MoPS is responsible for coordinating proposal for designations to the NCC for consideration as described in 6.2(c). Although the provision of identifying information and specific information to the foreign jurisdiction is not specified, this is implied in the use of the standard forms for listing and de-listing. Lao PDR has not made a request to a foreign jurisdiction to give effect to freezing actions.



*Criterion 6.3:*

99. *Criterion 6.3(a).* Articles 43 & 47 of the Law on Criminal Procedure empower MoPS to collect documents and information in investigations, prosecutions and related actions (see c.31.1) though not all investigative techniques are available (see c.31.2). Article 11 of the Decree on Entrust also provides authority to MoPS to collect information from REs and AMLIO. AMLIO has powers under the Law on AML/CFT to collect information and coordinate domestically and internationally. Lao PDR has not proposed any designations to the NCC for listing, either domestically or UNSCR 1267.

100. *Criterion 6.3(b).* Article 3.6.2 of Order No.03/PM provides that coordination and consideration of designations, and any decision by the NCC on designations be made *ex parte* and without prior notice to the individual, legal entity or organisation.

101. *Criterion 6.4.* Listings pursuant to UNSCR 1267/1989 are automatically and immediately designated without the NCC's approval or consensus. Article 3.3 of Order No.03/PM, brings freezing and prohibition obligations immediately into force. REs, postal enterprises and other relevant ministries are also required by Order No.03/PM to monitor the sanctions lists (Art. 3.4). REs must withhold funds or properties of designated persons or entities immediately and without prior notice pursuant to Articles 41 and 42 of the Agreement on AML/CFT Measures.

102. Designations pursuant to UNSCR 1373 are coordinated by MoPS with MOFA, AMLIO and other relevant ministries and presented to the NCC for consideration and approval. Article 5 of the Instruction on Procedure of Domestic and Foreign Listing and Delisting stipulates that the NCC will make a prompt determination but subject to the necessary due process.

103. *Criterion 6.5.* REs, postal enterprises, natural and legal persons are obliged to take preventive measures to monitor UNSCR lists and withhold funds or properties of designated persons or entities. MoPS has the authority to issue an order to freeze or seize the funds and properties immediately when receiving a report on any withholding actions taken by REs, postal enterprises, and natural and legal persons (Arts. 5.1-5.3, Order No.03/PM). Depending on the complexity, MoPS shall inspect and verify the funds and properties within 30-90 days from the issuance of the freezing or seizing order. The funds and properties remain frozen until the end of prosecution or the issuance of court decision.

104. *Criterion 6.5(a).* All natural and legal persons within Lao PDR are required to stop and withhold funds and property owned or controlled by designated persons and entities (Art. 5, Order No.3/PM). This is, in effect, a freezing obligation which is complemented by a parallel requirement on REs and postal enterprises to withhold funds 'immediately' when their client is found to be a designated person or entity as per the updates to the UNSCR list received from competent authorities (Arts. 5.1 & 5.2, Order No.03/PM). Article 42 of the Agreement on AML/CFT Measures also requires withholding and freezing funds 'immediately,' and without prior notice.

105. Article 8.5 of the Law on AML/CFT defines funds as 'tangible and intangible funds or properties, moveable or immovable assets and all financial documents or bearer negotiable instruments of all forms either in electronic or digital format, and certificates of ownership, or benefits from such funds or properties.'

106. *Criterion 6.5(b)(i):* Order No.03/PM applies the freezing obligation to funds or properties owned or controlled by designated persons or entities and not just those that can be tied to a particular terrorist offence (Art. 2). Funds are defined in Article 8.5 of the Law on AML/CFT.

107. *Criterion 6.5(b)(ii)*: Order No.03/PM applies the freezing obligation to those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities (Art. 2.1 & 2.2).

108. *Criterion 6.5(b)(iii)*: Order No.03/PM applies the freezing obligation to those funds or other assets that are benefits derived from funds or other assets owned or controlled directly or indirectly by designated persons or entities (Art. 2.1).

109. *Criterion 6.5(b)(iv)*: Order No.03/PM applies the freezing obligations to funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities (Art. 2.2).

110. *Criterion 6.5(c)*. Articles 5.1 – 5.3 of Order No.03/PM prohibits REs, postal enterprises and natural persons, legal entities or organisations from making funds and properties available to designated persons and entities, entities owned or controlled, directly or indirectly by designated persons and persons or entities acting on their behalf or at their direction. Article 52 of the Law on AML/CFT prohibits REs from ‘having business dealings or performing transactions’ with designated persons or entities. ‘Business dealings’ is not defined however it is understood to mean the common interactions between a business and its customer. The prohibition extends to all Lao PDR nationals and any persons and entities within their jurisdiction, from making any funds or other assets, economic resources, or financial or other related services, available, directly or indirectly, wholly or jointly, for the benefit of designated persons and entities; entities owned or controlled, directly or indirectly, by designated persons or entities; and persons and entities acting on behalf of, or at the direction of, designated persons or entities.

111. *Criterion 6.5(d)*. MOFA is required to send the updated UNSCR list ‘immediately’ to AMLIO and MoPS (Art. 3.5.1, Order No.03/PM). The updated list is then communicated by AMLIO and MoPS to REs, postal enterprises and other relevant ministries and organisations via notice distribution and publication on AMLIO’s website (Art. 3.5.2, Order No.03/PM). Lao PDR advised that these disseminations to REs takes at least two to three days, which does not result in updated notifications reaching all REs without delay. The website link for the UN consolidated sanctions list and sanctions list 1267/1988 is included in Article 41 of the Agreement on AML/CFT Measures and published on the AMLIO website only in English. Article 5.1 of Order No.03/PM states REs’ obligations in taking actions under freezing mechanism. Clear guidance is not available to FIs, DNFBPs and others on taking action under the TFS freezing regime.

112. *Criterion 6.5(e)*. Articles 5.1-5.3 of Order No.03/PM require all natural and legal persons, REs and postal enterprises to report immediately to MoPS and AMLIO once funds or property of designated persons or entities has been stopped or withheld, including when making transactions. Article 41 of the Agreement on AML/CFT Measures requires REs to reject or terminate attempted transactions and report urgently to MoPS and AMLIO after withholding funds or assets.

113. *Criterion 6.5(f)*. REs and postal enterprises shall not be liable for anything done or omitted to be done in good faith and without negligence when implementing freezing obligations (Arts. 5.1 & 5.2, Order No.03/PM). These protections apply to natural persons, postal enterprises, and associated sectors only when they withhold funds because of false positive matches (Art. 9, Instruction on Procedure of Domestic and Foreign Listing and Delisting). However, the remedy measure in Article 6.1 of Order No.03/PM only returns funds and properties to a legitimate owner that were ‘illegally controlled or used by others to commit an act of terrorism or financing of terrorism.’

*Criterion 6.6:*

114. *Criterion 6.6(a).* MoPS shall coordinate with MOFA, AMLIO, relevant ministries and ministry-equivalent organisations in order to consider proposing the de-listing from the UNSCR list, if there is evidence that natural or legal persons do not, or no longer meet the criteria for designation (Art. 3.5.4, Order No.03/PM). MOFA coordinates to the UN Focal Point for consideration of delisting (Art. 11, Instruction on Procedure of Domestic and Foreign Listing and Delisting). AMLIO's website directs the user to the Focal Point for De-Listing on the UN website which is only in English. Thus, procedures to submit de-listing requests to the UN Sanctions Committee are not expressly specified.

115. *Criterion 6.6(b).* As set out in c.6.6(a), MoPS acts as a key player in coordinating with the competent authorities for considering de-listing of designated persons/entities pursuant to UNSCR 1373 where they no longer meet the criteria for designations (Art 3.5.4, Order No.03/PM). However, de-listing procedures and mechanisms are not clear. MOFA shall propose the removal from the list of the UN Security Council (UNSC) using the standard forms adopted by the relevant committee and once the person or entity is removed from the list, the seizure of funds and properties in the name of the person or entity is cancelled and returned (Art. 6.3, Order No.03/PM).

116. *Criterion 6.6(c).* Article 4 of Order No.03/PM provides designated persons or entities the opportunity to appeal their designation to the OSPP. Article 11 of Instruction on Procedure of Domestic and Foreign Listing and Delisting stipulates that the OSPP shall review the request by the petitioner and inform of the results of the consideration in writing. If the OSPP is unable to resolve or remedy within seven working days, the petitioner has the right to request the NCC for consideration within 15 working days. However, the process is not clear as to how a person would go about this.

117. *Criterion 6.6(d).* AMLIO's website provides a link to the UN Focal Point for a potential review of listings under UNSCR 1988. However, this information is only available in English and no guidelines are provided in Lao language. There are no additional procedures to facilitate the review by the 1988 Committee.

118. *Criterion 6.6(e).* MoPS is required to notify designated persons and entities of the option to make a de-listing request directly to the UN Office of the Ombudsperson (Art. 4.3, Order No.03/PM). Order No.03/PM does not specify the procedures for informing designated persons and entities of the availability of the UN Office of the Ombudsperson to accept a de-listing petition. Even though the AMLIO website provides a link to the UN Focal Point for de-listing, this is only available in English.

119. *Criterion 6.6(f).* The Instruction on Procedure of Domestic and Foreign Listing and Delisting is publicly available on the AMLIO website and stipulates that persons who are inadvertently affected by the freezing mechanism (i.e. a false positive) have the right to request the OSPP to take any remedial measures (Art 10). To determine any false positive matches, the REs, postal enterprises, and other relevant sectors shall conduct an internal examination regularly and may seek assistance from the AMLIO and MoPS. However, Article 6.1 of Order No.03/PM does not identify a remedy for cases of false positives, but only returns funds and properties to a legitimate owner that were 'illegally controlled' or used by others to commit an act of terrorism or financing of terrorism.

120. *Criterion 6.6(g).* Pursuant to Article 3.6.4 of Order No.03/PM, AMLIO is required to notify REs of any updates to the lists 'immediately.' The MoPS is required to notify the postal enterprises, as well as other relevant sectors, and disseminate them through government websites 'regularly.' Nevertheless, there is no clear mechanism in place to provide guidance to

REs and other persons or entities, which may by holding targeted funds or other assets, on their obligations in respect to a de-listing or unfreezing action.

121. *Criterion 6.7.* Article 6.2 of Order No.03/PM allows withheld, frozen, or seized funds to be used ‘as necessary expenses to sustain a person’s livelihood’ and ‘expenses for other legal obligations of the person, or a legal entity or an organisation.’ Even though this provision does not explicitly provide legal cover to permit access to funds for the other basic expenses detailed by UNSCR 1452, such as fees, expenses and service charges, Lao PDR confirmed that this provision is also applicable to access funds for any extraordinary expenses. Article 6.4 allows the person or entity to apply to the OSPP to use the funds and properties and shall provide the UNSC all necessary documents and notices in order to seek UNSC’s permission via MOFA prior to the use of such funds and properties. However, no such provision is made for freezing measures applied to persons and entities designated pursuant to UNSCR 1373.

### *Weighting and Conclusion*

122. Lao PDR has a legal framework to implement TFS for terrorism and financing of terrorism, although moderate shortcomings remain. Determination of designations by Lao PDR authorities is on a criminal standard of proof notwithstanding that the Instruction on Procedure of Domestic and Foreign Listing and Delisting on this issue provides a lesser civil standard of sufficiency of evidence. The delay to the dissemination of updates to the UNSCR list hampers the freezing mechanism. Even though the AMLIO website does provide links for the UN consolidated sanctions list and UN Focal Point for de-listing, this is only available in English. No guidance has been provided to REs and other persons or entities on their obligations in taking freezing/withholding action. Procedures to de-list and unfreeze the funds or other assets of persons and entities which do not, or no longer, meet the criteria for designation are not clear.

**Recommendation 6 is rated partially compliant.**

### *Recommendation 7 – Targeted Financial sanctions related to proliferation*

123. TFS related to proliferation is a new requirement added to the FATF Recommendations in 2012 and was not assessed during the 2011 MER.

124. *Criterion 7.1.* Order No.20/PM on Withholding, Freezing or Seizure of Funds Relating to Proliferation Financing dated 26 November 2020 addresses the procedures to implement TFS requirements related to PF ‘immediately’ (Art. 6). Immediately is not defined but is understood to take its common meaning. However, implementation of TFS obligations related to PF has similar challenges to those identified under R.6. Notifications of updated designations are not disseminated to REs, postal enterprises, natural and legal persons without delay.

#### *Criterion 7.2:*

125. *Criterion 7.2(a).* Pursuant to Articles 6.1 – 6.3 of Order No.20/PM, all natural and legal persons, REs and postal enterprises are obliged to stop and withhold funds or other assets and report to MoPS and AMLIO ‘immediately’ after finding that any persons or entities have ‘cooperation, relationship in business or having any transaction [with persons or entities] which are subject to’ the UN designations. REs and postal enterprises are required to monitor their customer lists for designated persons and entities after receiving updates to UNSCR list from competent authorities. Order No.20/PM authorizes MoPS to subsequently issue an order to freeze or seize such funds ‘immediately’ upon receiving the report or based on sufficient evidence. As set out in the R.6, freezing mechanism is hampered by delays of at least two to

three days for disseminating updates to the UNSCR list. The definition of funds in Article 2 of Order No.20/PM mirrors the definition of ‘funds and other assets’ in the standards.

126. *Criterion 7.2(b)*. Funds to be withheld, frozen and seized are defined in the Article 3 of the Order No.20/PM. The scope of property subject to freezing is in keeping with the standards.

127. *Criterion 7.2(b)(i)*: For REs and postal enterprises, the freezing obligation extends to funds ‘associated with’ the designated persons or entities (Arts. 6.1 & 6.2, Order No.20/PM). ‘Associated with’ is not defined but understood to include funds owned and controlled by the designated person or entity. For individuals, legal persons or organisations, the freezing obligation extends to funds of those persons who have ‘cooperation’ or a ‘relationship in business’ or ‘any transaction [involving a person or entity] which [is] subject to [the] designation list’ (Art. 6.3). The freezing obligation is not limited to those funds that can be tied to a particular act, plot or threat of proliferation.

128. *Criterion 7.2(b)(ii)*: It is not clear that the freezing obligation applies to those funds or other assets that are jointly owned or controlled, directly or indirectly, by designated persons or entities.

129. *Criterion 7.2(b)(iii)*: It is not clear that the freezing obligation applies to those funds or other assets that are derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities.

130. *Criterion 7.2(b)(iv)*: The freezing obligations do not expressly extend to funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

131. *Criterion 7.2(c)*. All natural and legal persons, REs and postal enterprises are required to take preliminary measures to stop and withhold funds if any natural and legal persons are co-operating, conducting a business relationship with or engaging in any transaction with designated persons or entities associated with proliferation or engaging in any transaction that associated with such funds. ‘Withholding’ funds appears to extend to a prohibition on providing funds and other assets. This is reinforced by sanctions in Articles 8.2 and 8.3 for any person who knowingly made assets or funds available to a designated person or entity or those acting on behalf of a designated person or entity, as well as any person who deals with assets or funds of those persons or entities. However, it is unclear how Article 8.1 referred in c.7.3 is to be applied in compliance with Articles 8.2 and 8.3.

132. *Criterion 7.2(d)*. Article 4.5 of Order No.20/PM requires that MOFA provide updates to the list of designations immediately to AMLIO and MoPS. AMLIO is required to notify REs immediately of updated designation lists. MoPS is required to notify the postal enterprises and other relevant sectors of updated designations immediately, as well as disseminate the updated list via government websites regularly. The website link for the UN consolidated sanctions list and sanctions list 1718/2231 is included in Article 41 of Agreement on AML/CFT Measures and published on the AMLIO website only in English. Article 6.1 of Order No.20/PM states REs’ obligations in taking action under freezing mechanisms.

133. *Criterion 7.2(e)*. Article 6.1 of Order No.20/PM requires REs to report immediately to MoPS and AMLIO once funds of designated persons or entities have been stopped or withheld, including when making transactions. Article 41 of Agreement on AML/CFT Measures requires REs reject or terminate attempted transactions and report urgently to MoPS and AMLIO after withholding funds or assets. However, deficiencies for the coverage of DNFBPs under R.22 have a cascading effect for this criterion.

134. *Criterion 7.2(f)*. Only the rights of REs and postal enterprises are protected when acting in good faith (Arts. 6.1 & 6.2 of Order No.20/PM). There are no protections for individuals, legal persons or organisations implementing freezing obligations in good faith.

135. *Criterion 7.3*. Under Article 58 of the Law on AML/CFT, supervisory inspections are to include implementation of the Law on AML/CFT (including obligations for TFS) and other relevant laws. These obligations are overseen by respective AML/CFT supervisors however, in practice there is only limited supervision outside of the banking sector.

136. Article 8.1 of Order No.20/PM stipulates a suspension or fine for a FI or DNFBP that is non-compliant with the obligations in Article 6 of 0.0001% of the total property but not less than LAK 3M (USD 184) and not more than LAK 200M (USD 12,258). Any person who knowingly deals in, or makes available, funds or assets directly or indirectly, wholly or jointly by or on behalf of, or at the direction of, a designated person shall be fined 20% of the funds' or assets' value (Art. 8.2). The same sanction applies to a person who makes available funds or assets directly or indirectly, wholly or jointly to a designated person or entity (Art. 8.3). However, criminal sanctions in relation to TFS for PF are not specified in the Penal Code and not specified in the Law on AML/CFT. In practice, Lao PDR applies offences for PF by legal persons under chapter 9 of the Penal Code.

*Criterion 7.4:*

137. *Criterion 7.4(a)*. Under Article 5.3 of Order No.20/PM, MoPS must notify designated persons or entities that can petition a request for delisting from the UNSCR list. Order No.20/PM is publicly available on AMLIO's website but there are no procedures for the submission of delisting requests. The AMLIO website provides a link to the UN Focal Point for delisting, but only in English.

138. *Criterion 7.4(b)*. Article 7.6 of Order No.20/PM states that persons or entities who have been affected by freezing of funds can petition the OSPP to resolve the case. Article 7.1 of Order No.20/PM only returns funds to a legitimate owner that were possessed by other persons or illegally used in any activities related to proliferation. There are no procedures to unfreeze funds or other assets of persons or entities where a false positive name match arises.

139. *Criterion 7.4(c)*. Pursuant to Article 7.2 of Order No.20/PM, where the exemption conditions set out in UNSCRs 1718 and 2231 are met, access to money or other assets shall be approved.

140. *Criterion 7.4(d)*. Article 4.5.2 of Order No.20/PM provides a mechanism for communicating listings and delistings to REs. AMLIO is required to notify REs of any updates to the lists 'immediately.' MoPS is required to notify the postal enterprises, as well as other relevant sectors of updates, and disseminate them through government websites 'regularly.' MoPS shall give notice in writing to REs and postal enterprises to acknowledge and terminate the provisional measure of freezing funds (Arts. 6.1 & 6.2). No guidance has been provided to REs or other persons or entities on their obligations with respect to delisting or unfreezing actions associated with proliferation.

*Criterion 7.5:*

141. *Criterion 7.5 (a)*. Article 7.3 of Order No.20/PM allows deposit accounts seized in accordance with the UNSCRs 1718 and 2231 to have an increasing interest or other incomes from contracts, agreements or obligations that arose prior to the date of listing. Article 7.3 requires that these funds remain frozen.

142. *Criterion 7.5 (b)*. With regards to freezing measures taken pursuant to the UNSCRs 1737 and 2231, Article 7.4 of Order No.20/PM permits payments due under contracts concluded prior to the listing of such person or entity, provided that contract and payments meet the specifications in this criterion and the UNSC is notified in advance.

### ***Weighting and Conclusion***

143. Order No.20/PM includes a direct obligation to freeze funds and other assets of designated persons and entities related to PF, however, there are deficiencies regarding the delays in notifying the updates of UNSCR list, range of persons and entities subject to asset freezing, the property required to be frozen and the prohibitions on providing funds and other services. Moreover, there is a lack of guidance for REs in taking freezing/withholding action and a lack of proportionate and dissuasive sanctions for their violations.

**Recommendation 7 is rated partially compliant.**

### ***Recommendation 8 – Non-profit organisations***

144. In the 2011 MER, Lao PDR was rated partially compliant with the former Special Recommendation VIII. The main deficiencies identified were; 1) there was no outreach to the sector on AML/CFT; 2) registration requirements did not include obligations to record the details of a person who owns, controls or directs NPOs; 3) reporting obligations were unclear and did not extend beyond 5 years; 4) monitoring was limited due to staffing constraints; and 5) laws and regulations of NPO sector were new and therefore it was difficult to assess their effectiveness.

145. There are 395 NPOs operating in Lao PDR at the time of the on-site visit and these are categorised into three types: associations, foundations and international NPOs (INGOs). For associations, there are three sub-categories: 1) economic associations, 2) professional, technical and creative associations, and 3) social welfare and development associations. MOHA and MOFA grant registration certificates and inspect activities of local NPOs and INGOs respectively.

146. Prior to 2011, Lao PDR had allowed NPOs to operate their duties with a non-registration certificate and a non-licence. As per the Notice No.02/MOHA issued in 2018, MOHA required all associations established before 2011 to obtain registration certificates and submit their annual reports. The notice further stated that associations operating without official registration shall be considered a violation of the law and shall not receive any cooperation from the relevant sectors. However, at the time of the on-site visit, a number of associations were still operating in Lao PDR without renewing their registration certificates and still not submitting their annual reports.

#### *Criterion 8.1:*

147. *Criterion 8.1(a)*. Lao PDR has undertaken a very limited assessment of its NPO sector through the NRA. Lao PDR has identified that out of three types of NPOs operating in Lao PDR, foundations, INGOs and a subset of associations, only the social welfare and development association's fall within the FATF definition. In August 2022, MOHA in cooperation with the Public Administration Development Department has completed a risk assessment for local NPOs only at the central, not national, level. This represents only 46/395 or 11% of the sector. MOHA made efforts to use all relevant sources of information such as data collection questionnaires and annual reports of NPOs and foreign fund information from MOFA. Even though 46 NPOs were selected for the risk assessment, only 31 associations and foundations responded to the questionnaires. However, it is not clear if social welfare and development

associations that meet the FATF definition participated in the assessment. The risk assessment is not comprehensive and did not incorporate INGOs. The overall risk level of the local NPO sector is not assessed and features and types of NPOs likely to be at risk of TF abuse are not expressly identified.

148. *Criterion 8.1(b)*. Overall, the NRA assessed the TF risk in Lao PDR to be low. Lao PDR has not identified the nature of threats posed by TF to at-risk NPOs, or how terrorist actors abuse those NPOs.

149. *Criterion 8.1(c)*. As Lao PDR has not conducted a comprehensive NPO risk assessment, it does not appear to have adequate measures in place relating to the subset of the NPO sector that may be abused for TF. Further, the subset of NPOs that may be abused for terrorism financing is not clearly identified in the risk assessment of local NPOs conducted in August 2022. There are measures, laws, and regulations applicable to NPOs in Lao PDR including Decree on Associations, Decree on Foundations, Decree on INGOs and the Law on AML/CFT as well as supplementary guidelines and manuals. However, no review into their adequacy relating to the subset of NPOs that may be abused for terrorism financing has been undertaken to date nor have proportionate or effective actions been taken to address the risks identified.

150. *Criterion 8.1(d)*. The NRA published in 2018 provides a very limited risk assessment of the NPO sector and the August 2022 risk assessment was of local NPOs only. Further, these assessments were not comprehensive and did not expressly identify features and types of high-risk NPOs. It is unclear if the next assessment was conducted by reviewing new information on the NPO sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures.

*Criterion 8.2:*

151. *Criterion 8.2(a)*. Lao PDR has policies to promote accountability, integrity and public confidence in the administration and management of NPOs including requirements for the management of NPOs, as well as annual reporting. Article 37 of the Law on AML/CFT requires that NPOs operate with transparency and openness and maintain data on internal management and record-keeping for access by competent authorities and REs. However, record-keeping obligations (Art. 28) apply only to REs (Art. 17), not NPOs.

152. Article 30 of the Decree on Associations and Article 18 of the Decree on Foundations require local NPOs to file annual reports on their organisation and expenditures, as well as to strictly abide by laws pertaining to auditing. Both decrees require that NPOs operate on the principles of transparency and openness. INGOs are required to be accountable for their activities according to Lao PDR laws and regulations, share financial reports with competent authorities and undergo monitoring and evaluation by MOFA (Arts. 18 & 26, Decree on INGOs). Despite the existing requirements in these laws and decrees, not all associations and foundations are submitting their annual reports. The 2022 local NPO risk assessment further indicated that there are inaccuracies and delays in information gathering and submission of annual reports by local NPOs due to their lack of understanding of AML/CFT obligations.

153. *Criterion 8.2(b)*. Awareness raising workshops on RBA methods were conducted for some NPOs in five provinces between 2020 and 2022 (up to the date of the onsite visit). The workshops briefly covered TF risks and indicators for local NPOs and risk assessment procedures and tools in general. However, no outreach and educational programmes were undertaken to raise awareness among INGOs and the donor community about the potential vulnerabilities of NPOs to TF abuse and TF risks, nor measures NPOs can take to protect themselves from abuse. In 2016, 2018 and 2019, MOHA, in collaboration with other competent authorities, disseminated legislation on the social supervision organisation and the



establishment of local NPOs to government employees and local NPOs. MOHA also conducted training for competent authorities on the establishment of local NPOs and instructions on the implementation of the relevant decrees, including approval to receive funds, assets and experts from foreign jurisdictions.

154. *Criterion 8.2(c)*. As set out above, a workshop on RBA methods to raise awareness on TF risks was held seven times in 2020-2022. Moreover, training was conducted in 2019 which involved some best practices on establishing NPOs and on receiving funds and assets. In 2016, AMLIO sent Notice No.918/AMLIO to commercial banks listing red flag indicators relating to NPOs and NPO transactions. The August 2022 local NPO risk assessment identified challenges for cooperating with NPOs and their lack of understanding of AML/CFT obligations. It is not clear the extent to which these outreach activities have supported development and refinement of formal best practices to address TF risk and vulnerabilities and protect NPOs from TF abuse.

155. *Criterion 8.2(d)*. There appears to be a general requirement for NPOs to have bank accounts which may encourage NPOs to conduct transactions through regulated channels. Foundations are defined as legal entities operating continuously with bank accounts (Art. 3.1, Decree on Foundations) and associations are defined as having proper bank accounts (Art. 3.6, Decree on Associations). There is no requirement in the Decree on INGOs for INGOs to operate a bank account however as funds are raised outside of Lao PDR, a bank account is likely required to receive project funding. As part of the CDD measures for NPOs, REs shall collect documents such as registration certificates (Art. 18, Agreement on AML/CFT Measures). Despite these requirements, NPOs operating with or without renewing their registration certificates have been using cash to avoid regulated financial channels for their transactions as indicated in the NPO risk assessment 2022 and there are lack of incentives and enforcements for such NPOs.

156. *Criterion 8.3*. MOHA and relevant ministerial, provincial and district level agencies are authorised to supervise and monitor local NPOs, namely associations and foundations (Arts. 59-60 & 74-75, Decree on Associations, Arts. 39-45, Decree on Foundations and Art. 3.9, Decision on Department of Administration Development). Given that there are multiple supervisors in place, the coordination of supervision in terms of number of reviews conducted and the specific supervisors for the foundations and associations need to be articulated clearly.

157. In terms of INGOs, MOFA is responsible for supervision and monitoring of their projects and activities (Art. 26, Decree on INGOs). In addition, monitoring and inspections provision on NPO operations are set out in the Article 36 of the Law on AML/CFT.

158. MOHA has taken initial steps to promote supervision and monitoring using RBA through its local NPO sector risk assessment 2022 and developed an action plan to conduct on-site supervision on those NPOs identified with risks. Even though MOHA has incorporated AML/CFT questionnaires in the RBA forms and checklists for the monitoring of local NPOs, introducing targeted TF risk-based supervision and monitoring is only at its initial stage. In addition, no supervision or monitoring was initiated by MOFA for INGOs using RBA.

*Criterion 8.4:*

159. *Criterion 8.4(a)*. The monitoring and inspection provisions to ensure NPO operations comply with the requirements only relate to local NPOs. MOHA has issued Notice No.203/MOHA dated 15 November 2021 on monitoring and inspection of local NPOs to relevant authorities. Upon issuance of the Notice, MOHA, in cooperation with the Public Administration Development Department, has undertaken on-site follow-up inspections on 10 associations covering AML/CFT indicators (Report No.69/DPAD dated 7 October 2021). The

inspection report indicated that AML/CFT is a new concept for these associations and awareness raising on potential TF abuse is necessary.

160. MOFA does not appear to conduct monitoring and supervision of INGOs in compliance with this criterion.

161. *Criterion 8.4(b)*. The sanction provisions for violations by NPOs or persons are as follows: Article 77 of Decree on Associations stipulates measures against associations and their members in the form of warning, suspension, dissolution or prosecution; Article 47 of Decree on Foundations states sanctions in the form of warning, education measures, disciplinary measures, fines or legal proceedings according to the nature of the breach; and Article 29 of Decree on INGOs states the sanctions against INGOs or its staff in the form of warning and suspension of operation permit or project depending on the nature of the transgression. However, there are no fines for persons acting on behalf of NPOs and some of the available sanctions may not be effective, proportionate, and dissuasive. This is reinforced by the fact that there are NPOs operating without renewing their registration certificates and not submitting their annual reports or responding to data collection forms. Lao PDR indicated that only three associations and one foundation were ordered to be dissolved due their non-compliance with the relevant decrees.

*Criterion 8.5:*

162. *Criterion 8.5(a)*. Article 73 of Decree on Associations allows for coordination among federal and local level agencies to facilitate the monitoring, inspecting, and assessing of activities of associations, and address issues in accordance with regulations. Article 43 of Decree on Foundations allows for federal and local level agencies to coordinate prior to the approval of the establishment, merger, separation or dissolution of foundations, and to notify authorities on the status of foundation activities. Decree on Foundations does not include a specific provision for cooperation and coordination among relevant agencies for the purposes of monitoring NPOs and sharing information. A coordinating mechanism is stipulated in Chapter 4 of Decree on INGOs mandating the Committee on Management and Coordination of INGO to formulate, supervise and monitor the policy and strategic cooperation framework. Article 37 of the Law on AML/CFT grants investigative authorities, REs, AMLIO and other competent authorities' access to NPO records and information. However, deficiencies for the information-sharing on NPOs under c.8.5(d) applies to this sub-criterion.

163. *Criterion 8.5(b)*. MoPS has power to investigate NPOs as per Article 53, 54 & 86 of Law on Criminal Procedure as well as TF offences as per Article 11 of Decree on Entrust. This would include cases involving NPOs or any other form of legal persons. LEAs have participated in more than 20 training courses nationwide during 2017-2020 to enhance their investigative expertise and capability for TF offences.

164. *Criterion 8.5(c)*. MoPS is able to fully access information of particular NPOs during the course of an investigation pursuant to Articles 43 & 47 of Law on Criminal Procedure. In addition, Article 37 of the Law on AML/CFT allows investigative authorities, REs, AMLIO and other competent authorities to have access to NPO records and information on customers, business relations and transactions.

165. *Criterion 8.5(d)*. Decree on Associations provides that where there are 'negative phenomena' related to associations, the authorised agency must consult with relevant sectors or higher authorities to address the issue in accordance with the laws and regulations (Art. 73).

166. The Decree on Foundations allows federal and local level agencies to notify the status of foundation activities to relevant administrative authorities under the coordination mechanism (Art. 43).

167. The Decree on INGOs authorises MOFA to collaborate with concerned ministries and ministerial level organisations to ensure INGOs conformity with the laws and regulations of Lao PDR. However, these decrees do not specifically address information sharing on TF abuses for NPOs nor require the prompt sharing of information. In terms of INGOs, it is unclear if there are any appropriate mechanisms for information sharing as per this criterion. If any investigator discovers traces of any offences, an investigation must be opened pursuant to Article 86 of Law on Criminal Procedure.

168. *Criterion 8.6.* The Law on International Cooperation enacted on 12 November 2022 authorises the PPO as the central coordination agency responsible for the implementation of international cooperation for mutual legal assistance in criminal matters (Arts. 35 & 36). Formal MLA requests for international cooperation relating to particular NPOs that may be suspected of terrorist financing or involvement in other forms of terrorist support must be submitted through diplomatic channels or the OSPP (see R.37). Informal requests are handled by the MOHA as the registration and oversight authority for domestic NPOs and the MOFA as the supervisor for INGOs using treaties, agreements and MOUs.

### *Weighting and Conclusion*

169. The NRA assesses TF risk in Lao PDR as low, however, the risk assessment of the NPO sector is not comprehensive and did not incorporate INGOs which make up a largest percentage of the sector. There are no statistics to support identification of the features and types of NPOs that are prone to TF abuse and the nature of donations to certain entities or countries related to TF. There is a lack of understanding of TF risks to the NPO sector. There are dedicated supervisory authorities for NPOs and RBA implementation for supervision and monitoring of local NPOs is at the initial stage. However, no outreach activity and supervision tailored to address potential risks and vulnerabilities to TF abuse were undertaken for INGOs. There are weaknesses with the range of available sanctions for NPO supervisors.

**Recommendation 8 is rated non-compliant.**

### *Recommendation 9 – Financial institution secrecy laws*

170. Lao PDR was rated largely compliant with the former R.4 in its 2011 MER. Since then, Lao PDR has introduced legal provisions to ensure that FI secrecy laws would not inhibit the implementation of FATF Recommendations.

171. *Criterion 9.1.* There are no FI secrecy laws that inhibit the implementation of AML/CFT measures in Lao PDR. The principles of the Law on AML/CFT include ensuring compliance with the laws, regulations, international agreements and treaties which Lao PDR is party to (Art. 10).

172. *Access to information by competent authorities:* Competent authorities are able to access information required to perform their function. Natural persons, legal entities and organisations must provide information and cooperate to prevent ML and TF (Art. 12, Law on AML/CFT) and are prohibited from concealing, misusing, threatening, impeding or obstructing the functions of competent authorities (Art. 50.5, Law on AML/CFT).

173. FIs and DNFBPs must maintain records on customers, documents on business relations and customer transactions for provision to AMLIO and 'other concerned organisations' (Art. 28, Law on AML/CFT). Investigative authorities, reporting entity regulators, AMLIO and other competent authorities have access to these records at any time (Art. 37, Law on AML/CFT). FIs must also maintain customers' confidentiality but disclosure of

customer information for the purposes of compliance with the law by staff or management is permitted if done in 'good faith' (Art. 32, Law on AML/CFT).

174. *Sharing of information between competent authorities:* The extent to which domestic competent authorities can share information is unclear. However, there appears to be some mechanism in place for competent authorities to exchange information at an operational level (see analysis of R.2). The Law on AML/CFT supports the international exchange of information on ML and TF and compliance with international agreements and treaties (Art. 43, Law on AML/CFT) but the extent of information sharing is not defined (see analysis of R.40). Article 81 of the Law on Insurance sets out that the MOF would arrange to disclose information to foreign financial supervisors, however it is not clear whether all the other competent authorities are legally empowered to share information with their foreign counterparts.

175. *Sharing of information between FIs:* There are no measures that inhibit the sharing of information for the purposes of correspondent banking or wire transfers. Reliance on third-parties is not permitted under Lao PDR law (R.17).

176. Further, the Agreement on AML/CFT Measures, enables sharing of information amongst the members of a corporate group, including its branches and subsidiaries, including that required by R.13 (correspondent banking) and R.16 (wire transfers).

### *Weighting and Conclusion*

177. There are no financial institution secrecy laws that inhibit the implementation of the FATF Recommendations however there is lack of clarity on the ability of, and extent to which, competent authorities can share information domestically and internationally.

**Recommendation 9 is rated largely compliant.**

### *Recommendation 10 – Customer due diligence*

178. Lao PDR was rated non-compliant with former R.5 in its 2011 MER. Lao PDR's 2017 FUR acknowledged progress made on CDD requirements, however, it identified major deficiencies with respect to verification timing and a lack of requirement to cease transactions or business relationship in the event of failure to collect BO information. Lao PDR's 2017 FUR re-rated R.5 to a level equivalent to largely compliant. Significant legislative reform has been made on CDD since Lao PDR's last MER, with the enactment of the Law on AML/CFT in February 2015, the now superseded 2016 Agreement on KYC and CDD, and the Agreement on AML/CFT Measures in August 2021.

#### *Detailed CDD requirements*

179. The Agreement on AML/CFT Measures sets out procedures and measures for REs to implement in relation to CDD and KYC. The Agreement is enforceable under Lao PDR law by virtue of Article 44 which cross-references Articles 64 and 65 of the Law on AML/CFT. The latter contains warnings, suspensions of business, licence withdrawals, civil fines, and criminal penalties for non-compliance. As such, they are enforceable obligations pursuant to the *Legal Basis of Requirements on Financial Institutions and DNFBPs and VASPs* in the Assessment Methodology.

180. The Law on AML/CFT applies to 'reporting entities' defined at Article 17 to mean FIs and DNFBPs. Article 7 of the Agreement on AML/CFT Measures also applies to. Under Article 8.7 of the Law on AML/CFT, the term 'financial institutions' includes *among others*: commercial banks, micro-finance institutes, all forms of credit lending companies, pawnshops, leasing

companies, money transfer service companies, currency exchange shops, insurance companies, securities companies, and asset management companies. The definition does not appear to capture financial services provided by individuals (natural persons) and the gap cascades through the criteria.

181. *Criterion 10.1.* An anonymous account is defined in Lao PDR as an ‘account in which information differs or cannot verify the account owner’s details such as name, surname date of birth, address, age and occupation’ (Art. 8.24, Law on AML/CFT). This definition encompasses ‘obviously fictitious accounts’ included in this criterion. Articles 50.6 and 52 of the Law on AML/CFT prohibit FIs from opening anonymous accounts and prohibits customers using those types of accounts. Also, Article 38 of the Agreement on AML/CFT Measures prohibits FIs from opening anonymous or numbered accounts.

*When CDD is required*

*Criterion 10.2:*

182. *Criterion 10.2(a).* Article 21 of the Law on AML/CFT requires FIs to conduct CDD on customers (natural, legal persons, legal arrangements, organisations). Article 21.1 specifies that CDD must occur when FIs establish business relationships.

183. *Criterion 10.2(b).* Article 5 of the Agreement on AML/CFT Measures requires FIs to apply CDD measures when carrying out occasional, single transactions, or several transactions that appear linked which have a value of LAK 100,000,000 (approx. USD 6,129) or more.

184. *Criterion 10.2(c).* A ‘wire transfer’ in the Law on AML/CFT (Art. 8.19) is a type of ‘transaction’ (Art. 8.9) and Article 21.2 of the Agreement on AML/CFT Measures requires CDD measures be applied where a customer makes an occasional transaction. However, there is no requirement to verify the originator (see c.16.1).

185. *Criterion 10.2(d)* Article 22.4 of the Law on AML/CFT and Article 21.3 of the Agreement on AML/CFT Measures require FIs to carry out CDD measures when there is a suspicion of ML or TF. However, the terminology used in Article 21.3 of the Agreement on AML/CFT Measures does not clearly articulate the requirements of this sub-criterion and it is not specifically mentioned that it applies regardless of any exemptions or thresholds when there is ML/TF suspicion.

186. *Criterion 10.2(e).* Article 22.5 of the Law on AML/CFT and Article 21.4 of the Agreement on AML/CFT Measures require FIs to carry out CDD where they identify customer information that is incomplete or suspected to be incorrect.

*Required CDD measures for all customers*

187. *Criterion 10.3.* The Agreement on AML/CFT Measures includes comprehensive customer identification and verification requirements for FIs (Arts. 15-35). These provisions cover all types of customers, including permanent and occasional customers, as well as natural persons, legal persons and legal arrangements. The Agreement on AML/CFT Measures sets out KYC and CDD requirements for individuals (i.e. natural persons), legal persons, organisations, NPOs and legal arrangements and individuals (i.e., natural persons) acting on behalf of a customer (Art. 16 – 19 & 24). FIs are required to verify the identity of customers using information and legal documents or evidence to prove that the identification of the customer is correct and up-to-date. Verification must occur prior to the provision of services or the commencement of a business relationship (Art. 5.3). Documents, information and data sources used to verify the customer must be reliable and independent (Art. 5.5).

188. *Criterion 10.4.* Article 24 of the Agreement on AML/CFT Measures requires FIs to verify the identity of an individual person authorised to act on behalf of a customer, and identify and verify that the person is authorised to act on behalf of the customer. The term ‘individual’ is included in the definition of ‘customer’ defined at Article 5.1 of the Agreement on AML/CFT Measures (‘any person, either an individual, legal person, legal arrangement, or organisation’) to exclude legal persons and arrangements. As a consequence, there is no requirement at Article 24 or elsewhere in the law, for legal persons or legal arrangements to be identified and their identities verified, as well as their authorizations to act, when acting on behalf of a customer.

189. *Criterion 10.5.* Article 20 of the Agreement on AML/CFT Measures requires reasonable measures to be taken to identify beneficial owners; that verification uses relevant data or information from reliable sources; and that FIs are satisfied they know who the beneficial owners are. Article 5.10 defines the term ‘beneficial owners’, however that definition is flawed (see below at c.10.10 for analysis).

190. Articles 15, 20, 22 and 23 of the Agreement on AML/CFT Measures and Article 24 of the Law on AML/CFT require FIs to identify and verify beneficial owners of customers. Articles 27 and 28 of the Agreement on AML/CFT Measures cover beneficial owners of legal persons and legal arrangements. Further, the beneficial owner of insurance contracts and beneficial owners of beneficiaries of insurance contracts are covered in Article 29. Furthermore, the requirement to cease services or the business relationship in the event of failure to complete CDD measures has been extended to beneficial owners, as well (Art. 32). Timing of verification of beneficial owners is before or during the course of establishing a business relationship, unless delayed verification is permitted.

191. *Criterion 10.6.* Article 20.3 of the Agreement on AML/CFT Measures requires FIs to collect information on the objectives and nature of the business relationship with customers. The Law on AML/CFT also requires FIs to collect detailed information about a legal entity’s business operations and its size (Art. 23), and collect data on customers’ goals and objectives (Art. 24). However, there is no requirement to ‘understand’ the purpose and intended nature of the business relationship.

*Criterion 10.7:*

192. *Criterion 10.7(a).* Article 20.4 of the Agreement on AML/CFT Measures requires FIs to scrutinise transactions throughout the business relationship in order to ensure that those transactions are consistent with the FI’s knowledge of the customer, its business, its risk profile and, where necessary, the source of funds.

193. *Criterion 10.7(b).* Article 20.5 of the Agreement on AML/CFT Measures requires FIs to ensure that documents, data or information collected under CDD processes is kept up-to-date and relevant by undertaking relevant reviews of existing records, particularly for higher risk categories of customers.

*Specific CDD measures required for legal persons and legal arrangements*

194. *Criterion 10.8.* While Article 26 of the Agreement on AML/CFT Measures includes a requirement for FIs to identify the nature of a customer’s business, its ownership, and internal power and control structure when those customers are legal persons or legal arrangements, there is no requirement on FIs to understand the nature of their customer’s business – simply to identify the elements stated.

*Criterion 10.9:*

195. *Criterion 10.9(a).* The Agreement on AML/CFT Measures requires FIs to collect and verify information concerning legal persons and legal arrangements including name, legal form and proof of existence (Art. 26.2.1).

196. *Criterion 10.9(b).* For legal persons and legal arrangements, the Agreement on AML/CFT Measures requires FIs collect and verify persons having power and control of the legal person or legal arrangement, as well as the names of the relevant persons having a senior management position (Art. 26.2.2).

197. REs must collect a letter or document that regulate and bind the legal person or arrangement as per Article 17 of the Agreement on AML/CFT Measures.

198. *Criterion 10.9(c).* The Agreement on AML/CFT Measures requires FIs identify and verify legal person- and legal arrangement- customers using the address of the registered office and, if different, a principal place of business (Art. 26.2.3).

199. *Criterion 10.10.* The Law on AML/CFT and its subordinate instrument, the Agreement on AML/CFT Measures both impose obligations on REs to collect beneficial ownership information. The Law on AML/CFT defines the term 'beneficial ownership' and the Agreement on AML/CFT Measures defines the term 'beneficial owner', respectively. These two definitions are not consistent:

- *Beneficial Ownership* shall mean the natural person(s) who ultimately benefits from a business operation, activity or transaction including person(s) who exercise ultimate effective control over a legal person'(Law on AML/CFT Art. 8.11)
- *Beneficial owner* refers to the individual(s) i.e. natural person who ultimately owns by over 25% of their business activities and transactions conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement as defined in Clause 11 of Article 8 of the Law on AML/CFT (Art. 5.10, Agreement on AML/CFT Measures).

200. The first definition focuses on who *ultimately benefits* from a business in the first instance while the second focuses on who *ultimately owns* 25% or more of a business in the first instance. Neither is consistent with the FATF definition. These points of inconsistency, and deficiency with the FATF definition, cascade through the sub-criterion to R.10.

201. *Criterion 10.10(a).* Article 24 of the Law on AML/CFT requires REs to collect information on customers relating to beneficial ownership as defined in that law. It provides that 'reporting entities must find out whether their customers' business relations are for themselves or on behalf of others in order to find the beneficial ownership (as defined in Art. 8.11) such as, owners of funds including paid-in capitals for the establishment of an enterprise, or a person with a decision-making authority.' Article 37 expands this to include the following: 'Legal persons, organisations and non-profit organisations must... supply data on ownership, beneficial ownership, and data on their internal management while ensuring transparency, clarity, completeness and accuracy in each period.'

202. On the other hand, Article 27 of the Agreement on AML/CFT Measures requires FIs to identify and take reasonable measures to verify the identity of beneficial owners (as defined in Art. 8.11) of customers that are legal persons through the following information: the natural person (if any) who ultimately has a controlling ownership interest of 25%, or more, in a legal person.

203. It is not clear what obligations REs are required to implement based on the two laws. However, the Decree on Entrust gives precedence to the information collection measures in the Law on AML/CFT (Art. 14.7). Nor is the definition of ‘beneficial ownership’ in the Law on AML/CFT consistent with the FATF definition sufficient for REs to fully comply with this standard. Article 27 of the Agreement on AML/CFT Measures is closely consistent with the FATF standard definition with respect to this sub-criterion although it is inconsistent with its overriding enabling law.

204. *Criterion 10.10(b)*. The Agreement on AML/CFT Measures requires FIs to identify and take reasonable measures to verify the identity of beneficial owners of customers that are legal persons through the following information: to the extent that there is doubt under the provisions of Article 27.1, as to whether the person(s) with the controlling ownership interest is the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural person(s) (if any) exercising control of the legal person or arrangement through other means (Art. 27.2).

205. *Criterion 10.10(c)*. The Agreement on AML/CFT Measures requires FIs to identify and take reasonable measures to verify the identity of beneficial owners of customers that are legal persons through the following information: where no natural person is identified under the provisions of Articles 27.1 and 27.2, identify the relevant natural person who holds the position of senior managing official (Art. 27.3). The Law on AML/CFT does not have a similar provision.

206. *Criterion 10.11 (a) and (b)*. Article 19 of the Agreement on AML/CFT Measures contains obligations on REs with respect to trusts and other legal arrangements and applies to local legal arrangements outlined in R.25. It requires that

‘reporting entities should identify, gather information and documents or evidence legally about the trustee(s), settlor(s), protector(s), beneficiaries and other necessary information through the trust deed or equivalent: Apart from collecting the information as specified in Articles 16 or 17 [regarding natural persons and foreign residents], REs must collect the information and documents related to a legal arrangement and other necessary information as specified by the AMLIO.’

207. The obligations on REs, however do not extend to collecting information on ‘classes of beneficiaries’ or ‘any other natural persons exercising ultimate effective control over the legal arrangement’ (including through a chain of control/ownership) except that Article 28.1 requires REs to perform EDD including identifying who exercises ultimate effective control over a legal arrangement in relation to TCSPs and trustees. These two omissions are linked to the definition of ‘beneficial owner’ applicable to R.10 but the definition of beneficial owner in the Lao PDR law (which is deficient for this purpose - see c.10.10 above) is not referenced in the Law on AML/CFT for trusts. While Article 20 of the same law requires REs to identify the beneficial owner of a customer in a trust arrangement, there is no requirement on REs to identify the beneficial owner of the trust arrangement.

208. Moreover, CDD obligations on REs are limited in scope only to arrangements deemed high risk. Finally, the requirement to collect ‘other necessary information through the trust deed or equivalent’ would not necessarily cover the additional information noted in the above paragraph.

209. Finally, AMLIO has not issued instructions relating to ‘other necessary information’ as referenced in Article 19.



*CDD for Beneficiaries of Life Insurance Policies*

210. *Criterion 10.12.* Article 29 of the Agreement on AML/CFT Measures provides the procedure for conducting CDD for final beneficiaries of life insurance contracts or other contract of insurance, in addition to the CDD requirements contained in Article 20.

211. *Criterion 10.12(a).* In addition to the CDD measures contained in Article 20 of the Agreement on AML/CFT Measures, FIs must take the name of the person that is identified as specifically named natural or legal persons or legal arrangements (Art. 29.1).

212. *Criterion 10.12(b).* In addition to the CDD measures for FIs contained in Article 20 of the Agreement on AML/CFT Measures, FIs should conduct CDD for a beneficiary of a life insurance contract that is designated by characteristics or by class or by other means, by obtaining sufficient information concerning the beneficiary to satisfy the financial institution that it will be able to establish the identity of the beneficiary at the time of the pay-out (Art. 29.2).

213. *Criterion 10.12(c).* For both the above cases as set out in Article 29.1 and 29.2, the verification of the identity of the beneficiary should occur at the time of the pay-out (Art. 29.3).

214. *Criterion 10.13.* The Agreement on AML/CFT Measures requires REs to verify and identify the life insurance beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. In case beneficiary on an insurance contract is a legal arrangement or person who has higher ML/TF risk, REs must undertake enhanced customer due diligence, which should include appropriate measures to identify and verify the beneficial owner of the beneficiary when required the payment or other benefits as specified in the contract of insurance. It further requires REs to apply enhanced measures for high risk beneficiaries and beneficial owners of such beneficiaries of insurance contracts (Art. 29). This is to occur at the time of pay-out. However, with respect to the beneficial owner of a beneficiary of a life insurance contract the deficiencies in the definition of 'beneficial owner' cascades to this criterion.

*Timing of verification*

215. *Criterion 10.14.* FIs are required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers; or (if permitted) may complete verification after the establishment of the business relationship, provided that (a) this occurs as soon as reasonably practicable; (b) this is essential not to interrupt the normal conduct of business; and (c) the ML/TF risks are effectively managed (Art. 35, Agreement on AML/CFT Measures). However, the deficiencies in the definition of the term 'beneficial owner' cascade to this criterion (see c.10.10 above).

216. *Criterion 10.15.* FIs are required to adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification (Art. 35, Agreement on AML/CFT Measures).

*Existing customers*

217. *Criterion 10.16.* Article 31 of the Agreement on AML/CFT Measures requires FIs to consider applying the CDD measures in Article 20 at appropriate times on existing customers, taking into account the customer's level of risk. A minor deficiency exists in that factors such as when CDD measures were previously undertaken and the adequacy of data obtained are not required to be considered when determining whether to apply CDD measures.

*Risk-based approach*

218. *Criterion 10.17.* Article 9 of the Agreement on AML/CFT Measures requires FIs to consider the intensity of CDD measures for customers in accordance with their ML/TF risks. When the risk is high, FIs should conduct enhanced CDD measures as defined in Article 22. Such measures including obtaining of more information and senior manager's approval are specified in Article 22. The Law on AML/CFT also requires FIs to apply CDD measures under certain scenarios including where transactions are complex, of high value and show irregular characteristics (Art. 22).

219. *Criterion 10.18.* Where ML or TF risks are low, FIs may be permitted to apply simplified CDD measures, through an adequate analysis of risks (by the FI). The simplified measures should be commensurate with the lower risk factors but are not acceptable whenever there is suspicious of ML/TF, or specific higher risk scenarios apply (Art. 9, Agreement on AML/CFT Measures). If the customer has a low level of risk, simplified measures are specified in Article 23.

*Failure to satisfactorily complete CDD**Criterion 10.19:*

220. *Criterion 10.19(a).* Article 23 of the Law on AML/CFT stipulates that in case of failure to collect detailed data on customers, an FI must cease its services provided to or any business relations with that customer. Nevertheless, Article 32.1 of the Agreement on AML/CFT Measures states that if an FI is unable to take CDD measures for a new or existing customer and its beneficial owner, and any authorised individual representative, the FI should not open the account, commence the business relationship or perform the transaction and may terminate the business relationship. However, the deficiencies noted earlier with respect to the defined term 'beneficial owner' (dual inconsistent definitions) adversely affect this measure.

221. *Criterion 10.19(b).* Article 23 of the Law on AML/CFT requires that the failure to collect and verify natural persons or legal entities must be regarded as suspicious and reported to AMLIO. Further, Article 32.2 of the Agreement on AML/CFT Measures requires FIs to consider the instance in Article 32.1 as a 'suspicious transaction report (STR) on ML/TF in relation to the customer.'

222. *Criterion 10.20.* Article 39 of the Agreement on AML/CFT Measures permits an FI to not pursue the CDD process where they form a suspicion of ML or TF and reasonably believe that performing the CDD process would tip-off the customer. Instead the FI must file an STR. However, the deficiencies in R.20 linked to the deficiencies in R.3 and R.5 (narrow range of predicate offences; significant deficiencies in the structures of the ML and TF offences) adversely affect this sub-criterion.

*Weighting and Conclusion*

223. Lao PDR law has inconsistent laws defining the term 'beneficial owner [ship]' for the purposes of CDD. These conflicting definitions confuse REs on the nature and scope of information to be collected in the CDD process. There are no requirements for legal persons or legal arrangements to be identified and their identities verified, as well as their authorizations to act, when acting on behalf of a customer. Moreover, there are no requirements on REs to understand the purpose and intended nature of a customer's business relationship. Deficiencies remain in relation to identification of the beneficial owners of legal persons and legal arrangements. It is unclear how the two laws that inconsistently define beneficial owners for the purpose of REs collecting that information on customers that are legal persons and

arrangements are meant to operate; and, in any event, the definitions are not fully compliant with the FATF definition.

**Recommendation 10 is rated partially compliant.**

### *Recommendation 11 – Record-keeping*

224. Lao PDR was rated partially compliant for R.5 (the former R.10) in its 2011 MER. As highlighted in the report, the legal obligations relating to record keeping were limited to transaction records for FIs regulated by the BOL. The 2015 FUR concluded that Lao PDR has addressed the major legal gaps and found compliance with former R.10 to be equivalent to largely compliant.

225. *Criterion 11.1.* The Law on AML/CFT requires FIs to keep transaction records for at least five years from the date of the transaction (Art. 28.2).

226. *Criterion 11.2.* The Law on AML/CFT requires FIs to keep copies of identification documents of customers and beneficiary information of each transaction for at least ten years after the end of the business relations with the customer (Art. 28.1). Article 36 of the Agreement on AML/CFT Measures requires that the documents collected under the Article 28 measures be maintained and kept up-to-date and available to competent authorities on request.

227. Deficiencies in the record keeping requirements above include the following: (1) there is no requirement to maintain records on results of any analysis undertaken; (2) the laws do not specify the time period for holding records on account files (the FATF requires they be kept for 5 years following the termination of the business relationship); (3) there is no requirement to hold business correspondence.

228. *Criterion 11.3.* Notwithstanding the deficiencies noted above, transaction records for each transaction are required to be held for 10 years following each transaction. This is sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. The general requirement on record keeping is currently supplemented by sectoral requirements in banking and securities sectors.

229. The Law on Accounting requires all implementing accounting entities to maintain records of all accounting documents for a minimum of 10 years. With regard to accounting documents concerning any contract, such documents shall be kept for another 10 years after contract completion (Art. 50). The Law on Commercial Banks provides that documents, transaction information including databases shall be stored/kept for at least 10 years. Transaction records which should be kept under the existing legal provisions with respect to implementing accounting entities and commercial banks as mentioned in c.11.1, appear to be sufficiently comprehensive for the purpose of reconstruction of individual transactions to be used as evidence for criminal activity prosecution (Art. 68). Further, Article 155 of the Law on Securities requires the securities exchange, securities depository, share issuers and corporate bond issuers, listed companies, securities intermediaries and other relevant parties to maintain information and documents relating to its business operation such as securities transaction, information about securities, information about shareholders and financial statements at least ten years after the end of the business operation.

230. *Criterion 11.4.* While the Law on AML/CFT (Art. 28) and the Agreement on AML/CFT Measures (Art. 36) require CDD information and transactions records to be made available to competent authorities upon request there is no requirement to provide records 'swiftly' upon appropriate authority.

*Weighting and Conclusion*

231. Lao PDR meets some record keeping requirements. However (1) there is no requirement to maintain records on results of any analysis undertaken; (2) the laws do not specify the time period for holding records on account files (the FATF requires they be kept for 5 years following the termination of the business relationship); (3) there is no requirement to hold business correspondence; and (4) there is no requirement that CDD information be provided swiftly to domestic competent authorities.

**Recommendation 11 is rated partially compliant.**

*Recommendation 12 – Politically exposed persons*

232. Lao PDR was rated non-compliant for former R.6 in its 2011 MER as there was no legislative, regulatory or other enforceable requirement in respect of politically exposed persons (PEPs). Provisions relating to PEPs have been brought in by the Law on AML/CFT in 2014 and by the Agreement on KYC and CDD in 2016 before it was superseded by the Agreement on AML/CFT Measures in August 2021.

233. Article 8 of the Law on AML/CFT defines PEPs as foreign politicians, state officials including members of boards of directors, managers of state-owned enterprises or state-holding joint ventures, and officials of international organisations:

- Foreign politicians are defined as persons who are or were in positions, trusted, and playing important roles in domestic and foreign affairs, extending to members of their families or persons with close connections to these people.
- State officials are defined as persons who are or were in important positions, trusted and play a role in the Lao PDR, including members of the board of directors or the management of state-owned enterprises or state- holding joint venture, extending to their family members or those with close connections to them.
- Officials of international organisations are defined as people who are or were in the position of member of the executive committee or management, trusted, and playing a role in those international organisations, extending to their family members or those with close connections to them.

234. Given the risk and context of Lao PDR, there is a significant gap in the absence of heads of state or government, senior politicians, senior government, judicial and military figures from the PEP definition covering both foreign and domestic PEPs.

*Criterion 12.1:*

235. *Criterion 12.1(a).* The Law on AML/CFT requires FIs to have an appropriate risk management system to ascertain whether customers or beneficial owners are PEPs (Art. 25.1). The deficient scope of the definition of PEPs affects this criterion.

236. The PEPs definition omits foreign senior government, judicial or military officials, senior executives of state owned corporations and political party officials. These are significant gaps in the context of Lao PDR.

237. *Criterion 12.1(b).* Article 25.1 of the Law on AML/CFT requires FIs to obtain permission from the board of directors or senior executives to establish or continue transactions with a customer who is a PEP. This is supplemented Article 25.1 of the Agreement on AML/CFT Measures that requires approval by senior management before commencing a business relationship. The deficiencies in the definition of a PEP cascade to this criterion.

238. *Criterion 12.1(c)*. Where the customer or beneficial owner is a PEP, Article 25.2 of the Law on AML/CFT requires FIs take appropriate measures to identify PEP's sources of funds or properties. Also, 25.1 of the Agreement of AML/CFT Measures requires taking appropriate measures to identify PEP's income. However there are no requirements to identify a PEP's sources of wealth and the deficiencies in the definitions of a 'funds' (see c.3.4) and PEP cascade to this criterion.

239. *Criterion 12.1(d)*. Article 25.3 of the Law on AML/CFT requires that where the customer or beneficiary is a PEP, their business relations and transactions be continuously monitored. Article 25.4 of the Agreement on AML/CFT Measures further requires on-going monitoring in accordance with Article 37 of the Agreement which includes a range of measures to monitor for suspicious activity, keep customer and beneficial ownership information up-to-date, and re-assess the customer's risk and to monitor transactions. All of these measures are encapsulated by the requirement to include risk-based CDD measures (Art. 9, Agreement on AML/CFT Measures).

240. Article 37 of the Agreement on AML/CFT Measures only contains ordinary ongoing monitoring measures and there is no requirement to apply enhanced ongoing monitoring measures as stipulated in Article 22.3 Agreement on AML/CFT Measures. The deficiencies in the definition of a PEP cascade to this criterion.

#### *Criterion 12.2.*

241. *Criterion 12.2(a)*. The PEP definition in the Law on AML/CFT includes state officials, 'persons who are or were in important positions, trusted and play a role in Lao PDR, including members of the board of directors or the management of state-owned enterprises or state-holding joint venture, extending to their family members or those with close connections to them' (Art. 8.14). The definition does not include heads of state or government, senior politicians, judicial or military officials. FIs are required to take the steps outlined in c12.1 for 'state officials' but in the context of Lao PDR there remains a significant gap.

242. *Criterion 12.2(b)*. The requirements in c.12.1(b) – (d) apply equally to state officials and officials of international organisations though the deficiencies in the definitions of 'funds' and PEPs cascade to this criterion. Further, deficiencies in c.12.1(d) on the absence of enhanced ongoing CDD cascades into this criterion.

243. *Criterion 12.3*. The obligations that apply to PEPs apply equally to family members and close associates (Art. 8.14, Law on AML/CFT), but the deficiencies in the definition of PEPs cascade to this criterion.

244. *Criterion 12.4*. The requirement to take reasonable measures to determine whether the beneficiaries and/or, where required, beneficial owner of the beneficiary are PEPs in relation to life insurance is specified in clause 2 of the second paragraph of Article 29 of the Agreement on AML/CFT Measures. However, deficiencies in the definition of a PEP cascade to this criterion.

#### *Weighting and Conclusion*

245. Lao PDR meets some of the criteria with respect to PEPs, however the definition of a foreign PEP excludes senior government, judicial or military officials, senior executives of state owned corporations and political party officials. Similarly, the domestic PEP definition excludes heads of state or government, senior politicians, judicial or military officials. These are major deficiencies given Lao PDR's risk and context.

#### **Recommendation 12 is rated non-compliant.**

### **Recommendation 13 – Correspondent banking**

246. In its 2011 MER, Lao PDR was rated non-compliant with the former R.7. The report concluded that there was no specific legal requirements or enforceable means that address the requirement on cross-border correspondent banking relationships.

#### *Criterion 13.1:*

247. *Criterion 13.1(a).* Article 26 of the Law on AML/CFT read together with Article 33 of the Agreement on AML/CFT Measures meet the requirements of this criterion. The law requires FIs to gather data on the nature of business and operations of correspondent banks, assess their credibility, management and audit based on the disclosed information and assess their AML/CFT implementation (Art. 26, Law on AML/CFT).

248. Further, Article 33.1 of the Agreement on AML/CFT Measures requires FIs to gather sufficient information about a respondent institution to understand fully the nature of the respondent's business, and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a ML/TF investigation or regulatory action for correspondent banking and other similar relationships.

249. *Criterion 13.1(b).* Article 26.4 of the Law on AML/CFT requires FIs to assess the implementation of AML/CFT by the respondent bank. Article 33.2 of the Agreement on AML/CFT Measures requires FIs to assess the respondent institution's AML/CFT controls for correspondent banking and other similar relationships.

250. *Criterion 13.1(c).* Article 33.3 of the Agreement on AML/CFT Measures requires FIs to obtain approval from senior management before establishing new correspondent relationships.

251. *Criterion 13.1(d).* Article 33.4 of the Agreement on AML/CFT Measures requires FIs to clearly understand the respective AML/CFT responsibilities of each institution for correspondent banking and other similar relationships.

#### *Criterion 13.2:*

252. *Criterion 13.2(a).* Item 1 in paragraph 2 of Article 33 of the Agreement on AML/CFT Measures requires FIs satisfy themselves that, with respect to 'payable-through accounts,' the respondent bank has performed CDD obligations on its customers that have direct access to the accounts of the correspondent bank.

253. *Criterion 13.2(b).* Item 2 in paragraph 2 of Article 33 of the Agreement on AML/CFT Measures requires FIs to satisfy themselves that the respondent bank is able to provide relevant CDD information upon request to the correspondent bank.

254. *Criterion 13.3.* FIs are not explicitly prohibited from entering into relationships with shell banks. However, FIs are prohibited from entering into or maintaining relationships with correspondent banks that have relationships or conduct transactions with shell banks or their subsidiary (Art. 26, Law on AML/CFT). FIs are also prohibited from having dealings with anonymous banks or banks that are not subject to AML/CFT regulations (Arts. 52.1 & 52.2, Law on AML/CFT).

*Weighting and Conclusion*

255. Read together, the Law on AML/CFT and Agreement on AML/CFT Measures address the correspondent banking requirements however a minor gap remains with respect to shell banks.

**Recommendation 13 is rated largely compliant.**

*Recommendation 14 – Money or value transfer services*

256. Lao PDR was rated non-compliant with former SR.VI. The 2011 MER noted that there was no comprehensive licensing requirement or legal requirement for a list of agents.

257. *Criterion 14.1.* The definition of MVTS in Article 3.1 of the Decision on MVTS defines it as ‘financial services such as receiving cash, BNIs or deduct money in the account [sic] for electronic transfer through the banking service or other method...’ This includes all financial services defined in the FATF standards other than those that involve the acceptance of ‘other stores of value.’

258. To establish an MVTS, an applicant must apply for and be issued a licence from the BOL (Arts. 7 & 8, Decision on MVTS). Licences expire after one year unless extended (Art. 9) and natural persons, legal persons or organisations are prohibited from operating an MVTS without authorisation from the BOL (Art. 19).

259. Natural persons, legal persons or organisations are prohibited from operating an MVTS without applying for registration in accordance with Article 15 of Law on Enterprises and require authorisation from the BOL (Art. 5). Licences are issued by the BOL (Art. 8) and expire one year from the date of issuance unless extended (Art. 9). MVTS providers are prohibited from conducting transactions without authorisation from BOL (Art. 19.1).

260. *Criterion 14.2.* Despite MVTS being prohibited from operating without authorisation from BOL (Art. 19, Agreement on Payment Service), no action has been taken by Lao authorities to identify natural or legal persons that carry out MVTS without a licence and apply proportionate and dissuasive sanctions to them.

261. *Criterion 14.3.* AMLIO is the supervisor of MVTS providers according to Article 3.1 of the Instruction on MVTS Transaction Report, which also defines MVTS. Further, Article 17 of the Decision on MVTS states that MVTS providers and Agents shall comply with the obligations as defined in the Law on AML/CFT, such as KYC, CDD, STR of money laundering and terrorist financing and comply with relevant regulations.

262. *Criterion 14.4.* Article 11 of the Decision on MVTS requires MVTS agents to be licenced by the BOL. MVTS providers and the BOL must also authorise amendments to MVTS agents’ business operations.

263. *Criterion 14.5.* There is no explicit obligation for an MVTS provider to include agents in its AML/CFT programme, however, Article 17 of the Decision on MVTS requires agents to comply with the Law on AML/CFT and relevant regulations. MVTS providers must also conduct inspections and supervision of their agents (Art. 16, Decision on MVTS).

264. Article 11 of the Decision on MVTS enables an MVTS provider to extend its supervision system to agents however, it is not explicit that this includes systems and controls that constitute an AML/CFT programme. Article 16 of the Decision on MVTS does require MVTS providers inspect and supervise agents including their transaction monitoring system.

*Weighting and Conclusion*

265. The definition of an MVTS does not cover ‘other stores of value.’ Lao PDR has not taken steps to identify unlicensed MVTS providers and to apply appropriate sanctions. Compliance monitoring is not occurring in practice. Controls relating to agents of MVTS providers require further strengthening.

**Recommendation 14 is rated partially compliant.**

*Recommendation 15 – New technologies*

266. In its 2011 MER, Lao PDR was rated non-compliant with former R.8. The report concluded that Lao PDR did not have specific legislation or requirement in relation to the misuse of technological developments in ML or FT, or to address any specific risks associated with non-face-to-face transactions. Obligations on virtual assets (VA) and VA service providers (VASPs) were not assessed in the previous ME.

*New Technologies*

267. *Criterion 15.1.* REs must identify, value, monitor and mitigate ML and TF risk based on customers, products and services (existing and new), delivery channels, including new service methods or technology, and geographic areas (Art. 8, Agreement on AML/CFT Measures). However, there is no requirement on FIs to identify and assess new business practices. There is also no requirement on Lao PDR authorities to identify and assess the same risks.

*Criterion 15.2:*

268. *Criterion 15.2(a).* There is no requirement to conduct a risk assessment of new products, technologies and practices prior to their launch or use.

269. *Criterion 15.2(b).* Article 8 of the Agreement on AML/CFT Measures requires FIs to have risk controls to enable them to manage and mitigate ML/TF risks (identified as per 15.1), monitor the implementation of the controls, and take enhanced measures where higher risks are identified. However, these risk control measures are not required to be put in place prior to the launch or use of new technologies or business practices (as per 15.2(a)).

*Virtual assets and virtual asset service providers (VA and VASP)*

270. In September 2021, Lao PDR announced a pilot programme and issued licences to six companies to engage in the mining, use and trade of cryptocurrencies.<sup>117</sup> The pilot programme runs from 9 November 2021 for three years (Art. 16, Decision on Digital Asset Transactions). In November 2021, BOL’s Payment Systems Department ordered one licensee to cease operations and in January 2022 BOL granted ‘in principal agreements’ for two of the licensees to provide full brokerage and exchange trading services.<sup>118</sup> At the time of the on-site visit (in September 2022) none of the remaining five licensees in the cryptocurrency trial had commenced trading. The trial laws despite being in place at the time of the on-site visit are not considered final, being only at the ‘Ministerial level’ consistent with the pilot or trial nature of the programme (see Virtual Assets Risk Assessment 2022, p. 17, section 4). Final laws may or may not eventuate depending on the outcomes of the trial.

<sup>117</sup> <https://laotiantimes.com/2021/11/15/government-issues-regulations-for-cryptocurrency-miners-and-platforms-in-laos/>

<sup>118</sup> <https://laotiantimes.com/2022/01/17/laos-authorizes-two-crypto-exchange-platforms/>



271. Operating a cryptocurrency trading platforms without approval from BOL is prohibited (Art. 45, Decision on Cryptocurrency Trial). A cryptocurrency trading platforms is defined as a, 'platform which authorized by the Bank of Lao PDR to provide trading service or exchange the digital asset or facilitate to the end user who willing to trade or exchange the digital asset able to agree or matching transaction together' [sic] which partly meets the FATF VASP definition (Art. 5, Decision on Cryptocurrency Trial). However, no measures or prohibitions apply to VASPs that provide safekeeping or administration of virtual assets or instruments enabling control over virtual assets, or participate in and provide financial services related to an issuer's offer and/or sale of a virtual asset.

*Criterion 15.3:*

272. *Criterion 15.3(a).* Lao PDR's risk assessment of VAs and VASPs in September 2022 concludes they may be 'used for the buying and selling of illegal goods, drugs, weapons of war and others' as well as fraud and pose a high ML/TF risk. However, no clear methodology was followed to arrive at this rating. The risk assessment did not consider the findings of the NRA and its applicability to VAs and VASPs in the context of Lao PDR, the ML/TF risk posed by the safekeeping or administration of VAs, or the risks posed by different types of VA activities. Further, the risk assessment did not quantify the size of Lao PDR's cryptocurrency market, identify relevant ML/TF typologies, or include information from LEAs, AMLIO or the private sector.

273. *Criterion 15.3(b).* Lao PDR's cryptocurrency trial includes limited measures to prevent or mitigate ML and TF risks however Lao PDR did not demonstrate an understanding of risk and the measures are not risk-based. These measures include requiring cryptocurrency mining and trading businesses to; 1) hold a licence issued by the BOL; 2) be audited by an independent auditor; 3) not have any involvement in or history of fraud, ML or bankruptcy; and 4) have AML/CFT measures in place (Arts. 7 & 8). Enforceable prohibitions apply to any natural or legal person conducting a 'cryptocurrency trading platform or providing similar services in all forms' without licence (Art. 45, Decision on Cryptocurrency Trial). There are no AML/CFT measures that to apply to VASPs operating outside of the pilot that are not cryptocurrency trading platforms.

274. *Criterion 15.3(c).* The Decision on Cryptocurrency Trial applies to businesses operating in the cryptocurrency trial and requires cryptocurrency trading platforms to comply with the measures in the Law on AML/CFT applicable to REs and policies on AML/CFT as set by AMLIO (Arts. 33 and 34, Decision on Cryptocurrency Trial). Cryptocurrency trading platforms must take appropriate steps to identify, assess, manage and mitigate their ML/TF risks as required by c.1.10 and c.1.11 though the deficiencies in 1.10(b) and (d) cascade to this criterion and there are no obligations on VASPs operating outside the pilot that are not cryptocurrency trading platforms.

*Criterion 15.4.*

275. *Criterion 15.4(a).* The Decision on Cryptocurrency Trial definition of 'cryptocurrency trading platform' does not include VASPs involved in the safe keeping and administration of virtual assets or instruments enabling control over virtual assets, or the participation in and provision of financial services related to an issuer's offer and/or sale of a VA.

276. Lao PDR's VASP pilot is limited to a small number crypto-trading businesses that are required to obtain a licence from the BOL. The Decision on Cryptocurrency Trial requires amongst other obligations, that the cryptocurrency trading platform be a company registered in Lao PDR with at least a 51% shareholding by a Lao national (Arts. 6-11).

277. *Criterion 15.4(b)*. Trading service providers (undefined) or shareholders of cryptocurrency trading service providers must not be accused of, or involved in, fraud, money laundering or related financial matters, or non-performing loans (Arts. 8.3 & 9.5, Decision on Digital Asset Transactions). These measures do not apply to criminals convicted of other types of crimes. However, the Decision on Cryptocurrency Trial does require an applicant to submit a criminal record check as part of their application (Art. 9.1.5). Overall, the measures do not prevent criminals from being a beneficial owner, holding a significant or controlling interest, or management function in a VASP. The deficiency described in 15.4(a) also applies.

278. *Criterion 15.5*. Lao PDR cancelled one cryptocurrency trading platform's licence for operating outside the terms of the pilot programme. Lao PDR is yet to take any other actions to identify natural or legal persons that carry out VASP activities without the requisite licence or registration, and apply appropriate sanctions to them. The Decision on Cryptocurrency Trial prohibits individuals or legal entities from operating cryptocurrency trading platforms or similar services, and issuing trading instruments or digital assets without approval of the BOL. Sanctions for breaches range from education and warnings to civil and criminal penalties (Arts. 49 – 55, Decision on Cryptocurrency Trial). The fine for operating without a licence from the BOL is LAK 1,000,000,000 (approx. USD 61,292) are appropriate. Other than the single licence cancellation, the range of prohibitions have not been used.

*Criterion 15.6:*

279. *Criterion 15.6(a)*. The Ministry of Technology and Communication and the BOL are responsible for the supervision of VASPs (Art. 12, Decision on Digital Asset Transactions). Further, Article 41 of the Decision on Cryptocurrency Trial states the BOL (Payments System Department) is the supervisor of cryptocurrency trading businesses. However, neither Decision states these supervisors are *AML/CFT* supervisors. Supervision and monitoring of the sector is yet to commence and the deficiency described in 15.4(a) also applies.

280. *Criterion 15.6(b)*. Although BOL is the supervisor of cryptocurrency trading businesses and its Payment System Department has general responsibilities for managing, following-up and inspecting the business operations of cryptocurrency trading platforms (Art. 41, Decision on Cryptocurrency Trial). BOL does not supervise VASPs for *AML/CFT* compliance. Nor are there other supervisors with powers to supervise or monitor VASPs for *AML/CFT* compliance.

281. BOL's Payment System Department has general powers but not specific *AML/CFT* powers to monitor and inspect cryptocurrency trading businesses (Arts. 42-44). Trading platforms must cooperate with BOL inspection officers (Art. 46). BOL has the power to suspend and withdraw the licence of trading platforms (Arts. 38-39). Persons who are involved in cryptocurrency trading businesses and relevant sectors providing such services that violate the Decision on Cryptocurrency Trial shall be subjected to measures including educational training, warning, and fines, civil or criminal penalties (Arts. 49-55). However, criminal penalties are not stipulated. Supervisors are not empowered to apply to appropriate measures against all VASPs as described in 15.4(a).

282. *Criterion 15.7*. To date, no guidelines or feedback have been issued to VASPs.

*Criterion 15.8:*

283. *Criterion 15.8(a)*. VASPs in the pilot are liable for sanctions for failing to comply with *AML/CFT* requirements (Art. 15, Decision on Digital Asset Transactions). The Decision on Cryptocurrency Trial also sets out a range of sanctions applicable to cryptocurrency trading platforms (Arts. 38-39, 45 & 49-55). Sanctions for breaches range from education and warnings to civil and criminal penalties. BOL can suspend or withdraw the trading platform's licence or

take 'other measurement' (not specified) and fines range from LAK 5,000,000 (approx. USD 306) for document data storage violations through to LAK 100,000,000 – 1,000,000,000 (approx. USD 6,129 – 61,292) for behaviour that 'is a threat to the bank and payment system of Lao PDR'. The range of criminal penalties is not specified (and therefore it is doubtful criminal penalties are applicable). The deficiency described in c.15.4 (a) also applies. These are not proportionate or dissuasive.

284. *Criterion 15.8(b)*. The sanctions described in c.15.8(a) apply to senior management of VASPs in the pilot but not directors (Arts. 49 – 55, Decision on Cryptocurrency Trial). The deficiency described in 15.4(a) also applies.

285. *Criterion 15.9*. Article 34 of the Decision on Cryptocurrency Trial directs cryptocurrency trading platforms to 'perform the rights and obligations of the reporting unit according to the defined in the Law on AML/CFT and other relevant legislation' [sic]. Article 17 of the Law on AML/CFT defines REs as 'FIs and DNFBPs' however VASPs are not defined as either a financial institution or DNFBP.

286. *Criterion 15.9(a)*. There is no provision requiring VASPs to comply with the requirements set out in R.10-21. Although there are some KYC requirements in Article 33 of the Decision on Cryptocurrency Trial, there is no threshold for CDD for occasional transactions. Further, the obligations in Article 33 are inconsistent with the CDD requirements of the Law on AML/CFT.

287. *Criterion 15.9(b)*. There is no provision requiring VASPs to comply with the requirements set out in R.16.

288. *Criterion 15.10*. While TFS obligations apply to VASPs, Lao PDR did not demonstrate that communication mechanisms, reporting obligations and monitoring for TFS are implemented with respect to VASPs.

289. *Criterion 15.11*. There are no constraints on Lao PDR's ability to cooperate under existing mechanisms—as set out in R.37-40—on matters pertaining to VASPs involved in ML, TF or predicate offences. However, there is no legal basis for supervisors to exchange information with their foreign counterparts for VASPs.

### *Weighting and Conclusion*

290. Lao PDR has not adequately assessed the risks associated with new technologies, VAs and VASPs. Moreover, there is no requirement on FIs to identify and assess new business practices and no requirement on FIs to risk assess ML and TF prior to the introduction of new products and systems etc.. Lao PDR is yet to identify, assess and understand ML/TF risks emerging from VAs and VASPs and apply risk-based mitigating measures. There are also deficiencies with respect to preventative measures and the application of TFS to VASPs. There are no AML/CFT supervisors with AML/CFT powers and criminal penalties are not specified. There is a prohibition imposed on cryptocurrency exchanges outside a pilot programme, but this does not cover all VASPs. Although the Decision on Digital Asset Transactions and the Decision on Cryptocurrency Trial appears to cover the requirements of R.15, to a certain extent only with respect to the pilot project, they are not adequate to meet the necessary requirements at the national level.

**Recommendation 15 is rated non-compliant.**

## Recommendation 16 – Wire transfers

291. Lao PDR was rated non-compliant for former SR.VII in its 2011 MER. The report concluded that no specific laws, regulations or other enforceable means existed concerning wire transfers with respect to obligations of ordering, intermediary and beneficiary FIs, and also addressing incoming cross-border wire transfers. As Lao PDR had not implemented any legal requirements, there were no corresponding measures to monitor compliance and impose sanctions.

### Criterion 16.1:

292. *Criterion 16.1(a)*. Article 27 of the Law on AML/CFT and Article 5 of the Decision on Wire Transfers requires FIs to gather and check the originator's:

16.1(a)(i): first name and surname;

16.1(a)(ii): account number; and

16.1(a)(iii): address.

293. Similar measures are set out in Article 6 of the Decision on Wire Transfers which provides that the ordering FI must ensure that the wire transfer has complete information as defined in Article 5 for both the originator and beneficiary and Article 2 requires this information be provided for transactions of LAK 8,000,000 (approx. USD 490) or more.

294. However, neither the Law on AML/CFT nor the Decision on Wire Transfers specifically requires the originator information to be accurate.

295. *Criterion 16.1(b)*. Article 5 of the of the Decision on Wire Transfers covers beneficiary details including:

16.1(b)(i): name of beneficiary; and

16.1(b)(ii): the beneficiary account number used to receive the transfer.

296. *Criterion 16.2*. There are no specific provisions to address instances where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries.

297. *Criterion 16.3*. FIs are not required to accompany transfers below LAK 8,000,000 (approx. USD 490) with; (a) the name of the originator, and the originator's account number; and (b) the name of the beneficiary, and the beneficiary's account number used to process the transaction.

298. *Criterion 16.4*. The Agreement on AML/CFT Measures (Art. 5.4) defines a transaction as that meant by Article 8.9 of Law on AML/CFT which includes 'transfer of money.' A wire transfer is defined as a type of transaction in the Law on AML/CFT (Art. 8.19). Article 37 of the Agreement on AML/CFT Measures includes obligations to monitor for suspicious activity but there is no provision requiring FIs to verify required originator or beneficiary information in c.16.3 where there is a suspicion of ML/TF when conducting transactions.

299. *Criterion 16.5*. For domestic wire transfers, Article 6 of the Decision on Wire Transfers for transfers exceeding the threshold set in the Decision, requires FIs to include originator information.

300. *Criterion 16.6*. Lao PDR does not permit the ordering FI to include only the account number or unique reference number (see c.16.5).

301. *Criterion 16.7.* Article 7 of the Decision on Wire Transfers requires the ordering FI to keep information on the originator and beneficiary as specified in Article 28 of the Law on AML/CFT (record-keeping obligations). The deficiencies in R.11 cascade into this criterion.

302. *Criterion 16.8.* The sanctions set out in Article 65 of the Law on AML/CFT apply to ordering institutions that fail to include originator and beneficiary customer information in wire transfers in accordance with Article 28 as they are limited in application to breaches of Articles 18, 50 and 52. (Art. 13, Decision on Wire Transfers). However, there does not appear to be a prohibition on FIs not to allow a wire transfer if it does not comply with the requirements specified in c.16.1-16.7

303. *Criterion 16.9.* Article 27 of the Law on AML/CFT and Article 8 of the Decision on Wire Transfers require intermediary FIs to ensure that all originator and beneficiary information accompanies the wire transfer.

304. *Criterion 16.10.* Article 8 of the Decision on Wire Transfers requires that, in the event that information is limited due to a technical issue, all information sent from the originating FI must be kept for at least 5 years under Article 28.2 of the Law on AML/CFT (R.11 for record-keeping requirements).

305. *Criterion 16.11.* Article 27 of the Law on AML/CFT requires intermediary FIs to ensure that information on transfers is correct and complete. Article 9 of the Decision on Wire Transfers requires that the intermediary FI must have policies and procedures to monitor and determine whether, on the assessment of risk, to deny or terminate a wire transfer.

306. *Criterion 16.12.* Article 8 of the Decision on Wire Transfers requires intermediary FIs to have risk-based policies and procedures to determine when to, a) deny or terminate a wire transfer, and b) take appropriate follow-up measures. There is no requirement to have risk-based policies for determining when to suspend a wire transfer.

307. *Criterion 16.13.* There is no specific requirement for beneficiary FIs to take reasonable measures such as conducting real-time or post-event monitoring to ascertain whether required originator or beneficiary information is lacking. However, Article 7 of the Decision on Wire Transfers provides that beneficiary FIs, on receiving international wire transfers without complete information on the originator or the beneficiary, must follow Article 27 of the Law on AML/CFT. Article 27 specifies that, 'in case a FI receives a transfer with no information or missing information on a transferor, it has to check and find the missing information from a transferring institute or a beneficiary' but does not include requirements for missing information on a beneficiary institution. If the information is not provided, an FI receiving the transfer shall refuse the payment to a beneficiary and transfer the money back to a transferring FI and immediately report the case to AMLIO.

308. *Criterion 16.14.* Article 7 of the Decision on Wire Transfers provides that in the event that a wire transfer has complete information yet the beneficiary has never been examined or verified before, then the beneficiary FI should examine and verify the beneficiary and keep information per Article 28 of the Law on AML/CFT.

309. *Criterion 16.15.* Article 7 of the Decision on Wire Transfers provides that the beneficiary FI should have effective policies and procedures to assess risk in considering circumstances when to deny or terminate a wire transfer<sup>119</sup> lacking required originator or

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<sup>119</sup> The translated text reads 'denial and dissolve of wire transfers.'

required beneficiary information and 'specify measures in appropriate monitoring [sic]. There are no requirements to have policies or procedures on when to suspend wire transfers.

310. *Criterion 16.16.* Authorised MVTS providers' overseas branches and subsidiaries must comply with the Law on AML/CFT (Art. 18, Law on AML/CFT). It follows that subordinate legislation must be complied with such as the Decision on Wire Transfers and Decision on MVTS. Article 17 of the Decision on MVTS also obliges agents of MVTS providers to comply with the Law on AML/CFT and relevant regulations.

311. *Criterion 16.17.* As noted in c.16.16, MVTS providers are subject to AML/CFT requirements and the obligation to file STRs when there is a suspicion of ML/TF. However, deficiencies in R.20 cascade into this criterion; and there is no specific requirement to; (a) take into account all information from both the ordering and beneficiary sides in order to determine whether to file an STR, or (b) file an STR in any country affected by the suspicious wire transfer (other than Lao PDR). In addition to reporting the transaction in an STR, record keeping requirements in Article 28 of the Law on AML/CFT require MVTS to make relevant transaction information available to AMLIO. There is an obligation to make relevant transaction information available to foreign FIUs. However, deficiencies in record-keeping obligations under R.11 cascade into this criterion.

312. *Criterion 16.18.* As per Article 52.4 of the Law on AML/CFT, FIs are prohibited from having business dealings or performing transactions with natural persons, legal persons or organisations on the UNSC list. Article 40 of the Law on AML/CFT stipulates that funds of natural persons and legal entities including groups of terrorism financiers and international terrorist organisations stipulated in resolutions S/RES/1267 (1999), S/RES/1373 (2001) and their successors of the UNSC shall be immediately seized and frozen.

313. As highlighted in Article 40 of the Law on AML/CFT the implementing procedures for seizing, or freezing funds of terrorists are laid down in a separate piece of legislation. Article 5.1 of the Order No.03/PM on the Withholding, Freezing or Seizure of Funds Relating to Terrorists or Financing of Terrorism specifies the procedure followed by FIs with respect to freezing of related funds and properties. FIs are empowered and required to take preliminary measures immediately to stop and withhold such funds and properties of designated clients and immediately report to the Ministry of Public Security and the FIU. Upon receipt of such a report, the Ministry will issue an order to freeze or seize the funds and properties immediately.

#### *Weighting and Conclusion*

314. Originator information is not required to be accurate. Enforceable requirements for originator information and full beneficiary information with respect to batch transfers where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries are lacking. Further, there are no legal provisions to prohibit ordering FIs to execute a wire transfer in the absence of required information, for beneficiary FIs to take reasonable measures to ascertain missing information, if any. There are no measures requiring beneficiary institutions to have risk-based policies on when to suspend wire transfers. Finally, deficiencies in R.20 (STRs) and R.11 (record-keeping) cascade into the overall rating.

**Recommendation 16 is rated partially compliant.**

**Recommendation 17 – Reliance on third parties**

315. In its 2011 MER Lao PDR was rated not applicable with former R.9. The report noted that Lao PDR laws did not have specific provisions that would allow FIs to rely upon a third party in the process of implementing CDD.

316. *Criterion 17.1, 17.2 and 17.3.* Under Article 20 of the Agreement on AML/CFT Measures, FIs are responsible for performing CDD measures. There are no statutory provisions allowing FIs to rely upon a third party in the process of implementing CDD. Lao PDR authorities confirm that FIs are not permitted to rely on third parties to conduct CDD for them.

*Weighting and Conclusion*

317. Lao PDR laws do not allow FIs to rely on a third parties for the purpose of performing CDD.

**Recommendation 17 is not applicable.**

**Recommendation 18 – Internal controls and foreign branches and subsidiaries**

318. The 2011 MER rated Lao PDR non-compliant with former R.15 and R.22 due to a lack of enforceable obligations.

*Criterion 18.1:*

319. *Criterion 18.1(a).* FIs must undertake a risk assessment and implement risk-based management principles on ML/TF as per Article 20 of Law on AML/CFT. Article 8 of the Agreement on AML/CFT Measures specifies a range of factors the risk assessment should cover, however, business size is not explicitly addressed. Article 19 of Law on AML/CFT requires FIs to appoint an experienced AML/CFT staff at the management or senior level to manage and monitor the AML/CFT programme and act as coordinator with AMLIO.

320. *Criterion 18.1(b).* FIs are required to develop and implement AML/CFT programmes and audit staff selection procedures (Art. 19.1, Law on AML/CFT). There is no requirement to implement screening procedures to ensure high standards when hiring employees.

321. *Criterion 18.1(c).* FIs are required to develop and implement AML/CFT training programmes and undertake on-going staff training (Art. 19.2, Law on AML/CFT).

322. *Criterion 18.1(d).* FIs are required to develop and implement an internal audit function to test the implementation of the Law on AML/CFT and other related laws (Art. 19.3, Law on AML/CFT). Further, Article 12 of the Agreement on AML/CFT Measures requires FIs to have an internal independent audit function.

*Criterion 18.2:*

323. *Criterion 18.2(a).* Financial groups are required to implement corporate group-wide AML/CFT programmes including their domestic and foreign branches and subsidiaries and to comply with the obligations set out in the Article 18 of Law on AML/CFT (Art. 12, Agreement on AML/CFT Measures). Article 18 requires overseas branches and group subsidiaries to comply with Articles 19-32 of the Law on AML/CFT which includes AML/CFT programme implementation, CDD measures and ML/TF risk management. The Agreement on AML/CFT Measures allows FIs to exchange and share information on risk and CDD measures

among corporate group, branches and subsidiaries (Art. 14). The deficiencies identified in 18.1 cascade into c.18.2.

324. *Criterion 18.2(b)*. FIs are required to implement group-wide compliance, audit and AML/CFT functions (Art. 18, Law on AML/CFT; Art. 12, Agreement on AML/CFT Measures). As set out in c.18.2(a), FIs are allowed to exchange and share information on suspicious transactions, money value transfers, electronic money transfers, correspondent banks, risk and CDD measures including scrutiny of transactions among their corporate group, branches and subsidiaries (Arts. 14 and 20, Agreement on AML/CFT Measures). However, there are no specific requirements on sharing account data and no obligation for branches or subsidiaries to receive information from group-level functions when relevant and appropriate to risk management.

325. *Criterion 18.2(c)*. The Agreement on AML/CFT Measures prohibits FIs tipping-off (Art 39) and requires FIs to maintain confidentiality (Art. 6). FIs are also required to exchange and share information among the corporate group, branches and subsidiaries based on the adequacy, safety, confidentiality and tipping-off (Art. 14).

326. *Criterion 18.3*. Foreign branches and subsidiaries of FIs must comply with Articles 19-32 of Law on AML/CFT and apply AML/CFT measures consistent with the requirements of foreign countries or Lao PDR and of headquarters (Art. 18, Law on AML/CFT, Art. 13, and Agreement on AML/CFT Measures). Where the laws of the host country do not permit foreign branches and subsidiaries to apply Articles 19-32 or the AML/CFT measures of headquarters, financial groups are required to implement additional AML/CFT measures to manage the risks and notify their supervisors (Art. 13, Agreement on AML/CFT Measures).

#### *Weighting and Conclusion*

327. Measures for FIs are in place to meet most of the requirements in internal policies, procedures and controls. There are gaps with requirement for addressing business size in the AML/CFT programmes, implementing screening procedures to ensure high standards when hiring employees, and receiving information from group-level functions based on risk management.

**Recommendation 18 is rated largely compliant.**

#### ***Recommendation 19 – Higher-risk countries***

328. In its 2011 MER, Lao PDR was rated non-compliant with former R.21 due to a lack of enforceable obligations.

329. *Criterion 19.1*. Articles 22 and 34 of the Agreement on AML/CFT Measures require FIs to apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons (including FIs) from countries for which this is called for by the FATF.

330. *Criterion 19.2*. Although Article 34 of the Agreement on AML/CFT Measures provides that REs (which include FIs) shall apply counter-measures to ‘risky countries’ when called upon by the FATF or by AMLIO, ‘counter-measures’ is not defined, nor is there any guidance on what the word ‘counter-measures’ means or the scope of any measures available. Nor are any such measures required to be imposed proportionate to the risk involved. In addition, as per this specific criterion, there are no laws in place requiring Lao PDR authorities (through laws or regulations) to implement counter-measures proportionate to the risk in the following circumstances:



- (a) when called upon by the FATF to do so (for instance, by issuing regulations prohibiting the entering into of transactions or business relationships between a reporting entity and another person, including any transaction or business relationship with a specified overseas country; or the prohibition on REs from establishing overseas subsidiaries in specific countries when called upon by the FATF); and
- (b) Independently of any call by the FATF.

331. *Criterion 19.3.* Article 34 of the Agreement on AML/CFT Measures provides that REs should monitor and respond promptly to the notifications from AMLIO of concerns about the weaknesses in the AML/CFT systems of other countries. This does not specifically meet the requirement that countries ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries' as it does not require AMLIO to articulate what those concerns are so that FIs can respond with measures proportionate to the identified risks emanating from those weaknesses. Article 34 puts the onus on FIs to identify countries with weak systems by 'monitoring' AMLIO notifications (i.e., searching for notifications) as opposed to being advised of concerns directly by authorities.

### *Weighting and Conclusion*

332. Lao PDR lacks measures to ensure that counter-measures are applied proportionate to risk and that all FIs are advised of concerns about the weaknesses in the AML/CFT systems of other countries. There is no list of specific counter-measures that may be imposed by Lao PDR, nor by REs.

**Recommendation 19 is rated partially compliant.**

### *Recommendation 20 – Reporting of suspicious transaction*

333. In its 2011 MER, Lao PDR was rated non-compliant with former R.13 and Special Recommendation IV due to gaps in the range of predicate offences for ML, the exclusion of Lao legal persons or entities from reporting requirements, no mandatory requirement for attempted transactions, no requirement for STR reporting on TF, and a possible monetary threshold for STR reporting. Further, the overall number of STRs reported was low.

334. *Criterion 20.1.* Lao PDR laws and instruments require the filing of STRs but only if they are linked to ML and TF and not more widely to the proceeds of criminal activity:

- Article 8.10 of the Law on AML/CFT defines suspicious transactions as, 'transactions that do not conform with the profile, occupation, and reality status of customers.' Article 31 of the same law provides that STRs may be a consequence of a predicate offence but must be 'connected to ML or TF.'
- Article 3 of Decision on STRs reinforces the STR reporting obligation for ML/TF but does not include the more general 'criminal activity'.
- Article 2 of the Instruction on STRs requires all branches of REs to prepare STRs on 'transactions suspected of ML/FT' and send it to their head office in order to consider the adequacy of the information before submitting to AMLIO.

335. In addition to the above deficiency, there is a contradiction in the law relating to the proper period of time to file an STR:

- Article 29 of the Law on AML/CFT provides that when there is a suspicion of ML or TF relating to a customer's transaction, REs must postpone the transaction for three working days and then report the case to AMLIO;
- Article 31, on the other hand, provides that if there is a suspicion of ML or TF relating to a customer's transaction, REs must file an STR within three days.

336. Reporting STRs within three days may satisfy the requirements of promptly filing, but reporting after three days may not. The statutory requirements appear to conflict, and there are no clarifying instruments to guide REs on the time to properly report.

337. Finally, the issues identified in R 3 with respect to the deficiencies in predicate offences in the Law on AML/CFT and the Penal Code cascade to this criterion.

338. *Criterion 20.2.* FIs must report suspicious transactions including in relation to attempted transactions regardless of the transaction amount (Art. 31, Law on AML/CFT). However, attempted transactions must relate to activities connected with ML or TF as noted above and are therefore restricted in scope.

### *Weighting and Conclusion*

339. Lao PDR has a limited framework for reporting of suspicious transactions. STRs must be linked to ML and TF, and not more widely to the proceeds of criminal activity. In addition, STRs are not reportable 'promptly', and not all predicate offences are included for the purpose of reporting suspicious transactions (see R.3).

**Recommendation 20 is rated partially compliant.**

### *Recommendation 21 – Tipping-off and confidentiality*

340. In its 2011 MER, Lao PDR was rated non-compliant with former R.14 due to a lack of legal safe harbour protection for all parties reporting STRs in good faith and legal prohibition against tipping off.

341. *Criterion 21.1.* The management and staff of FIs are provided some statutory protections from STR disclosures, as they will not be 'disciplined' or 'prosecuted' on the ground of disclosing 'customers' secrets' (which authorities have indicated include transaction details), if reporting was done in good faith and in compliance with the Law on AML/CFT (Art. 32). However, directors of FIs are not listed as persons protected when disclosing STRs.

342. Lao PDR confirms that the good faith provision in Article 32 would apply even if the management and staff (but not directors) of FIs did not know what the underlying criminal activity was or whether it actually occurred.

343. Article 11 of Law on AML/CFT also provides that staff, informants, information processors, witnesses, experts and their families, shall be protected in accordance with law against revenge and threats against life, health, freedom and damage to their dignities, reputations or private properties. However, protections from civil liability (initiated by customers) for disclosure are not included.

344. *Criterion 21.2.* The management and staff of FIs are prohibited from disclosing the fact that an STR or related information is being filed with AMLIO (details stipulated in c.21.1). Article 39 of the Agreement on AML/CFT Measures prohibits directors, managers and employees from revealing information or behaving in a way that will alert the customer that

he/she is facing CDD measures or being subject to reporting of an STR or any information to AMLIO.

345. Where an FI forms a suspicion of ML/TF and reasonably believes that performing the CDD process will tip-off the customer, the FI is permitted to not pursue the CDD process, and is required to file an STR. Article 39 of the Agreement on AML/CFT Measures further indicates that the provisions mentioned above are not intended to inhibit information sharing among members of financial groups.

346. However, a concern relates to Article 29 of Law on AML/CFT which requires FIs to postpone transactions of customers suspected of ML/TF for three working days and then report to AMLIO. This three-day delay may tip-off the customer that AMLIO will be, or has been, informed of a suspicious transaction.

### *Weighting and Conclusion*

347. Directors of FIs are not protected from liability when reporting STRs to AMLIO. Also, the requirement for postponing transactions of customers who are suspected of ML/TF may result in tipping-off the customer. Civil liability protections are not included in the law for staff, and others, in FIs for disclosure of customer information.

**Recommendation 21 is rated partially compliant.**

### *Recommendation 22 – DNFBPs: Customer due diligence*

348. Lao PDR was rated non-compliant for former R.12 in its 2011 MER due to non-coverage of all DNFBPs. Since the 2011 MER, the Law on AML/CFT was enacted to cover most categories, but not all, of DNFBPs. However, there is an ambiguity that has a cascading effect on each criterion in R.22. Article 8 of the Law on AML/CFT defines DNFBPs as ‘companies or agents that provide and manage financial payment tools,<sup>120</sup> real estate trading agencies, valuable material and antique trading business,<sup>121</sup> a bar association or a legal firm, notary public, external auditing firms, casinos or others.’ Lao PDR indicated that companies or agents that provide financial management tools do not exist or operate in the country. Even though both accounting and auditing firms operate in Lao PDR pursuant to Part IV of Law on Independent Audit, accounting firms are not covered in the Law on AML/CFT. It is unclear if other legal professionals are identified as DNFBPs.

349. Under Article 17 of the Law on AML/CFT, REs are ‘legal persons and organisations’ which have the obligation to report information or suspicious activities relating to ML/TF to AMLIO. REs consist of FIs and DNFBPs as defined Articles 8.7 and 8.8 of the Law on AML/CFT. Taken together, natural persons are not covered in these definitions. It is therefore clear that lawyers, real estate agents, and precious metal & stone dealers that practice as sole traders are not defined as DNFBPs for the purpose of the AML/CFT laws. Only if they practice as part of a legal enterprise or organisation (a generic term for ‘juristic’ (legal) persons under the Law on Enterprises) do they fall within the definition.

350. CDD obligations mandated by the Law on AML/CFT and the Agreement on AML/CFT Measures are applicable to covered DNFBPs. As indicated in R.10, not all of the key CDD requirements are met or addressed in the revision of the Agreement on AML/CFT Measures.

<sup>120</sup> Lao PDR has not defined these businesses or the services they provide (see Table 1.5).

<sup>121</sup> This definition includes dealers in precious metals and stones

351. *Criterion 22.1.* There are deficiencies in R.10 applicable to R.22.
352. *Criterion 22.1(a). Casinos:* Pursuant to the Agreement on AML/CFT Measures, casinos must apply CDD measures (Section 4) and ongoing monitoring (Art. 37). Casinos must comply with CDD requirements when engaging with customers making occasional, single or several transactions over the threshold of LAK 30 million (approx. USD 1,840) a day (Art. 21). However, the Agreement on AML/CFT Measures, does not address all CDD requirements under R.10
353. *Criterion 22.1(b). Real Estate Agents:* The Law on AML/CFT (Art. 21) requires real estate agencies to apply CDD measures when they conduct a transaction for a customer. The Agreement on AML/CFT Measures further states that real estate agencies that provide services of real estate buying and selling shall perform CDD measures on each occasion (Art. 21). However, the Agreement on AML/CFT Measures does not address all CDD requirements under R.10.
354. *Criterion 22.1(c). Precious Metals and Precious Stones Dealers:* The Law on AML/CFT (Art. 21) requires DPMS to apply CDD measures when they conduct a transaction for a customer. The Agreement on AML/CFT Measures further requires these providers to perform CDD measures when they buy or sell precious metals and stones with cash transactions over a threshold of LAK 100 million (approx. USD 6,129) (Art. 21). However, the Agreement on AML/CFT Measures does not address all CDD requirements under R.10.
355. *Criterion 22.1(d). Lawyers, Notaries and Accountants:* The Law on AML/CFT (Art 21) requires lawyers, notaries and 'external auditing firms' to apply CDD measures when they conduct a transaction for a customer. Article 21 requires not only lawyers, notaries and external auditing firms, but also other DNFBPs to perform CDD measures, when they prepare or perform services for their customers for buying and selling of real estate; managing client money, securities or assets; managing banking accounts and securities accounts; and consulting on establishing, managing, and operating of any company business including legal arrangements and any trading of businesses. However, the Agreement on AML/CFT Measures, does not address all CDD requirements under R.10.
356. Accountants and accounting firms are not subject to CDD obligations as they are not defined as DNFBPs under the Law on AML/CFT.
357. *Criterion 22.1(e). Trust & Company Service Providers:* The definition of DNFBPs does not include trust & company service providers and therefore they are not required to apply CDD measures (Art. 8.8, Law on AML/CFT).
358. *Criterion 22.2.* Record keeping obligations set out in Article 28 of the Law on AML/CFT apply to DNFBPs, however the deficiencies described in R.11 remain as gaps in this criterion. For accountants, record keeping requirements in Article 50 of Law on Accounting include an obligation to maintain records of all accounting documents for a minimum of 10 years after contract completion, however, these obligations do not included records of CDD measures, business correspondence and results of analysis.
359. *Criterion 22.3.* Requirements with respect to PEPs set out in the Law on AML/CFT and the Agreement on AML/CFT Measures apply to DNFBPs. However, deficiencies identified under R.12 remain the same under this criterion.
360. *Criterion 22.4.* As set out in R.15, Articles 2, 8, 10 and 11 of the Agreement on AML/CFT Measures, which stipulates obligations of REs on new technologies, apply to DNFBPs.

However, deficiencies identified in R.15 on new technologies requirements remain the same under this criterion.

361. *Criterion 22.5.* REs including DNFBPs are prohibited from relying on third parties and are required to carry out CDD measures on their own in all instances.

### *Weighting and Conclusion*

362. Only DNFBPs that are legal persons or organisations (legal entities with ‘juristic’ status) are covered by the Law on AML/CFT while accountants, accounting firms and trust & company services providers are not. Deficiencies highlighted in R.10, 11, 12 and 15 are relevant for DNFBPs.

**Recommendation 22 is rated partially compliant.**

### *Recommendation 23 – DNFBPs: Other measures*

363. Lao PDR was rated non-compliant for former R.16 in its 2011 MER due to non-coverage of all DNFBPs. Gaps in the scope of DNFBP coverage identified under R.22 has a cascading effect on each criterion in R.23.

364. *Criterion 23.1.* In keeping with the analysis at R.20 (rated non-compliant), DNFBPs are legally obliged to submit STRs in case of a suspicion with respect to transactions of customers including attempted transactions (Art. 31, Law on AML/CFT). There are scope limitations to this requirement across all DNFBPs as listed below and the deficiencies in R.20 applicable to FIs also apply to the reporting obligations for DNFBPs.

365. *Criterion 23.1(a).* Accountants and accounting firms are not included in the definition of DNFBP and subject to AML/CFT requirements. Lawyers, notaries and auditing firms shall report suspicious transaction when they engage in financial transactions as specified in Art. 21 of the Agreement on AML/CFT Measures. However, deficiencies identified in R.20 and R.22 equally apply under this criterion.

366. *Criterion 23.1(b).* Precious metal and stone dealers are required to report suspicious transactions when they engage in cash transactions with customers over a threshold of 100 million LAK (approx. USD 6,129) (Art. 21, Agreement on AML/CFT Measures). However, the deficiencies noted in R.20 apply.

367. *Criterion 23.1(c).* TCSPs are not defined as DNFBPs. There is no requirement to report suspicious transactions.

368. *Criterion 23.2.* Internal control requirements set out in R.18 apply to DNFBPs. However, deficiencies identified in R.18 and the scope gap with DNFBPs equally apply under this criterion.

369. *Criterion 23.3.* DNFBPs are obliged to implement the requirements with respect to higher-risk countries set out in the Agreement on AML/CFT Measures (Art. 34). However, deficiencies identified in R.19 and the scope gap with DNFBPs equally apply under this criterion.

370. *Criterion 23.4.* DNFBPs are required to comply with the tipping-off and confidentiality requirements set out in R.21 (Arts. 11 & 32, Law on AML/CFT and Art. 39 Agreement on AML/CFT Measures). However, deficiencies identified in R.21 and the scope gap with DNFBPs equally apply under this criterion.

*Weighting and Conclusion*

371. General requirements on suspicious transaction reporting, internal control, higher-risk countries, tipping-off and confidentiality are applicable to DNFBPs. However, deficiencies identified under R.18, 19, 20, 21 and 22 also apply to DNFBPs.

**Recommendation 23 is rated non-compliant.**

*Recommendation 24 – Transparency and beneficial ownership of legal persons*

372. The 2011 MER of Lao PDR rated the former R.33 as non-compliant. The MER found that Lao PDR lacked mechanisms to collect beneficial ownership information; bearer shares were permitted, with no ability to assess the beneficial owner of those instruments; and, Lao PDR lacked effective implementation of measures. The FATF standard has changed substantially since the last evaluation. Since 2011, Lao PDR revised corporate law and governance arrangements and introduced reforms to strengthen some of the legislative framework for the transparency and beneficial ownership of legal persons.

373. The Law on Enterprises applies to all enterprises established and operating business in Lao PDR, and permits foreigners to establish enterprises and engage in business operations in Lao PDR in compliance with the relevant laws (Arts. 4 & 9). The Law on Enterprises also applies to foreign investors investing in businesses in Lao PDR (Art. 53, Law on Investment Promotion). Foreign investment can take the form of wholly foreign owned, a joint venture between domestic and foreign investors, a business cooperation by contract, a joint venture between a state-owned enterprise and a private enterprise, and a private-public partnership (Arts. 26-31, Law on Investment Promotion).

Legal Persons under Lao PDR Law

374. The Civil Code defines two kinds of persons: individual persons and juristic persons: (1) individual persons are natural persons (Chpt 1, Civil Code); and juristic persons are legal persons (Chpt 2, Civil Code). Article 102 of the Civil Code defines a juristic person as follows:

...an organisation...legally established under law...capable of involving in the civil relationship, has rights and obligations, has the capacity to be a plaintiff and a defendant as similar as an individual as provided under laws. A juristic person shall have the following elements:

- 1) Having Articles of Association;
- 2) Being legally registered as provided under laws;
- 3) Having a systematic hierarchy including representatives, management;
- 4) Owning assets and having the responsibility to debts;
- 5) Being independent in involving the legal relationship on its behalf.

*Entities that are Juristic Persons*

375. The Law on Enterprises identifies a number of types of enterprises that have juristic personality:

- Companies;
- Limited companies;

- Public companies;
- Cooperative enterprises
- Limited partnerships;
- State enterprises;
- Mixed enterprises.

376. Other legal (juristic) persons that can be established for the purposes of R.24 are:

- Foundations (under the Decree on Foundations);
- Associations (under the Decree on Associations);
- International NGOs (under the Decree on INGOs);
- Cooperatives (under the Decree on Groups and Cooperatives).

377. Foundations are defined as legal entities operating continuously with their own assets and bank accounts (Art. 3(1)). Associations are defined as non-profit civil organisations operating on a permanent basis (Art. 2).

#### *Entities that are not Juristic Persons*

378. Three types of private enterprises can be established under the Law on Enterprises but they do not have legal personality for the purpose of R.24:

- Individual enterprises (or sole traders): and
- Ordinary partnerships.

379. The Law on Enterprises specifically provides that these business entities do not have capacity to enter into contractual or other obligations except in the capacity of the persons comprising the entity (see Arts. 3(3); 3(5); 3(7)).

380. For the purpose of the following analysis, only those entities that are defined as juristic persons in Lao PDR law will be referred to as legal persons.

#### *Criterion 24.1:*

381. *Criterion 24.1 (a) and (b):* Information on all types of legal persons is available in the laws cited above, including the process for creation of those entities. All domestic and foreign enterprises operating in Lao PDR must be registered with the ERO. Lao PDR has publicly accessible information that identifies and describes the processes for creating legal persons in the country, and for obtaining and recording basic and some beneficial ownership information.

382. *Criterion 24.2.* Lao PDR has not assessed the ML/TF risks associated with all types of legal persons created in the country. The NRA assesses some sectoral risks, but this assessment focuses on products, services and vulnerabilities associated with poor AML/CFT compliance, and does not consider the ML/TF arising from the features of legal persons.

#### *Basic Information*

#### *Criterion 24.3.*

383. All legal persons are required to be registered with the relevant registrar of the industry and commerce sector. Lao PDR has a centralised registry for legal persons, managed by the Enterprise Registration Office, affiliated in the Enterprise Registration and Management Department in the MOIC, with Registrars located in provincial or district offices of the MOIC.

For most legal persons, they can conduct business once they get registration certificates, except where there are market entry type licensing requirements to be fulfilled post registration. The Law on Enterprises requires the recording of some basic information in the company register, but there are some minor gaps for public companies and partnerships.

384. The Decree on State Investment Enterprises provides for the establishment, operations and transfer of State-owned and mixed enterprises. Lao PDR did not provide the Decree, or other evidence to demonstrate that there are requirements in place for these enterprises to register and provide basic information that can be made publicly available. There are currently 163 state-owned enterprises operating in Lao PDR and they include businesses such as insurance, telecommunication, and hydropower.

#### *ERO registered legal persons*

385. Companies: this is a basic legal person created by dividing capital into shares of equal value. The shareholders are responsible for the company's liabilities up to the value of the unpaid portion of their shares (Art. 3.7, Law on Enterprises).

386. Limited companies: limited companies include sole limited companies (a company with one shareholder), are legal persons required to register the contract of incorporation as part of the application for registration (Art. 87, Law on Enterprises). The contract of incorporation includes; business name; nature of business; name and address of headquarters; name, address and nationality of promoters; and names and signatures of promoters (Art. 86, Law on Enterprises). A promoter is a person who establishes the company until the statutory meeting is held, when they hand over the company to the company director/s appointed during the statutory meeting (Arts. 91 and 92, Law on Enterprises). The by-laws for a company, which include basic regulating powers, must be provided with the application for registration.

387. Public companies: these companies are required to provide some basic information as part of registering. This includes enterprise name; business objectives; name and address of headquarters and branch, if any; and stated capital classified into value, amount of shares, kind, cash, ordinary shares or preferred shares, name, address and nationality of company promoters, including amount of shares subscribed by each and a statement of the director's right to be unlimitedly liable for the debts of the company. However, public companies only have to provide information limited information from the by-laws application for registration. The basic regulating powers are not provided. Any modification of relevant by laws must also be registered with the registration authority (Art. 88). For limited companies, the complete by-laws must be filed as part of enterprise registrations (Art. 97, Law on Enterprises).

388. The public can see or copy the registration documents filed with the registrar for a fee (Art. 24, Law on Enterprises).

389. Limited partnerships: are required to include the partnership agreement with the application for the registration which includes the names of all partners; name, address and nationality of the manager; and stated capital (Arts. 43 and 75, Law on Enterprises). Some information included in the by-laws for a company must be provided with the application for registration, but not the basic regulating powers.

#### *Other legal persons*

390. Cooperatives: these entities are required to register with the MOIC, and registration applications must include: a list of establishing member, including signatures, numbers of shares and registered capital; the list of member of management committee; the



statute of cooperative (regulating powers); and the permission for operating business by authority concerned (Art. 8, Decree on Groups and Cooperatives). This information is not publicly available. Lao PDR estimates that there are 71 cooperative currently operating in the country.

391. Foundations: The Decree on Foundations requires basic information on foundations is collected as part of the licensing process. License applications made to the MOHA must include: a letter applying for the foundation's establishment; draft by-laws; personal résumé(s), certificate(s) of domicile, police record(s) of promoter(s) or name(s) and address(es) of organisation(s) participating in the foundation's establishment; statement of purpose; documents certifying pledged donations or contributions in funds and assets from persons, justice entities or organisations to set up the foundation; documents certifying the foundation is set up under testaments or assignments from persons, juristic entities or organisations; and documents certifying the foundation's office (Arts. 12 & 13, Decree on Foundations). There are no provisions under the Decree on Foundations to allow public access to basic information lodged with the MOIC as part of registering an Association.

392. Associations: Basic information on associations is collected as part of the registration process. Anyone applying to establish an association must first apply to MOIC for approval of: the nomination of the association's mobilizing committee; convening the association's inaugural assembly; and approve the association's charter and board; and registration of the association (Arts. 16-20, Decree on Associations). This information includes the location of the office for the association. Once the approvals are gained, an application must be submitted to the MOHA for registration (Art. 20, Decree on Associations). Associations are required to renew registration annually (Art. 21, Decree on Associations). There are no provisions under the Decree on Associations to allow public access to basic information lodged with the MOIC as part of registering an Association.

393. International non-governmental organisations (INGOs): While a range of approvals are required from the MOFA for an INGO to operate in Lao PDR, it is not clear what basic information is collected, other than the name of the INGO, its status and how it is registered in the country of origin, and charter of origin (Art 6 & 7, Decree on INGO).

394. There is no requirement in law that basic information collected on INGOs should be publicly available.<sup>122</sup>

#### *Maintaining basic information*

395. *Criterion 24.4*. While legal persons have some record-keeping obligations, there are no provisions under the Law on Enterprises that require all types of legal persons to maintain basic information within Lao PDR at a location to be notified to the company register. There are general obligations to keep documents relating to 'official work' under the Law on Documents and the Decree on Official Documents. A document is broadly defined as information relevant to any event and phenomena that relate to activities of government and legal entities, and an official document is one that is created and used by government and legal entities in their official work (Arts. 2 & 4, Decree on Official Documents). However, the scope of the obligation for legal entities to keep basic information is not specified in any instrument. The Decree on Official Documents provides for the retention of official documents for specified time periods or indefinitely, depending on the nature of the documents (Arts. 4, 22 & 24).

396. The record-keeping obligations under the Law on Documents and the Decree on Official Documents do not apply to companies and partnerships as they are not legal entities.

<sup>122</sup> Lao PDR commenced work to make information on INGOs publicly available after the onsite.

The Law on AML/CFT requires legal persons that are FIs to maintain customer records and to hold identification documents for 10 years after the end of the business relationship with the customer (Art. 28).

### *Register of shareholders*

397. Some types of legal persons have obligations to maintain a register of shareholders, but there are gaps.

398. Companies (including sole limited companies where there is only one shareholder) and limited companies: must maintain a register of shareholders at the company office (Art. 112, Law on Enterprises). The register must include: the name, address and nationality of the shareholder; number and value of shares, reference numbers of share certifications; any unpaid value; date registered as a shareholder and date of cancellation of being a shareholder (Art 112, Law on Enterprises). However, there is no requirement for the register to include the nature of any associated voting rights. The register must be kept at the company office for the availability of shareholders to inspect (Art. 112, Law on Enterprises). Limited companies are required to keep registration books on directors (Art. 133, Law on Enterprises).

399. Public companies: There are no requirements for public companies to maintain a register of shareholders or members. Public companies are required to update information on the ERO register where there has been a transfer of shares within five working days of receiving the request for the transfer (Art. 190, Law on Enterprises).

400. State and Mixed Enterprises, and Foreign Companies: There are no requirements for state and mixed enterprises, or foreign companies to maintain a register of shareholders or members.

401. Limited Partnerships: are required to provide the names of all partners at the time of registration, and update the ERO on any new partners or transfer of shares (Arts. 59 and 77, Law on Enterprises). There are no requirements for ordinary or limited partnerships to maintain a register of partners or shareholders.

402. Cooperatives: Cooperatives: are required to provide the names of group members and number of shares as part of the registration process (Art. 10, Decree on Groups and Cooperatives). However, there is no obligation to maintain a register of members containing the number of shares held by each member and categories of shares.

403. *Criterion 24.5*. For companies and partnerships, the ERO may examine the consistency and accuracy of documents received under the registration process. This power is limited to the name of the enterprise, business activities, registered capital and shareholding ratio and office address and contact numbers (Art 12, Decision on Enterprise Registration). There is no requirement to verify the accuracy of the names of partners/directors, or shareholder information. Lao PDR did not provide any evidence to demonstrate whether original or certified copies of documents are required for the registration process. There is no explicit offence for providing false or misleading information to the registrar, only a general obligation for applicants to provide the relevant information and a general offence for any person or organisation that violates the Law on Enterprises (Art. 209). The register can be amended if there are factual errors and if a factual error cannot be remedied the registration can be declared invalid (Art 19, Law on Enterprises).

404. There are mechanisms that provide for the updating of information on the ERO register. Lao PDR requires enterprises to update changes to registered matters to the registrar within one month from the date that the information changes (Art. 23, Law on Enterprises). All

companies are required to register any changes to the contract of incorporation or any by-laws within 10 working days of the adoption of the change (Art 88, Law on Enterprises). For limited companies, the Director is required no later than 25 December every year to send a copy to the ERO of MOIC of the register of shareholders for each modification, or once a year if there is no modification (Art. 112, Law on Enterprises). All partnerships must notify the registration authority within 10 working days of any changes to the contract on the incorporation or the by-laws (Art. 42, Law on Enterprises). For ordinary partnerships, the partnership must notify the registration authority within five working days of the admission of a new partner (Art. 50, Law on Enterprises). Limited partnerships must notify the registration authority of any transfer in shares immediately for the transfer to have effect, and any change to the enterprise register (Art. 77, Law on Enterprises). For companies and partnerships, the capital declared for registration must be accurate and any violator will be liable before the law for false statement (Art. 25, Law on Enterprises). Lao PDR has not demonstrated that any basic information is collected on state and mixed enterprises, or that there are any requirements for such information to be accurate and updated on a timely basis.

405. Associations and Foundations are required to provide annual reports to government on their operations and activities (Art. 21, Decree on Associations and Art. 45, Decree on Foundations), but it not known if these reports must include information that updates basic information.

#### *Beneficial Ownership Information*

##### *Criterion 24.6:*

406. *Criterion 24.6(a) and (b):* The ERO collects very limited beneficial ownership information and the information collected is not verified in any systematic way. Public companies are required to notify the ERO of changes in ownership of shares, but only changes in the name of the shareholder (i.e. legal ownership) (Art 190, Law on Enterprises). Limited companies must keep a register of shareholders at a specified location in Lao PDR for shareholders to inspect, and provide the ERO with a copy of the register at least annually, or sooner if there is a modification (Art. 112). However, this does not include providing accurate information on the beneficial owner.

407. *Criterion 24.6(c):* FIs have an obligation to identify and verify beneficial owners of customers, as well as DNFBPs except where the DNFBP is a sole trader (Art. 20, Agreement on AML/CFT Measures; Art. 24, Law on AML/CFT). FIs/DNFBPs are obliged to make such information available to authorities in a timely manner. However, there are some deficiencies in these requirements (see R.10 and R.22). The context of Lao PDR sees relatively little professional intermediation in the establishment or continuing operation of legal persons, so FIs/DNFBPs may not consistently hold up-to-date and accurate information on beneficial ownership. There is no requirement for companies to hold beneficial ownership information in their share registers nor register of members where such an obligation exists. Only basic information on shareholders is held. FIs and DNFBPs are required to perform CDD when commencing a business relationship with a legal person and ensure that information is up-to-date (Arts. 22 and 37, Agreement on AML/CFT Measures). Competent authorities responsible for licensing and registration may collect some BO information.

408. *Criterion 24.7.* Customer due diligence under the Agreement on AML/CFT Measures includes collecting information and evidence that verifies the identity of beneficial owners (Arts. 15 & 20). REs also have an obligation to ensure BO information is kept up-to-date (Arts. 22 & 37, Agreement on AML/CFT Measures). The obligations relating to ongoing and enhanced due diligence would also assist in ensuring that BO information held by REs is up-to-date (Arts. 22 & 37, Agreement on AML/CFT Measures).

409. Enterprises are also required to update information and changes to the registrar within one month from the date that the information changes (Art. 23, Law on Enterprises). However, this relates to legal rather than beneficial ownership. As noted above, it is not clear whether providing the ERO with false or misleading information is an offence. The Decree on Associations prohibits associations from falsifying, transferring, renting or lending the approval to establish or register an association in any form (Art. 31). Foundations are restricted from falsifying, transferring, letting, lending their licenses (Art. 19, Decree on Foundations).

410. Associations and foundations (including INGOs) have no specific obligations relating to BO information collection, including keeping BO information accurate and up-to-date (if they have it).

411. *Criterion 24.8.* Lao PDR did not demonstrate that it uses either of the mechanisms outlined in sub-criteria (a) and (b) to ensure all legal persons cooperate with all competent authorities to the fullest extent possible in determining beneficial ownership, or that there are comparable measures. Competent authorities have general powers to access basic and beneficial ownership information from legal persons as part of investigative powers, but there are no specific mechanisms in place as required under sub-criteria 24.8 (a) and (b).

412. The Law on AML/CFT imposes a general requirement on all legal persons, organisations and non-profit organisations to comply with rights and duties especially on supplying data on ownership, real beneficiaries, and data on their internal management to competent authorities, but this only applies to those involving in AML/CFT (Arts. 13 & 37). REs are also required to appoint qualified information gathering and reporting staff with AML/CFT experience at the management or senior level to take charge of AML/CFT programme-development who must also serve as coordinators with AMLIO (Art. 19, Law on AML/CFT). This provides a point of contact through which AMLIO use its information gathering powers to access basic and beneficial ownership information. REs are also obliged to assign one or more natural persons resident in the country who are eligible to provide basic information on beneficial ownership, or information on business owner, as well as authorize to provide cooperation with competent authorities (Article 4.3, Decree on Entrust).

413. There are no measures comparable to the requirements under sub-criteria (a) and (b)

414. *Criterion 24.9.* There are a number of general and sectoral record-keeping obligations that provide for any available beneficial ownership information to be maintained and retained, but there are some gaps. Article 28 of the Law on AML/CFT requires FIs to maintain customer records and to hold identification documents for 10 years after the end of the business relationship with the customer. The Law on Accounting requires all implementing accounting entities to maintain records of all accounting documents for a minimum of 10 years, but this does not appear to cover all BO information required by R.24. The Law on Commercial Banks provides that documents, transaction information including databases shall be stored/kept for at least 10 years, but this also does not specifically relate to BO information (Art. 68). The securities exchange, securities depository, share issuers and corporate bond issuers, listed companies, securities intermediaries and other relevant parties are required to maintain information and documents relating to its business operation such as securities transaction, information about securities, information about shareholders and financial statements at least ten years after the end of the business operation (Art. 155, Law on Securities). These requirements do not apply to payment services.

415. Supervisors, relevant agencies, and companies are required to maintain official documents, but only for at least one year (Art. 22, Decree on Official Documents). The scope of this requirement is unclear (c.24.4).

*Other Requirements*

416. *Criterion 24.10.* Competent authorities, and in particular law enforcement authorities, have powers to obtain and access to records held by FIs and DNFBPs on legal persons (see R.31). The Law on AML/CFT allows competent authorities to have access to records held by legal persons, organisations, and competent authorities that grant licenses to all of these entities, including beneficial ownership information, but there are no provisions that provide for timely access (Art. 37). Lao PDR indicates that competent authorities can usually gain access to such information in three to five days. Competent authorities also have online access to the enterprise register and can request from the ERO other information provided upon registration but not available on the website.

417. *Criterion 24.11.* Lao PDR explicitly permits the issuance of bearer shares, and there are no measures in place in law to mitigate the risk posed by those instruments (Arts. 106 & 108, Law on Enterprises). Bearer share warrants are not prohibited and there are no measures in place in law to mitigate the risk posed by those instruments.

418. *Criterion 24.12.* Lao PDR lacks mechanisms to ensure that nominee shares and nominee directors are not misused.

419. *Criterion 24.13.* The Law on Enterprises establishes an offence for operating a business without registering that applies to natural and legal person (Art. 212). The sanction for this offence is a fine from LAK 1,000,000 to 10,000,000 (approx. USD 60 to 610), which is not proportionate and dissuasive. There is a catchall offence for violations of other relevant provisions of the Law on Enterprises, with the sanction depending on the serious or non-serious category of the offence, but Lao PDR did not provide evidence to demonstrate that this includes penalties for providing false or misleading information or for breaches of record-keeping obligations (Art. 209). The quantum of the sanction is determined under the Penal Code, and can range from public criticisms, fines and re-education to imprisonment depending on the level of culpability (i.e. whether the offence is categorised as minor or major offence, or a crime) (Art. 44). The Decision on Enterprise Registration provides for penalties for natural and legal persons that violate the Decision ranging from to warning, re-education, disciplinary action, fines, and payment for civil damages, criminal action and additional measures (Art. 25 – 31). While the range of penalties available is proportionate, it is not known whether they are dissuasive as none have been applied and there are no guidelines or manuals that demonstrate what type of penalty would be applied in practice to: a failure of enterprises to register and provide accurate basic and beneficial ownership information; maintain a register of shareholders; maintain and hold relevant information for the required time period; update information; and cooperate with competent authorities to provide beneficial ownership information.

420. The Penal Code applies to breaches of obligations imposed under the decrees governing the operation of NPOs, cooperatives and INGOs (Art. 8).

421. *Criterion 24.14.* Lao PDR is able to provide international cooperation through MLA requests or under existing MOUs, agreements and treaties, as described under R.37-40. All competent authorities have the ability to provide international cooperation on basic and beneficial ownership information, where available. Lao PDR did not provide evidence that such cooperation can be provided rapidly, as beneficial ownership information has never been exchanged internationally.

422. *Criterion 24.14(a):* Foreign competent authorities are able to directly access online some of the basic information held on the enterprise register, which is available in Lao and English. Access to other basic information can be facilitated by competent authorities through

MLA requests or under bilateral and agreements, treaties and conventions, and on the basis of reciprocity. Competent authorities are able to, on behalf of foreign counterparts, request in writing access to information held on the ERO register, and are permitted access to records held by other competent authorities that grant licenses to legal entities, organisations and NPOs (Art. 37, Law on AML/CFT). Lao PDR did not provide evidence to demonstrate that the MOIC can exchange information on the register directly with foreign competent authorities. There are no provisions or procedures that provide for rapid access.

423. *Criterion 24.14(b):* Competent authorities are able to provide international cooperation relating to the exchange of information on shareholders as per c.24.14. However, the focus of competent authorities on collecting legal ownership information, including for shareholders, rather than beneficial ownership information, would impact on the ability of Lao PDR to rapidly provide such international cooperation.

424. *Criterion 24.14(c):* Competent authorities are able to collect information, on behalf of foreign counterparts for MLA in criminal matters (Art. 7, Law on International Cooperation). The term information is not limited in any way, so includes beneficial ownership information. AMLIO can share information it is able to collect within its powers, where available, with international FIUs (Section 2.1-2.3, AMLIO Standard Operating Procedure). The extent to which law enforcement and other competent authorities can use their powers to conduct inquiries and obtain information on behalf of foreign counterpart is unclear. Article 43 of the Law on Criminal Procedure empowers law enforcement investigators to obtain access to all crucial documents and information for investigation purposes and other relevant intention. Individuals and related partners must follow and respond to requests from the authorities including handing over gathered criminal evidence to the relevant authorities.

425. *Criterion 24.15.* Lao PDR did not provide evidence that all competent authorities monitor the quality of assistance they receive from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad. However, AMLIO is required to provide feedback to other jurisdictions on how information they have provided AMLIO has been used in their operation from time to time, or to provide feedback to the other jurisdiction upon request. (Clause 2.2, para 6, AMLIO Standard Operating Procedure).

### *Weighting and Conclusion*

426. Lao PDR has introduced some measures for the transparency of legal persons since the last MER, but fundamental shortcomings remain. Lao PDR has not fully assessed the risks of all types of legal persons and there are gaps in the requirements relating to collecting, maintaining and ensuring the accuracy of basic information. Basic information on most legal persons is collected and publicly available on online register or by making a request for access to the relevant competent authority. Very limited beneficial ownership information is collected by competent authorities and it is not verified in any systematic way. There are no requirements for the company register to obtain and hold up to date information on beneficial ownership, or for companies to take reasonable steps to collect and hold up to date beneficial ownership information. Lao PDR law permits the issuance of bearer shares and bearer share warrants but has no measures to mitigate the ML/TF risks associated with those instruments. Nominee share and nominee director arrangements are also permitted, but there are no measures to mitigate the associated ML/TF risks. While competent authorities can provide international cooperation on basic and beneficial ownership, where available, the scope and timeliness of that assistance is unclear. Finally the extent of fines and penalties that can be applied for violations of requirements is unclear.

**Recommendation 24 is rated non-compliant.**

## ***Recommendation 25 – Transparency and beneficial ownership of legal arrangements***

427. The MER of 2011 reported that Lao PDR law does not recognize the legal concept of a trust, including trusts created in other countries or any other legal arrangements of a similar nature to a trust or that meets the definition of ‘legal arrangement’ as defined in the FATF Recommendations. In addition, no trust service providers had been established in the Lao PDR. On that basis, the previous MER found the previous R.34 to be not applicable to Lao PDR.

428. FATF standards on trusts have changed since the 2011 MER. Lao PDR has enacted legislation that allows for legal arrangements that are similar to the key features of a trust.

### *Lao PDR Civil Code – Legal Arrangements*

429. The Civil Code became effective in Lao PDR on 27 May 2020, replacing and repealing civil and commercial laws containing similar provisions, including the laws of contracts, succession, and secured transactions. Under Part V (Contracts), the new Civil Code permits the establishment of ‘Third-Party Contracts’ at Article 404 and 405 (and in particular ‘Conditional Donation Contracts’) and conditional ‘Bailment Contracts’ (Art. 441), the terms of which allow for the establishment of legal arrangements contemplated by Article 2 of the Hague Convention on the Recognition of Trusts (Art. 418, Chapter 9, Civil Code). More specifically, a ‘civil relationship’ (Art. 3.1) can be structured in ways that meet the requirements of the FATF’s ‘legal arrangement,’ incorporating Article 2 of the Hague Convention whereby legal persons, natural persons or a combination of both (Art. 364) can:

- a) Establish a ‘conditional donation contract’ (Art. 418) in the form of a third-party contract (Arts. 404 & 405) for moveable or immovable property (Art. 418) to benefit a party not privy to the contract, so long as certain conditions that bind the parties to that contract are met (Art. 424);
- b) Establish bailment contracts benefiting third parties (Art. 441). A bailor can deliver moveable or fungible assets (Art. 444) to a bailee to hold and manage under a conditional arrangement to deliver them to a third party under the terms of the contract.

430. The parties to these types of legal arrangements are bound to execute the terms of it in ‘good faith’ (Art. 378) and cannot modify its terms except in accordance with law (Art. 378 – fiduciary duties, by analogy). Contracts of this nature must be in writing (Art. 369) and can be considered ‘legal arrangements’ as contemplated in the FATF standards as they are similar in statutory structure to arrangements outlined in the Hague Convention (noted above).<sup>123</sup> Parties holding assets under conditional donation contracts or bailment arrangements, to benefit third parties, hold offices similar to fiduciaries in civil law systems (such as France) established under their Civil Codes.

431. The analogous person to a trustee in one of the arrangements outlined above is referred to as a ‘Representative by Contract’ (Art. 33, Civil Code): ‘a representative by contract refers to a person who obtains rights and obligations from the principal to become a

<sup>123</sup> A ‘Representative by Contract’ holds moveable or immovable property provided by one party (the donor) for the benefit of another party or parties not privy to the contract (3<sup>rd</sup> parties) and is bound to execute the terms of the arrangement in ‘good faith’ (analogous to fiduciary duties) in accordance with the contract terms and law. These are similar to trusts where a trustee holds moveable or immovable property provided by one party (the settlor) for the benefit of one party or parties not privy to a trust deed (beneficiaries) and is bound to act in good faith (fiduciary duty) in accordance with the terms of the trust deed and in law.

representative for the creation of juristic acts or any acts with the third party in accordance with the contract.’

432. For the purposes of R.25 analysis:

- a) References to these types of Civil Code arrangements will be referred to generically as ‘legal arrangements’ for the purpose of the FATF standards; and
- b) References to ‘trustee(s)’ refers to Representatives by Contract under the Civil Code i.e., parties holding and administering assets for the benefit of third parties under a third-party contract or conditional gift/bailment pursuant to the Civil Code.

433. This interpretation is supported by the definition of ‘legal arrangement’ in the Agreement on AML/CFT Measures where it states that: ‘Legal Arrangement’ means: ‘Any trust or legal agreement for individuals, legal person or organisations where one party has the right to control, possess, use, benefit, buy-sell or manage a fund or assets through any method for the benefit of the other party or the beneficial owner.’ (Art. 5) ‘Beneficial owner’ is also defined in the same legislation as ‘the individual(s) i.e. natural person who ultimately owns by over 25% of their business activities and transactions conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement as defined in Clause 11 of Article 8 of the Law on AML/CFT (Art 5).

#### *Foreign Trusts/Arrangements*

434. Lao PDR law does not prohibit the operation or settlement of foreign express trusts, or other foreign (civil) legal arrangements, in the country. Article 28 of the Agreement on AML/CFT Measures specifically references ‘foreign and domestic Trust service providers’ and the duties on REs to collect information from them in relation to who exercises ultimate effective control over the trust’ (Art. 28) and ‘other types of legal arrangements’ equivalent or similar to trusts (i.e. civil legal arrangements).

435. Lao PDR authorities indicated that foreign trusts do not operate in the country. However, it is unclear on what basis authorities assert this. Given the permissive nature of Lao PDR law with respect to foreign trusts, and the common prevalence of foreign trusts in regional investment projects, the assessment team is of the view that foreign trusts are highly likely to operate in Lao PDR.

#### *Criterion 25.1:*

436. *Criterion 25.1(a):* Trust service providers acting as trustees (Art. 5.7, Agreement on AML/CFT Measures) are required under the Agreement on AML/CFT Measures to ‘gather information...on the trustee(s) settlor(s), protector(s), beneficiaries and other necessary information through the trust deed’ (Art. 19). However, there is no requirement to collect information on ‘classes of beneficiaries’. Furthermore, the deficiencies in the definition of ‘beneficial owner’ applicable to trusts (see R.10) limits the amount of beneficial ownership information is available to trust services providers. Moreover, non-professional trustees are not required to keep the information as required under this criterion. And, as the majority of domestic trusts are likely to have non-professional trustees, the absence of any requirements to collect information on these trusts generates a significant information gap.

437. *Criterion 25.1(b):* The requirements that trustees collect basic information on regulated agents of, and service providers to, a trust arrangement governed under the Civil Code, including investment advisors or managers, accountants, and tax advisors, is unclear in Article 28 of the Agreement on AML/CFT Measures. While it appears to require that this information should be collected, Article 28 provides that the trigger to collect it is linked to



Article 19 (as above) and in relation only to who has ‘ultimate effective control over the trust’ (Art. 28.1) i.e., only if the advisors and managers have that control.

438. *Criterion 25.1(c)*: Article 28 of the Agreement on AML/CFT Measures provides that trust service providers and trustees should keep records for at least five years in relation to the information collected as per c.25.1(b) above. The information required to be collected under c.25.1a is required to be maintained and kept up-to-date, but without a time limit. These requirements do not apply to non-professional trustees.

439. *Criterion 25.2*. Trust service providers are REs and are required to keep the above records in accordance with the record-keeping obligations (Arts. 28 & 36). However trustees that are not REs, including non-professional trustees, do not have record keeping requirements.

440. *Criterion 25.3*. Trustees that REs are subject to enforceable obligations to disclose their status to a FI when establishing a relationship or carrying out an occasional transaction above the threshold (Art. 28, Agreement on AML/CFT Measures). Non-professional trustees of foreign trusts, or ‘representatives by contract’ for local Civil Code arrangements, have no such obligations.

441. *Criterion 25.4*. Lao PDR law does not prevent trustees from providing competent authorities with any information relating to a trust (domestic or foreign), or from providing FIs and DNFBPs upon request, information on the beneficial ownership and the assets of the trusts (notwithstanding that this information is limited in scope).

442. *Criterion 25.5*. LEAs have information-gathering powers under the Law on Criminal Procedure that can be used to obtain timely access to information held by trustees and other parties on the beneficial ownership and control of legal arrangements (Art. 43). AMLIO is authorised to require extra information from REs and related organisations in order to conduct monitoring, inspections, and analysis (Arts. 3 & 4, Agreement on Organisation and Operations of AMLIO). AMLIO and other supervisors of FIs have powers to compel production from REs of ‘necessary documents and information’ in order to collect and provide to competent authorities, although of necessary information is unclear, as identified under c.27.3 (Article 4.3. Decree on Entrust). However, given the deficiencies noted in the definition of ‘beneficial owner’ in the trust context (see R.10.11), the information needed to satisfy this criterion is lacking.

*Criterion 25.6:*

443. *Criterion 25.6(a)*. Lao PDR did not demonstrate that it can rapidly provide international cooperation in relation to information (including beneficial ownership information) with foreign authorities. There are no forms of registries for trusts or legal arrangements in Lao PDR that could facilitate this exchange. There do not appear to be any provisions that provide trust-related tax information, foreign trust information or information on other types of legal arrangements subject to Lao PDR taxation can be shared rapidly.

444. *Criterion 25.6(b)*: There is no evidence that Lao PDR can exchange domestically available trust or other relevant legal arrangement information with foreign competent authorities to meet this sub-criterion as this information, including beneficial ownership information, has not been demonstrated to be available.

445. *Criterion 25.6(c)*. Lao PDR is has not provided evidence to suggest that competent authorities use their investigative powers to obtain beneficial ownership on trusts, or other legal arrangements, on behalf of foreign counterparts. In any event, the deficiencies in the definition of ‘beneficial owner’ mean that this information if it could be provided would not meet this sub-criterion.

446. *Criterion 25.7.* Chapter 6 of the Civil Code contains general liability clauses for parties to a contract (including third party and bailment contracts) who breach the terms agreed: 'If a contracting party does not perform the contract, the being breached [sic] contract party has the rights to demand the contract performance, to compensate for the damages or to terminate the contract' (Art 392). It further provides that either contracting party shall compensate the other with damages calculated in accordance with Article 481 of the Civil Code (Art. 394). However, Article 481 provides that damages can only relate to ambiguous general categories including 'property', 'life', 'health', 'reputation' and 'spirit'. While there is no definition of 'property' under the Civil Code, tangible assets are property that are moveable or immovable. But intangible, non-physical assets are not property (Art. 227). No cases were provided to assist with the application of these categories in a contract or trust setting. Crucially, the scope of damages available and the quantity imposed are not stated. With respect to foreign trustees, there do not appear to be any no penalties available to hold trustees to account under this criterion.

447. *Criterion 25.8.* There are specific criminal, civil or administrative sanctions available under Lao PDR law for trustees who fail to grant competent authorities timely access to information regarding Lao PDR legal arrangements or foreign trusts (referred to in c.25.1). However, refusal by a trust service provider, non-professional trustee, RE or other person to provide such information (if held) to a LEA exercising information-gathering powers under the Law on Criminal Procedure would result in sanctions under the Penal Code. The range of sanctions that would apply under the Penal Code is unclear as the status of the offence of failing to obey a request from a LEA officer as a minor or major offence is not known. Sanctions under Articles 64 and 65 of Law on AML/CFT apply to breaches of the customer due diligence requirements (Art. 44, Agreement on AML/CFT Measures). This includes for breaches of the requirement for: trust service providers acting as trustees to gather information on the trustee(s) settlor(s), protector(s), beneficiaries and other necessary information; 'maintain' and 'update' information collected under c.26.1(a); and keep records for at least five years relating to the information collected as per c.25.1(b). These penalties provide for warnings and fines only, and are not proportionate or dissuasive (see R.35).

#### *Weighting and Conclusion*

448. Lao PDR permits the establishment of trust-like legal arrangements under the Civil Code and subsidiary instruments and does not prohibit the operation or settlement of foreign trusts. However, other than professional trust service providers acting in the capacity of trustee, there are no requirements on trustees to obtain and hold information relating to the parties to a trust arrangement and its beneficial owners. Lao PDR has not provided any evidence to demonstrate that trusts held by non-professional trustees pose low ML/TF risks, and the Lao PDR authorities do not collect any information on non-professional trustees, or any associated trusts and beneficiaries. Competent authorities are generally able to access and obtain information held by trustees, however, that information is very limited in scope. Moreover, it has not been demonstrated that local authorities use their powers to exchange basic and beneficial ownership information with foreign counterparts. There are also no proportionate and dissuasive sanctions for trustees (representatives by contract) and foreign trustees who fail to comply with their trust-related obligations, including disclosure of information to competent authorities under this Recommendation. In summary, there are fundamental shortcomings in the current measures to meet this Recommendation.

**Recommendation 25 is rated non-compliant.**

**Recommendation 26 – Regulation and supervision of financial institutions**

449. The MER of 2011 reported that for the predecessor to R.26 (R.23) Lao PDR was non-compliant. Factors such as there being no designation of a competent authority(s) for FT (as the latter is not criminalised), no formal designation of AML supervisor for the securities sector and a lack of effective implementation due to the absence of a designated AML supervisor.

*Market Entry*

450. *Criterion 26.1.* AMLIO is the designated supervisor of all REs (Arts. 2, 3.2 and 3.5, Agreement on Organisation and Operations of AMLIO). For implementation purposes, Lao PDR has designated line responsibility for supervision to particular sectors of FI to several agencies under the Decree on Entrust.

**Table: TC 1 - Sectoral and AML/CFT supervisors for FIs**

FI sectors	Supervisors	AML Supervisors additional to AMLIO
Banks	BOL	BOL Banking Supervision Department
Microfinance institutions	BOL	BOL Financial Institution Supervision Department
Credit lending companies	BOL	
Pawnshops	BOL	
Leasing companies	BOL	
MVTS	BOL	BOL Payment Systems Department
Currency exchange shops	BOL	BOL Banking Supervision Department
Insurance companies	Ministry of Finance	Ministry of Finance
Securities companies	Lao Securities Commission Office (LCSO)	Lao Securities Commission Office
Asset management companies	BOL	(none)

451. *Criterion 26.2.* Before each FI submits an application to the respective authorities, they are required to establish a company in accordance with Article 15 of the Law on Enterprises. Once approval has been obtained for registration of the company, FIs submit an application to the respective authorities, as outlined below. Establishment of shell banks and operation of shell companies are not allowed by BOL.

452. Core Principles FIs must be licenced as required by the Law on Commercial Banks for banks (Art. 8), the Law on Securities for securities firms (Art. 57), and the Law on Insurance for insurance firms (Art. 36). Licensing is also required by the Decree on Microfinance Institutions for microfinance institutions (Art. 8), and the Law on Foreign Exchange Management for currency exchange businesses (Art. 19). The Agreement on Provision of Additional Information by FIs (Art. 2) includes additional requirements for microfinance institutions, non-deposit taking institutions, credit and savings union and rapid international money transfer companies.

453. The Decision on Commercial Banks, which came into force on 15 January 2016, prohibits the establishment of shell banks (Art. 2). Although the assessment team is not aware of any shell banks operating in Lao PDR, there is no prohibition on the continued operation of shell banks that may have been operating before 15 January 2016.

454. *Criterion 26.3.* Generally, as part of the FIs’ licensing process, there is requirement to submit relevant information on shareholding, senior management, beneficiaries as per

respective laws for banking institutions, securities company and microfinance sector. Additionally, for securities companies, there is another requirement to prescribe this in the Regulation on Provision of Additional Information. As part of the approval process, the respective authorities will determine if a person is fit and proper to own or manage a bank and prevent criminals and their associates from holding such positions based on screening against sanction list and criminal records.

455. Read together, the Law on Commercial Banks (Art. 9) and Decision on Commercial Banks (Art. 4) contain measures sufficient to satisfy almost all fit and proper elements of the criterion. Similar measures for securities companies are set out in the Regulation on Provision of Additional Information (Arts. 3 & 4). Market entry requirements for insurers requires only those operating an insurance business to have never been convicted of 'intentional economic wrongdoing' (Art. 38, Law on Insurance). For banks, securities companies and insurance businesses there are no measures that apply to criminals' associates.

456. The Agreement on Provision of Additional Information by FIs includes measures sufficient to satisfy all fit and proper elements of the criterion for microfinance institutions, credit lending companies, leasing companies, pawnshops and money transfer service companies (Arts. 2 & 3).

#### *Special Economic Zones*

457. The Central Investment Promotion and Supervision Committee (IPSC) chaired by the Deputy Prime Minister approves investments in 'controlled businesses' (Art. 77.1, Law on Investment Promotion). Controlled businesses include, 'financial and banking intermediate services', 'security market management' and 'other lottery and gambling activities' (Items 22, 23 and 42, Decree on the Approval of the Controlled Business List). Applicants are only required to include the criminal record of the 'investor or company' (Art. 44, Law on Investment Promotion) and 'relevant authorities' such as BOL, LSCO or the Ministry of Information and Culture have only ten working days from the date of receipt of the completed application to review and respond (Art. 37). Applications are assumed to be approved if no response is received within the ten days (Art. 37). There are no requirements to declare the source of investment capital or for foreign investors to deposit funds into specially nominated accounts.

458. Approvals for investments in other FIs and DNFBPs are granted by the Special Economic Zone Authority in the Ministry of Information and Culture (Art. 25, Decree on SEZ). Relevant authorities' approval is also assumed if there is no response within ten working days and there are no criminal record check requirements (Art. 26).

459. There are effectively no fit and proper person checks for investors in FIs and DNFBPs operating in SEZs and the one control (the criminal record check of the investor or company) is easily defeated by creating a new legal person or arrangement.

#### *Risk-based approach to supervision and monitoring*

##### *Criterion 26.4:*

460. *Criterion 26.4(a).* Core principle FIs have been subject to only limited AML/CFT supervision in keeping with the core principles. Consolidated group supervision for AML/CFT was not demonstrated. FIs are subject to planned regular inspections, unplanned inspections with notice, and inspections without notice (Art. 59, Law on AML/CFT) and AMLIO's Inspection Division has the right to inspect the implementation of the AML/CFT obligations (Art. 9, Agreement On Organisation and Operations of AMLIO).

461. There is no detailed information on RBA implementation based on the Basel Principles. However, for the period March 2019 to July 2020 the RBA Approach to AML/CFT Combating Work Plan classified REs into three groups with Groups 1 and 2 being 'risk-prone sectors identified in the NRA.' The banking, securities and insurance sectors which comprise Group 1 were prioritised for assessment although details of the supervision and monitoring for Group 1 sectors in terms of supervision processes, results and resources were not provided. At the same time, in May 2019 the Manual on Risk Based Approach of AML/CFT was adopted which divides entities into five risk tiers and risk-based review frequencies (see c.26.5). It is unclear how these differing risk-based assessment models operated concurrently.

462. *Criterion 26.4(b)*. AMLIO is the dedicated supervisor for FIs including MVTs or Currency Exchange Bureau (Art. 45, Agreement on AML/CFT Measures). Since 2018, AMLIO and sectoral supervisors have not conducted AML/CFT supervision or monitoring of FIs other than core principle institutions.

463. *Criterion 26.5*. The risk assessment methodology for the frequency and intensity of supervision comprises an assessment of nine inherent risk indicator and nine control indicators (Art. 4, Manual on Risk Based Approach of AML/CFT)(the Inspection Manual). From the assessment of these indicators, a final risk score is calculated with five categories of scores; 0-19 low risk; 20-39 low- medium risk; 40-59 are medium risk; 60-79 medium-high risk; 80-100 high risk. The frequency of inspections is every three years for high and medium-high risk entities, every four years for medium risk entities and every five years for low and low-medium risk entities. The most recent data collected for the risk assessment is from 2019. There is no further detail on the scoring results for each RE.

464. The Inspection Manual does not include a basis for determining whether to conduct on-site or off-site supervision but includes three inspection types; regular inspection, i.e. one in accordance with the fixed plan; inspection with prior notice, when deemed necessary; and emergency inspection, an urgent inspection without prior notice (Art. VI). However, the Inspection Manual's frequency of inspections conflicts with the Manual on Risk Based Approach of AML/CFT and itself. The Onsite Inspection Manual requires yearly onsite inspections for high risk FIs and biennial onsite inspections for medium risk FIs but also states inspections are every three years for high risk FIs (Art. IX). There is no defined assessment frequency for low-medium and medium-high rated FIs.

465. *Criterion 26.5(a)*. Supervisors do not sufficiently considered enterprise and group risk in determining the frequency and intensity of on-site and off-site AML/CFT supervision despite. The Manual on Risk Based Approach of AML/CFT which incorporates ML/TF risks, policies, internal controls and procedures is reliant on outdated data last collected in 2019.

466. *Criterion 26.5(b)*. Supervisors rely on the findings on the NRA, which only partly captures ML/TF risks present in the country to determine the risk based approach. Changes in risk or new or emerging risks in Lao PDR do not influence supervision frequency or intensity. AMLIO's Risk Based Approach AML/CFT Combating Work Plan identified the ML/TF risk of seventeen business sectors and prioritised the highest risk sectors classified as 'group 1.' The Manual on Risk Based Approach also incorporates a range of risk factors (Art. 4).

467. *Criterion 26.5(c)*. The Manual on Risk Based Approach incorporates characteristics such as the FI's size, number of customers and transactions, products and services, ownership, high risk clients, international operations and whether they operate in high risk locations (commercial banks only) or make use of agents and third parties (Art. 4). It was not evident how the characteristics of financial groups or the degree of discretion allow under a risk-based approach determined the frequency and intensity of on-site and off-site supervision.

468. *Criterion 26.6.* Supervisors have not sufficiently reviewed the assessment of the ML/TF risk profile of a financial institution or group, despite it being a requirement in the supervision manual. Data for the latest risk assessment is from 2019. There is also no mechanism to identify a major events or developments in the management or operations of an FI or group that can trigger a review of the risk rating.

### *Weighting and Conclusion*

469. There are designated supervisors and market entry requirements for all sectors other than asset management companies, however the market entry requirements do not include associates of criminals. In SEZs, there are no measures to prevent criminals or associates from holding a significant or controlling interest or management function. As supervisor, AMLIO and BOL conduct on-site inspection and off-site monitoring. However, given the delay in RBA implementation for the remaining groups, some FIs have yet to be subjected to on-site examination including large banks with low risk ratings. Off-site monitoring requires strengthening to ensure comprehensive overview on all FIs especially those which have not been subjected to on-site or off-site examination.

**Recommendation 26 is rated partially compliant.**

### *Recommendation 27 – Powers of supervisors*

470. The MER of 2011 reported that R.29 (predecessor to R.27) Lao PDR was non-compliant. Deficiencies included no TF powers and potential restriction of powers for competent authorities.

471. *Criterion 27.1.* AMLIO and sectoral AML/CFT supervisors have the power to conduct inspections according to the Law on AML/CFT (Arts. 57-59) and the Decree on Entrust (Art. 4.2). Further, natural persons, legal persons and organisations are prohibited from concealing, disguising, threatening, impeding and obstructing the functions of competent authorities, which includes AML/CFT supervisors (Art. 50.5). The Decision on Supervisor for Security Exchange empowers the LSCO with responsibility for supervision of securities exchange businesses (Art. 2).

472. *Criterion 27.2.* The Agreement on Organisation and Operations of the AMLIO empowers AMLIO to conduct inspections of FIs to ensure compliance with AML/CFT requirements (Arts. 3 & 9). The Decree on Entrust also empowers BOL (Art. 4) and MOF in the case of insurance companies (Arts. 4 & 8), to conduct inspections of FIs. The LSCO has the power to issue regulations, conduct inspections and risk assessment of AML/CFT as provided in the Law on Securities (Art. 194).

473. *Criterion 27.3.* AMLIO has the right to compel REs to provide ‘necessary information’ relevant to AML/CFT as indicated in the Agreement on Organisation and Operations of the AMLIO. However, that information is limited in scope to *necessary* information (not defined). This seems to link back to Article 3.4 of the same instrument which provides AMLIO with the right to collect information that ‘seems necessary’ to monitor and analyse relating to ML and TF. Article 4.3 of the Decree on Entrust adds some clarity to this power. It empowers AMLIO and other supervisors of FIs to compel production of ‘necessary documents and information’... ‘such as sources of fund, shareholders, directors, and beneficial owner prior and/or after issuing Business Registration in order to collect and provide to relevant competent authorities.’ It is unclear in these instruments whether they fully meet the scope requirement of this criterion to empower supervisors to collect ‘any information’ as opposed to ‘necessary information’ relevant to monitoring compliance with AML/CFT requirements.

474. *Criterion 27.4.* Both AMLIO and prudential supervisors have the power to apply sanctions for AML/CFT violations including warning letters, suspension of business operations, withdrawal of licences, fines and criminal penalties (Arts. 64 & 65). Similarly, administrative sanctions provided in the Decision on Administrative Measures include warnings, fines, suspension or removal from management positions, and withdrawal of licences (Arts. 2 & 4).

### *Weighting and Conclusion*

475. AMLIO and other AML/CFT supervisors (BOL, MOF & LCSO) for commercial banks, insurance companies and foreign exchange companies have powers to conduct inspections of FIs and to compel production of ‘necessary’ information (as opposed to ‘any’ information) in order to monitor compliance with AML/CFT requirements. Supervisors also have powers to impose a range of sanctions in line with R.35.

**Recommendation 27 is rated largely compliant.**

### *Recommendation 28 – Regulation and supervision of DNFBPs*

476. In its 2011 MER, Lao PDR was rated non-compliant with former R.24. The main deficiencies were that there was no comprehensive AML/CFT regulatory and supervisory regime for casinos; no clear procedures to prevent criminals and their associates from being beneficial owners of casinos; no designated DNFBP supervisor; and no implementation of AML/CFT obligations among DNFBPs.

#### *Criterion 28.1:*

477. *Criterion 28.1(a).* Casinos are required to be licensed. Currently, there are four casinos operating in Lao PDR that hold a business license in the form of concessional agreement (a signed agreement between a legal entity and a Government agency granting the rights to operate a business under Lao PDR laws and subject to specific terms and conditions). This agreement is granted under the Law on Investment Promotion, which applies to investment of domestic and foreign natural persons and legal entities investing and operating business activities in the Lao PDR. An investment license is issued upon signing of the concessional agreement (Art. 46, Law on Investment Promotion). Any changes to the business operation, shareholders, legal representative or registered capital must be considered and approved by the licensing authority (Art. 47). Casinos in Lao PDR operate either in a special economic zone (SEZ) or special promotion area. Concession businesses operating in SEZs are required to comply with Lao PDR law, or according to the concessional agreement (Art. 11). Internet casinos are not licensed in Lao PDR.

478. *Criterion 28.1(b).* When applying for a concessional agreement the application must include the criminal record of the investor or company (Art. 44, Law on Investment Promotion). There are no other measures in place to prevent criminals or their associates from owning, controlling, managing or operating casinos. The agreements providing concessions to the four casinos do not include fit and proper controls. The Decree of Entrust provides that an agency responsible for implementing AML/CFT activities can audit and request relevant information from REs relating to shareholders, directors and beneficial owners prior to, and/or after issuing a business registration in order to provide this information to competent authorities (Art. 4.3). However, there is no ‘fit and proper’ requirement and no requirement that this information be sourced at market-entry, prior to the issuing of a business license in order to prevent criminals or their associates from owning or controlling casinos. In addition, there is no requirement to declare changes to control/ownership (see also SEZs in c.26.3).

479. *Criterion 28.1(c)*. AMLIO conducted limited supervision of two casinos for AML/CFT compliance in 2020 and one casino in 2021.

480. *Criterion 28.2*. With the exception of accountants and accounting firms (see c. 22.1(d)), the Decree on Entrust (Art. 4.3) designates and empowers all relevant sectoral regulators for DNFBPs to be the AML/CFT supervisors.

481. *Criterion 28.3*. Lao PDR did not demonstrate that DNFBPs are subject to systems for monitoring of compliance with AML/CFT requirements given the very recent handover of supervision to the new DNFBPs supervisors and the stretched capacity of AMLIO.

*Criterion 28.4:*

482. *Criterion 28.4(a)*. DNFBP supervisors have the power to supervise 'entities under their management' on AML/CFT implementation and compliance, including conducting audits and requesting information. However, supervisors do not have power to issue sanctions for non-compliance. AMLIO has adequate powers to supervise REs for compliance and apply administrative sanctions (Arts. 3 & 9, Agreement on Organisation and Operations of AMLIO). Whilst AMLIO is not the designated authority to supervise DNFBPs other than casinos, it is required to coordinate supervision with the designated supervisor (Art. 3.4, Agreement on Organisation and Operations of AMLIO).

483. *Criterion 28.4(b)*. There are no measures in place to prevent criminals and their associates from being professionally accredited, or being the owner, controller or manager of a DNFBP. There are no 'fit and proper' requirements for DNFBPs. As mentioned in c.28.1, Article 4.3 of the Decree of Entrust provides that an agency responsible for implementing AML/CFT activities can audit and request information from REs relating to shareholders, directors and beneficial owners prior to, and/or after issuing a business registration. The MOIC is entitled to issue business registry certificate including DNFBPs sectors as indicated in Articles 14 – 16 of the Law on Enterprises and the Decision on Enterprise Registration. There is no requirement for this information to be provided by applicants at the point of market entry, or to declare changes to directors or ownership. The deficiencies described in c.26.3 relating to SEZs also apply to DNFBPs operating in SEZs).

484. *Criterion 28.4(c)*. Articles 62-65 of the Law on AML/CFT provide a range of administrative, civil and criminal sanctions for non-compliance of REs. AMLIO has the authority to apply administrative sanction measures for non-compliance by casinos (Art. 3, Agreement on Organisation and Operations of AMLIO) however, the designated authorities for supervision of other DNFBPs are unable to apply sanctions for non-compliance. Whilst AMLIO is required to collaborate with the designated authority in relation to supervision, this remains a moderate deficiency. No sanctions have been applied to DNFBPs in Lao PDR.

*Criterion 28.5:*

485. *Criterion 28.5(a)*. There are no specific requirements or policies relating to supervision of DNFBPs to be performed on a risk-sensitive basis, nor is there any evidence of risk-based supervision of DNFBPs for compliance with AML/CFT requirements.

486. *Criterion 28.5(b)*. As per 28.5(a), supervision of DNFBPs does not take into account the DNFBPs' ML/TF risk profile and the degree of discretion allowed to them under the risk-based approach. Only the casino sector has been supervised and not to the degree warranted by the ML/TF risk. Supervision and RBA implementation for other DNFBPs has not started.



### *Weighting and Conclusion*

487. There is no comprehensive AML/CFT regulatory and supervisory regime for casinos, no clear procedures to prevent criminals and their associates from being beneficial owners of casinos, and no implementation of AML/CFT obligations in other DNFBP sectors. Given the risk and context of Lao PDR, the absence of AML/CFT controls on the casino sector is given significant weight.

**Recommendation 28 is rated non-compliant.**

### *Recommendation 29 - Financial intelligence units*

488. In its 2011 MER Lao PDR was rated non-compliant with former R.26 due to a lack of enforceable obligations, STR analysis, STR guidance for non-bank reporting institutions, dissemination of STR and necessary information, awareness raising among all REs, operational independence of FIU and effective implementation.

489. *Criterion 29.1.* AMLIO is established in the BOL as the competent FIU authority under Article 55 of the Law on AML/CFT. Its main roles and tasks include, data collection, analysis, dissemination, coordination with related parties both domestically and internationally. Article 3 of the Agreement on Organisation and Operations of AMLIO, issued under the authority of the Law on AML/CFT lists responsibilities as including (but are not limited to):

- To submit documents and conduct financial report relevant to suspected information on ML/TF in order to disseminate them to the related investigation organisations;
- To collect extra information that's seem to be necessary from REs and related organisations in order to monitor, inspect and analyse the information about ML/TF;
- To coordinate related organisations in order to inform list of terror, group of terrorism, terrorism organisation, money launder and terrorism supporter and suspicious person to REs and report, follow and punish suitable case; and
- To provide financial intelligence reports to other organisations.

*Criterion 29.2:*

490. *Criterion 29.2(a).* AMLIO is the competent authority to receive STRs from FIs and DNFBPs (Art. 31, Law on AML/CFT) as required by R.20 and R.23.

491. *Criterion 29.2(b).* The Law on AML/CFT requires reporting entities (defined as FIs and DNFBPs) to submit to AMLIO reports on cash transactions (Art. 30.1), wire transfers (Art. 30.2) and other transactions as defined by AMLIO (Art. 30.3). Further detail on these reporting obligations is set out in subordinate instrument as follow:

- The Regulation on Reporting of Cash Transactions Report No. 417/BOL, 2015 requires FIs, to report cash transaction reports (CTRs) above a specified threshold of 1 million LAK (approx. USD 60). However, there is no similar cash reporting regulation for DNFBPs (notwithstanding their inclusion as REs).
- Wire transfers are defined in the Law on AML/CFT at Article 8.19. FIs and DNFBPs must file reports of wire transfers over the prescribed threshold of 8,000 LAK (approx. USD 0.5) to AMLIO where there is a suspicion of ML or TF (Art, 8.19 and 30, Law on AML/CFT; Art 10, Decision on Wire Transfers). The prescribed threshold is found in the Decision on Wire Transfers (Art. 2).

- Customs Officials must report declarations of cash, precious metals and BNIs with a value of LAK 100,000,000 or more (approx. USD 6,129) within 15 days (Arts. 3 & 6, Regulation on Declaration). In keeping with R.6, Order No.3/PM requires all persons, REs and the postal service to report immediately to MoPS and AMLIO once funds or property of designated persons or entities have been frozen.

*Criterion 29.3:*

492. *Criterion 29.3(a).* Articles 3.2, 3.3 and 4.4 of the Agreement on Organisation and Operations of AMLIO authorize AMLIO to require extra information from REs and related organisations in order to conduct monitoring, inspections, and analysis. This requirement is not limited to information related to a filed STR. AMLIO can also submit documents and make financial reports to support investigations into ML and TF (Art. 3.3) and collect information and statistics for reporting purposes to the NCC (Art. 3.6). Additionally, Article 14 of the Decree on Entrust requires REs to develop a technology system able to connect with AMLIO.

493. *Criterion 29.3(b).* The Agreement on Organisation and Operations of the AMLIO (Arts. 3.2 & 4.4) requires any public authority and other parties to provide extra necessary information to AMLIO. AMLIO can also access other information from relevant competent authorities. Articles 7 - 12 of the Decree on Entrust the Ministry of Public Works and Transport, MOF, Ministry of Agriculture and Forestry, MoPS, and the State Audit Organization have responsibilities to provide information to AMLIO. This includes but is not limited to; the right and ownership of vehicles, payments for tax and customs, relevant statistics and information, and results of investigations. Additionally, MOUs between AMLIO and other competent agencies such as Economic Police Department, MOPs; Customs Department, MOF; and Anti-Corruption Department, and State Audit Organization enable the sharing of information. AMLIO also has MOUs with foreign FIU counterparts such as the Philippines, Thailand, Indonesia, and Myanmar that enable the exchange of information/financial intelligence. AMLIO's standard operating procedures (SOP) also direct staff to the use of open source information.

*Criterion 29.4:*

494. *Criterion 29.4(a).* While AMLIO is empowered to use available and obtainable information to conduct operational analysis, in practice little value-added operational analysis is undertaken. AMLIO's duties include using information from REs and related organisations in ML/TF analysis and providing information to investigative authorities (Arts. 3.2 & 3.3, Agreement on Organisation and Operations of AMLIO). AMLIO's Analysis Division is, amongst other duties, responsible for, operational analysis of STRs and other reports, using these reports to follow ML/TF and propose inspections, collecting and submitting information to investigating authorities, and providing information and documents to law enforcement agencies (Arts. 8.1, 8.3, 8.6 & 8.8).

495. AMLIO is responsible for conducting tactical, operational and strategic analysis (AMLIO SOP, page 3). In conducting operational analysis AMLIO has access to all reporting under the Law on AML/CFT as well as information on business registration, ID cards, passport records, immigration records, LEA records, criminal records, court documents, customs and tax data and land titles registration (page 13). From these records and information financial intelligence reports are produced for investigating authorities that; identify persons or organisations suspected of ML or TF, any related activities, timeline of events, locations, and why the activity may be occurring (page 16).

496. The SOP (section 2.2) states that tactical analysis is triggered not only by STRs but also by other reports received from REs, investigative authorities, foreign FIUs and others. Tactical analysis is based on domestic databases (including information obtained from REs and relevant ministries and sectors described above), public sources including commercial PEP and

sanction databases and international FIUs. Following the tactical analysis, AMLIO conducts operational analysis to identify further proof of reasonable grounds for suspect and come up with potential target, identified links and possible proceeds of crime related to ML/TF. Where there are reasonable grounds to suspect that funds are the proceeds of a criminal activity or are related to TF, AMLIO will file an FIR and submit it to competent authorities for further investigation.

497. *Criterion 29.4(b).* AMLIO conducts strategic analysis of ML/TF typologies on a yearly basis. The Agreement on Organisation and Operations of AMLIO (Arts. 3.2, 4.4 and 8.1) states that AMLIO has power to collect extra necessary information from any public authority and other parties including RE (see c.29.3(b) and 29.4(a)). Strategic analysis is conducted annually based on information from AMLIO's internal database and from domestic and international partners in order to identify potential trends and typologies related to ML/TF (section 2.5, AMLIO SOP). Strategic analysis aims to identify trends and changes in ML/TF and assist Lao PDR to identify weaknesses and challenges including developing policy and plan to counter such trends (section 2.5).

498. *Criterion 29.5.* Article 3 of the Agreement on Organisation and Operations of AMLIO authorizes AMLIO to disseminate, spontaneously and upon request, information and the results of its analysis to relevant competent authorities. In 2020, AMLIO initiated sharing information with 13 competent authorities including regulators via an online 'Data sharing system' which is a web-based application system with an SSL certificate and has access control to the system.

499. AMLIO has responsibility to submit documents and financial reports relevant to ML/TF to investigation organisations and to provide financial intelligence reports to other organisations. Information and analysis on ML/TF of individuals, entities or other organisations are also disseminated to LEAs (Art. 8, Agreement on Organisation and Operations of AMLIO). The SOP shows that AMILO, LEAs and related government agencies are required to share information upon request including information related to AML/CFT, trends of ML/TF and other necessary information. Based on MOUs provided by Lao PDR, the MOUs between AMLIO and relevant internal and international agencies require written information exchange and delivery directly to the party. The MOU between AMLIO and the Anti-Corruption Department also allows the party to disseminate information through electronic means. Although, AMLIO's MOUs require confidentiality, it is not explicit whether the electronic means used to disseminate information are dedicated, secure, and protected channels.

500. The SOP regarding information sharing principles requires forms for requesting, reporting or providing information shall be made in writing with signatures of authorized persons from both parties and submitted in writing or electronic format according to the information sharing platform. Lao PDR uses paper-based and email channels in practice. To ensure the security of paper-based information dissemination, AMLIO will authorize a specific officer, include a document reference number, date of issuance, and details of the receiver. In urgent cases, official email is used to send the information through a secure network to competent authorities.

*Criterion 29.6:*

501. *Criterion 29.6(a).* Article 8.7 of the Agreement on Organisation and Operations of AMLIO requires information and documents to be treated as confidential. Further, staff of competent authorities are prohibited from disclosing confidential information to unrelated natural person, legal persons or organisations (Art. 51.2, Law on AML/CFT). MOUs between AMLIO and relevant internal and international agencies also identify how to deal with the security and confidentiality of information. For example, the parties shall maintain confidentiality including collecting information carefully in a safe location, keeping all records,

and strictly prohibiting the disclosure to other sectors (unless agreed and allowed in writing by the parties).

502. The SOP defines principles of information sharing between AMLIO and other competent authorities, and between AMLIO and REs including information exchange with international FIUs. The principles cover contents, methods, confidentiality and responsibility for cooperation in a systematic and prompt manner. Regarding security and confidentiality of information received, AMLIO shall, in conformity with any applicable laws and regulations, including, without limitation, laws and regulations on the protection of privacy and on computerized databases, operate a database containing all relevant information concerning reports as provided under the Law on AML/CFT. The officers, employees, agents or such other persons appointed to posts in AMLIO shall be required to keep confidential any information obtained within the scope of their duties, even after the cessation of those duties within the financial intelligence unit. Such information may not be used for any purposes other than those provided for by the Law on AML/CFT and may not otherwise be disclosed except by order of a court of competent jurisdiction. In the event that reports were received through the post office, the security and confidentiality of the requesting letter from LEAs should be the responsibility of AMLIO by referring to the security policies and the Law on AML/CFT.

503. The SOP also provides procedures for AMLIO's analysts concerning receiving reports, and storage of information.

504. *Criterion 29.6(b)*. Other than the general requirements for all civil servants (Art. 17, Law on Officials-Civil Service), there is no legal requirement to hold, or a procedural document that defines, the security clearance process for AMLIO staff. However, AMLIO provides training on ethics and confidentiality of information received to all applicants prior to becoming a permanent staff of AMLIO (Arts. 3 & 7, Agreement on Organisation and Operations of AMLIO). The SOP requires AMLIO to provide AML/CFT training to staff to upgrade their capacity in performing duties. Trainee or temporary staff will be trained on an overview of AML/CFT including roles and functions of AMLIO, the roles of each division, emphasize confidentiality requirements. The trainee or temporary staff will be authorized to access only basic information of relevant division.

505. Article 51 of the Law on AML/CFT prohibits related staff and competent authorities from disclosing confidential information, neglecting their duties and responsibilities (including impeding STR processing or analysis) and any other activities that contravene laws and legal regulations. AMLIO's internal policies provide that violations shall be punished by warning and punishment in accordance with applicable laws and regulations.

506. *Criterion 29.6(c)*. Article 3 of the Internal Policy on Data Management and Entry-Exit Analysis Division No.881/AMLIO (Internal Policy on Data Management) limits entry to AMLIO to AMLIO staff. Access by other staff or for access outside of office hours requires approval from AMLIO's Director General or the Chief of the Analysis Division. Staff must also be approved to conduct searches of AMLIO data holdings (Art. 5.4). Reports and information received by AMLIO must also be stored confidentially (Art. 4.2). Regarding physical premises, a fingerprint scanner restricts entry to the Analysis Division room (Art. 6.1.). Under Article 6.5 the Director General of AMLIO must approve the use or installation of devices in the analysis division room. The controls limiting access to information include; searching for a username or password of confidential data protection systems, using other accounts or passwords without permission, and establishing unauthorized connections to transfer information to an individual laptop or personal computer (Internal Instruction on Information Supervision, page 3). AMLIO staff and other relevant sectors which violate the obligations will be punished, and the punishments will vary on the severity of the violations (Internal Instruction on Information Supervision, page 3). Apart from the Director General of AMLIO's powers to approve the use and

installation of devices, it is unclear whether AMLIO has an IT system security policy or measures to limit access to information.

507. *Criterion 29.7.* While AMLIO is established under the Law on AML/CFT (Art. 55) in the organisational structure of the Bank of Lao PDR and ‘has operational independence concerning its activities,’ Article 2 of the Agreement on Organisation and Operations of AMLIO provides that: AMLIO is an organisation under direct supervision-leadership of National Coordination Committee for Anti-Money Laundering and Counter-Financing of Terrorism (NCC), and *under ideological and political supervision-leadership of and receiving budget from the Bank of Lao PDR.* It is clear that AMLIO’s functions and responsibilities are subject to direction from the Bank and under the leadership of the NCC, and thirdly that the FIU’s budget is not independent for FIU purposes of the Bank’s budget. This impacts its operational independence noted below.

508. *Criterion 29.7(a).* The Director General of AMLIO is a member of the NCC (Art. 6.1) and AMLIO has the right ‘to agree and sign every documents related to own rights scope’ [sic] (Articles 4.1 and 6.1 of the Agreement on Organisation and Operations of AMLIO). Additionally, Article 55 of the Law on AML/CFT states AMLIO has operational independence. However, because of the direction in Article 2 described above, it appears that the FIU is not operationally independent to carry out its functions freely, including the autonomous decision to analyse, request and/or forward or disseminate specific information.

509. *Criterion 29.7(b).* AMLIO’s duties include cooperating with domestic competent authorities and international organisations on AML/CFT (Art. 3.4 & 7.6 of the Agreement on Organisation and Operations of AMLIO). AMLIO has entered into 17 domestic MOUs and 20 MOUs with foreign counterparts. The Director General of AMLIO signs MOUs with domestic and foreign counterparts however it is not clear that AMLIO is able to make arrangements or engage independently with other domestic competent authorities or foreign counterparts on the exchange of information given the structural arrangements mentioned above.

510. Article 6.1 of the Agreement on Organization and Operations of AMLIO notifies that the ‘Director General of AMLIO may sign every documents related to AMLIO, in case of standing or absence in the office, Director General of AMLIO may hand over to Deputy Director General of AMLIO’ [sic]. This authorizes AMLIO to make arrangements or engage independently with other domestic competent authorities or foreign counterparts on the exchange of information. Article 3 of the Agreement on Organisation and Operations of AMLIO authorizes AMLIO to collaborate, coordinate and exchange of information independently with relevant partners at domestic level and international level. In addition, the SOP emphasizes that AMILO, LEAs and related government agencies are required to provide information upon requests, share information related to the ML/FT trends and other necessary information. These include signing the Memorandum of Understanding with foreign counterparts.

511. *Criterion 29.7(c).* AMLIO is located within the Bank of Lao with an organisational structure provided under the Agreement on Organisation and Operations of AMLIO as noted at the outset of this criterion. The Agreement sets out AMLIO’s rights and duties (Arts. 3 & 4) however it is not clear from the Agreement cited that AMLIO has ‘distinct core functions’ from those of the Bank of Lao on the basis of the rule that it is under ideological and political supervision-leadership of, and receives its budget from, the Bank of Lao PDR.

512. *Criterion 29.7(d).* Regarding the budget and human resources, Lao PDR indicates that AMLIO proposes a budget and human resources supporting from the Bank of Lao PDR. The budget must be approved by the NCC. Once approved BOL issues the budget for AMLIO to carry out its functions. AMLIO’s budget is separated internally from the larger BOL budget.

513. The Agreement on Organisation and Operations of AMLIO authorizes AMLIO to carry out its functions independently (art 6.). However, there are some gaps to ensure that AMLIO will be able to obtain and deploy the resources needed to carry out its functions, on an individual or routine basis, free from any undue political influence or interference, which might compromise its operational independence. Article 6 states that the 'Director and Deputy Director of Division, staffs and contract's employee shall be appointed and removed by the standing Vice-Chairman of NCC' (Governor of BOL) upon recommendation by BOL.

514. *Criterion 29.8.* At the time of the evaluation, Lao PDR is in the process of applying for Egmont Membership under the sponsorship of Indonesia's FIU (PPATK) and Thailand's FIU (AMLO). The sponsors conducted the Egmont on-site visit at Lao PDR in December 2022. Lao PDR confirms that the application to join Egmont was unconditional.

### *Weighting and Conclusion*

515. The statutory basis of AMLIO permits interference in its operational activities on the basis that it is under ideological and political supervision-leadership of, and receives its budget from, the Bank of Lao PDR which is not an autonomous operational budget. AMLIO's operational and strategic analysis is limited. Further remaining gaps include, the lack of staff security clearance procedures, limited access to information technology systems and that disseminating information using electronic means does not explicitly require dedicated, secure, and protected channels.

**Recommendation 29 is rated partially compliant.**

### *Recommendation 30 – Responsibilities of law enforcement and investigative authorities*

516. In its 2011 MER Lao PDR was rated partially compliant with former R.27 due to a lack of a formally designated law enforcement investigator for TF, coordination between the designated ML investigation unit and other departments in the police, and effective implementation of ML investigation.

517. *Criterion 30.1.* LEAs are designated to investigate predicate offences which include all criminal offences leading to and including ML on order to further the prosecution of ML/TF cases. Designated LEAs comprise the Police Investigators (MoPS), the Military Investigators (Ministry of National Defence), the Investigation Office of Customs (MOF), the Investigation Office of Forestry (Ministry of Agriculture and Forestry), the Investigation Office of Anti-Corruption (State Audit Organisation) and other investigation offices as provided by laws (Art. 46, Law on Criminal Procedure; Art. 6, Directive on Money Laundering and Terrorist Financing Prosecution No. 01/NCC). Article 7 of the Directive on ML and TF Prosecution states that those designated LEAs have the rights and duties of investigation and interrogation in the case of ML and TF. The five main investigative bodies have significant roles in implementing the activities of AML/CFT as stipulated in Article 3 of the Decree on Entrust. The bodies have the rights and duties to conduct criminal investigations within their responsible areas, or at the place where the incident occurred as identified in Articles 8 to 12 of the Decree on Entrust, and Articles 76 to 81 of the Law on Criminal Procedure. MoPS has the authority to conduct ML/TF investigations, while the others carry out ML investigations.

518. *Criterion 30.2.* The five law enforcement agencies authorised to investigate ML, can do so in parallel with associated predicate offences (Art. 9, Directive on ML and TF Prosecution). MoPS is also authorised to investigate terrorism and TF. MoPS is authorised to investigate predicate offences in parallel with financial investigations (Art. 11, Decree on Entrust). No legal

provision explicitly authorises the other investigative bodies to conduct financial investigations or ML offences investigations parallel with financial investigations. Additionally, no legal provision mentions referring financial investigations to MoPS or another body to be conducted in parallel.

519. The investigative bodies have duties to cooperate or coordinate with relevant partners (Art. 47, Law on Criminal Procedure and Art. 41, Law on Anti-Corruption). In addition, MoPS is responsible for providing information such as the investigation of predicate offences and other related activities of AML/CFT to relevant competent authorities (Art. 11, Decree on Entrust).

520. *Criterion 30.3.* Articles 3 and 4 of the Instruction on Application of Provisional Measures for ML and TF empowers investigative organisations to identify and trace assets. These designated authorities also have the right to issue an order to confiscate or seize property which might be the proceeds of crime in order to guarantee compensation, fines, and other fees, or to handover to the state (Arts. 53 & 128, Law on Criminal Procedure).

521. Article 47 of the Law on Criminal Procedure requires designated investigative organisations to report complaints regarding offences and submit a copy of the order issued to open investigations to the public prosecutor immediately. In cases with sufficient information relating to the offence, the law enforcement will submit their relevant investigations to the public prosecutor to carry out further criminal proceeding including the confiscation and seizure of assets (Arts. 53, 54 & 56, Law on Criminal Procedure and Art. 35, Law on Anti-Corruption)

522. *Criterion 30.4.* The LSCO is the securities companies' supervisor with responsibility for pursuing investigations of predicate offences, to the extent that designated competent authorities are exercising functions covered under R.30. However, no legal provision explicitly authorises the LSCO to pursue financial investigations or to refer ML cases related to security offences to another LEA.

523. Articles 156.1, 162 and 163 of the Law on Securities authorises competent officers from the LSCO to investigate securities cases which is a predicate offence referring to insider trading and market manipulation in Article 8 of the Law on AML/CFT. When the securities investigation officers receive an instruction to initiate an investigation, they must conduct the investigation, as defined in the Law on Criminal Procedure (Art. 160, Law on Securities). To issue an order to seize or confiscate property, search building and person relating to securities case, the securities investigation officer is required to submit his/her investigations for consideration by the Office of Public Prosecutor (Art 163, Law on Securities). In conducting an investigation, the securities investigation officer shall coordinate with the relevant parties, including the Office of Public Prosecutor and investigation organisations (Art 163, Law on Securities). In case of sufficient information relating to the offence, the securities investigative officer will submit the investigation for consideration by the Office of Public Prosecutor to review and prosecute in court (Art. 163, Law on Securities).

524. *Criterion 30.5.* The Investigation Office of Anti-Corruption is authorised to investigate corruption cases prescribed in the Law on Anti-Corruption (Art. 80, Law on Criminal Procedure). The Investigation Office of Anti-Corruption is authorised to investigate and interrogate the ML offences such as abuse of authority, receipt of a bribe, give a bribe, and others which lead to criminal proceedings in cases of ML/TF (Art. 12.1, Decree on Entrust). Article 9 of the Directive on ML and TF Prosecution requires that the investigation of predicate offences shall be conducted in parallel with the investigation of ML and TF. Additionally, Article 30.3 of the Law on Anti-Corruption authorises the Investigation Office of Anti-Corruption to

inspect all relevant documents and assets, especially the financial situation and accounts, revenue, expenses, and use of grants and loans.

525. The Investigation Office of Anti-Corruption has powers to identify and trace the evidence related to corruption (Art. 3 & 4, Instruction on Application of Provisional Measures for ML and TF). In addition, it is able to initiate freezing or seizing of property that is, or may become, subject to confiscation (Arts. 53 & 128, Law on Criminal Procedure and Art. 41, Law on Anti-Corruption).

### *Weighting and Conclusion*

526. LEAs are designated to investigate ML. The LSCO is responsible for investigating securities related predicate cases to the extent that designated competent authorities are exercising functions under R.30. Apart from MoPS, no legal provision explicitly authorises other investigative bodies to conduct financial investigations or ML offences investigations in parallel with financial investigations. Additionally, it is not explicit whether the cooperation and coordination among the investigative bodies enables referrals of financial investigations and TF cases to the MoPS or another body.

**Recommendation 30 is rated largely compliant.**

### *Recommendation 31 - Powers of law enforcement and investigative authorities*

527. In its 2011 MER Lao PDR was rated largely compliant with former R.28 due to a lack of effective implementation of available powers in investigation and prosecution.

528. *Criterion 31.1.* The Law on Criminal Procedure empowers LEAs to obtain access to documents and information for use in investigations, prosecutions and related actions.

529. *Criterion 31.1 (a).* LEAs are authorised to compel the production of the necessary information for an investigation and to gather evidence related to ML, associated predicate offences and TF, including information of ordinary person and legal entities (Art. 26 & 43, Law on Criminal Procedure). Articles 8, 9, 11 and 12 of the Decree on Entrust contain non-mandatory provisions for the MOF, Ministry of Agriculture and Forestry, MoPS and State Inspection and Anti-Corruption Authority to request information from REs. However, these powers are broad and not compulsory in their terms.

530. *Criterion 31.1 (b).* Articles 121 to 125 of the Law on Criminal Procedure authorise LEAs to conduct searches of buildings, vehicles or individual suspects. Searches shall be conducted within 24 hours from the date of signing the order by prosecutor or the People's Court. In necessary and urgent cases, the search shall be reported to the public prosecutor within 24 hours after completing such search.

531. Articles 129 to 134 of the Law on Criminal Procedure authorise LEAs to inspect an incident site (crime scene), appoint experts or specialists to perform inspections, and test information.

532. *Criterion 31.1 (c).* LEAs are authorised to issue warrants and take testimony with a documentary record from relevant persons such as an accused person, injured party, civil plaintiff or witness. The warrant shall include the responsibilities of the person subject to a warrant not obeying that warrant. (Arts. 43, 113, 115, 116 & 118, Law on Criminal Procedure)

533. *Criterion 31.1 (d).* LEAs are empowered to confiscate/seize and obtain of objects or documents that are relevant as evidence or for the tracing of offences. Law enforcement



investigators are able to confiscate/seize objects or documents at the time of search, suspicious postal objects and telegraphs related to the offences with an order from the head of the investigation or public prosecutor, or objects which are useful for the case with an order from the head of the relevant investigation organisation in order to guarantee compensation, payment of fines, and other fees, or to handover to the state (Arts. 126 to 128, Law on Criminal Procedure).

534. Individuals and related parties must follow and respond to requests from the authorities including the handover of gathered criminal evidence to the relevant authorities (Art. 43, Law on Criminal Procedure).

*Criterion 31.2:*

535. *Criterion 31.2 (a).* There is no legal provision for undercover operations. Investigation techniques outlined in relevant laws are broadly drafted. Article 4 of the Instruction on Application of Provisional Measures for ML/TF states that investigation authorities shall use investigation techniques and preventive measures to identify and monitor properties during the investigation. Article 11.1 of the Decree on Entrust states that MoPS has the power to use investigation techniques to perform its function.

536. *Criterion 31.2 (b).* Legal provisions for intercepting communications do not extend to all competent authorities. Investigation techniques outlined in relevant laws are broadly drafted. Article 12.10 of the Law on Public Security Forces empowers the professional public security forces, defined in Article 3 as the police of varying ranks, village warrant officers and village group public security officers to monitor and check the frequency waves, electronic businesses, information-news management and computing systems. They have the rights to investigate criminal cases and use investigation methods including preventive measures such as quarantine, arrest, release, search, confiscation and fines as determined in the law (Art. 12, Law on Public Security Forces).

537. *Criterion 31.2 (c).* The legal provisions for accessing computer systems do not extend to all competent authorities. Investigation techniques outlined in relevant laws are broadly drafted. The powers given to the professional public security forces pursuant to Article 12.10 of the Law on Public Security Forces (see c31.2(b)), include the monitoring and checking of computer systems.

538. *Criterion 31.2 (d).* There is no legal provision for the use of controlled delivery by competent authorities. Investigation techniques outlined in relevant laws are broadly drafted as mentioned.

*Criterion 31.3:*

539. *Criterion 31.3(a).* Law enforcement and investigative authorities are authorised under Articles 26 and 43 of the Law on Criminal Procedure to compel the production of the necessary information for an investigation and to gather evidence related to ML, associated predicate offences and TF, including information of ordinary person and legal entities. This power can be used to identify could be used to extend to identify whether natural or legal persons hold or control accounts.

540. *Criterion 31.3(b).* Articles 3 and 4 of Instruction on Application of Provisional Measures for ML/TF provide that investigative bodies shall use investigative techniques and preventive measures to identify and monitor properties identified in Article 3. A competent authority can issue an order to seize or freeze properties without a prior notification of properties relating to ML or TF. REs are able to withhold such properties from customers for a period not exceeding 30 working days (Art. 2, Instruction on Application of Provisional

Measures for ML/TF). Article 2 also requires REs to immediately report to AMLIO and investigation authorities while withholding the property. Any natural persons and legal persons shall strictly implement orders to seize or freeze property and the order shall be effective till a prosecution comes to an end (Art. 4).

541. *Criterion 31.4.* Article 43 of the Law on Criminal Procedure empowers law enforcement investigators to obtain access to all relevant documents for the purpose of conducting investigations. Individuals and related partners must follow and respond to requests from the authorities including handing over gathered criminal evidence to the relevant authorities. Significant public and private partners including AMLIO in its role as the FIU are obliged to work closely with criminal proceeding authorities within their own responsible areas regarding the measures to prevent and suppress criminal offences (Art. 26, Law on Criminal Procedure).

542. There is explicit power for MOF, Ministry of Agriculture and Forestry, State Inspection and Anti-Corruption Authority and MoPS to obtain information from AMLIO. Articles 8, 9 and 12 of the Decree on Entrust empower these competent authorities to request information from REs and AMLIO. Information sharing on ML, associated predicate offences and TF between the MoPS and AMLIO is authorised under Article 11 of the Decree of Entrust. MoPS officers are designated to review and consider the completeness and adequacy of information in FIR produced by AMLIO including providing feedback or recommendations regarding the FIR in order to initiate a criminal proceeding in the case of ML. Conversely, MoPS officers shall report a result of the investigation to AMLIO. As the FIU, AMLIO is required to submit documents and produce financial reports relevant to suspicious information on ML/TF in order to disseminate them to the related investigation organisations (Art. 3, of Agreement on Organisation and Operations of AMLIO).

543. There are also MoUs between AMLIO and investigative bodies such as the Economic Police Department, MoPS on access to and exchange of financial intelligence and information relating to suspected ML. Additionally, there are MoUs for information exchange between AMLIO and the Customs Department, MOF and AMLIO and the Anti-Corruption Department, State Audit Organization. Where no MOUs exist between AMLIO and other LEAs such as the Military Investigators (Ministry of National Defence) and the Investigation Office of Forestry (Ministry of Agriculture and Forestry), AMLIO uses provisions in existing laws or legislations such as the Decree on Entrust.

### *Weighting and Conclusion*

544. There are broad powers for law enforcement investigators to obtain and access to records held by FIs and DNFBPs. However, there are no legal provision for specific investigative techniques on undercover operations, intercepting communications, accessing computer systems, and controlled deliveries beyond those granted to the police as part of the professional public security forces. Weaknesses with special powers are given particular weight in the context of Lao PDR's risk profile (e.g. transnational drug trafficking or wildlife trafficking cases or corruption cases).

**Recommendation 31 is rated partially compliant.**

### *Recommendation 32 – Cash Couriers*

545. In the second round, Lao PDR was rated non-compliant with these requirements due to the declaration requirement not including bearer negotiable instruments, declaration requirements not extending to mail or cargo; the absences of a form for incoming and departing passengers; sanctions and confiscation measures not being stipulated in law; the absences of a

legal framework to empower customs officers to enforce a declaration requirements, and ineffectiveness identified through the fact that a voluntary declaration had never been made by a traveller.

546. *Criterion 32.1.* Lao PDR implemented a declaration system for incoming and outgoing cross-border transportation of both national and foreign currency at all ports of entry to/departure points from Lao PDR. These include airports, rail, road and river crossing border points (Art. 51, Law on Customs). Travellers are required to declare to a customs officer all physical inward and outward transportations of foreign or national currency, precious metals and BNIs above the prescribed threshold of LAK 100,000,000 (approx. USD 6,129) (Arts. 3 & 4, Regulation on Declaration). The Customs Declaration Form for Personal Effects states that 'only one written declaration per family is required' and the declaration itself refers to 'I am/we are' indicating that the form can be submitted on behalf of multiple persons however in practice Lao PDR confirm that every traveller is required to make a declaration.

547. Currency control measures exist which require that the Bank of Lao PDR to approve the removal of cash or foreign currency from Lao PDR (Art. 14, Law on Foreign Exchange Management). The prescribed amount is LAK 100 million (approx. USD 6,129) (Art. 10, Decision on Opening Bank Accounts, Money Transfer and Carrying Cash). Having obtained the corresponding certification document, travellers are still required to declare the transportation to a Customs Officer. Transportation of foreign currency in cash through mail and cargo is also subject to declaration and prior authorisation.

548. *Criterion 32.2.* Lao PDR has a written declaration system in place, and all travelers must complete a Customs Declaration Form for Personal Effects when entering or exiting Lao PDR with national or foreign currency, precious metals or BNIs of a value of equal or exceeding the prescribed threshold of LAK 100 million (approx. USD 6,129) (Art. 33, Law on AML/CFT and Art. 3, Regulation on Declaration).

549. *Criterion 32.3* is not applicable as Lao PDR has a declaration system.

550. *Criterion 32.4.* Article 3 of the Law on Customs establishes that Customs Administration is a function of the MOF. Article 8 of the Decree on Entrust outlines the MOF's responsibilities which include; cooperation and investigation of violations of failure to declare; or the making false declarations associated with cash, precious metals and BNIs at the border, and to investigate associated predicate offences for which they are responsible. Customs Officers have the authority to request and obtain further information from the carrier with regard to the origin and the intended use of the cash, precious metal or BNI upon discovery of a false declaration or a failure to declare (Art. 34, Law on AML/CFT).

551. *Criterion 32.5.* There are a wide range of proportionate and dissuasive sanctions for making a false declaration or failing to declare. Almost all of the relevant sanctions include the ability to freeze, seize, and confiscate the cash involved (Arts. 138 -145 Customs Law; Art. 49, Law on Foreign Exchange Management; and Arts. 284 & 286, Penal Code).

552. *Criterion 32.6.* Authorities have established a Cross Border Report (CBR) Online System in January 2020 (Notice on Cross Border Report No.245/CD dated 14 January 2020) at 13 priority international border crossing points through which Customs Officials submit reports to the AMLIO. When reports are made at border points where the CBR system is not installed, those reports are directed to the nearest location where the CBR system is operating, where they are entered and submitted. These reports are required to be submitted within 15 working days of the declaration having been made (Art. 6, Regulation on Declaration).

553. *Criterion 32.7.* Lao PDR Customs and other security agencies (e.g. Department of Immigration and related authorities) are required to coordinate and cooperate at the border. Part V (Arts. 53 & 54) of the Law on AML/CFT requires that the NCC has a duty to co-ordinate the various elements of the AML/CFT system.

*Criterion 32.8:*

554. *Criterion 32.8 (a).* Custom Officers have the power to seize undeclared cash, BNIs or precious metals without delay for the purpose of investigation of money laundering or the financing of terrorism (Art. 34, Law on AML/ CFT).

555. *Criterion 32.8 (b).* Customs Officers also have the power to inspect particular, suspicious, or random targets; check and examine cross-border vehicles, goods, and articles, and detain items, goods, and articles in violation of relevant laws and administrative regulations, including the regulations on the control of the cross-border transportation of cash, such as false declaration or false disclosure (Art. 34, Law on AML/ CFT).

556. *Criterion 32.9.* As mentioned at c.32.7, the information collected at the border is made available to the FIU who, when appropriate, can share and exchange this information with its foreign counterparts. Article 3 of the Agreement on Organisation and Operations of AMLIO authorises AMLIO to collaborate, coordinate and exchange of information independently with relevant partners at domestic level and international level. The same information is also available for exchange with some foreign customs authorities via MOUs, and international conventions. Customs declarations must be retained for a minimum of three years.

557. *Criterion 32.10.* Lao PDR was unable to point to safeguards in place to ensure proper use of the information collected through the declaration system. Without restricting trade payments between countries or the freedom of capital movements in any way.

558. *Criterion 32.11.* The wide range of sanctions mentioned above in c.32.5, including seizure and confiscation, equally apply to persons who carry out a physical cross-border transportation of currency that is related to ML and TF. In addition, in such cases, persons also qualify for criminal sentences for ML and TF, as set out in R.3 above.

### *Weighting and Conclusion*

559. Lao PDR does not appear to have safeguards in place to ensure proper use of information collected through the declaration systems without restricting trade payments between countries for goods and services; or the freedom of capital movements.

### **Recommendation 32 is largely compliant.**

### ***Recommendation 33 – Statistics***

560. In its 2011 MER Lao PDR was rated non-compliant for the predecessor to R.33 (R.32). The report noted a lack of statistics to demonstrate implementation.

*Criterion 33.1:*

561. *Criterion 33.1(a).* AMLIO maintains limited statistics as part of its SOP which was introduced on 15 January 2020. These statistics include data on reports received, disseminated and the international exchange of intelligence. However, the maintained statistics are not comprehensive across a number of statistical areas.

562. *Criterion 33.1(b)*. LEAs and prosecutors are required by Article 44 of the Law on Judgement Enforcement to maintain information and statistics associated with ML/TF investigations, prosecutions and convictions. However, the availability of this data was not demonstrated and what was shared was not comprehensive and lacked detail on predicate crimes underlying ML statistics in order to determine whether investigations, prosecutions and convictions address high risk crime-types.

563. *Criterion 33.1(c)*. Along with c.33.1 (b), authorities are required to maintain statistics on property confiscated however, in practice, comprehensive statistics are not maintained on property frozen, seized and confiscated. This is particularly the case for detections and restraint/seizure at the border.

564. *Criterion 33.1(d)*. The OSPP collects statistics on MLA and other international requests for cooperation made and received pursuant to Article 40.3 5 Rights and Duties of the OSPP in the Law on International Cooperation.

### *Weighting and Conclusion*

565. Lao PDR maintains some statistics in a number of areas, but they are not comprehensive are not kept for ML investigations and prosecutions, restraint and confiscation of instruments and proceeds of crime. In some important areas statistics are not kept.

**Recommendation 33 is partially compliant.**

### *Recommendation 34 – Guidance and feedback*

566. In its 2011 MER Lao PDR was rated non-compliant for the predecessor to R.34 (R.25). The report noted a lack of guidance produced and that this was limited to the banking sector with no consideration as to how this can apply to other FIs. Guidance was also considered to be very broad and high level with feedback limited to the acknowledgement of STR receipt.

567. *Criterion 34.1*. Lao PDR authorities have not issued sufficiently detailed guidance to FIs, DNFBPs and VASPs to assist with their risk-based implementation of AML/CFT measures and, in particular, to better detect and report STRs. The Decision on STRs is general in nature outlining the obligation to report. The Instruction on Indicators of Transactions Suspected on Money Laundering or Financing Terrorism No. 41/AMLIU dated 12 January 2016 applies to all REs and is not sector specific, the result of which is that many of the indicators listed are inapplicable to many sectors. The only sector with specific issued guidance is the securities sector (one of the smallest) which is assessed as low risk. There is no sector specific guidance for high risk and medium-to-high risk sectors including VASPs, casinos, banks, real estate agents, MVTs, precious metal and stone dealers, and others.

568. Moreover, while AMLIO has conducted outreach and engagement with REs that focuses on STRs, AML/CFT policy, NRA, KYC/CDD and RBA the outreach is too general in nature to assist REs, and, in particular high risk REs, to better detect and report STRs.

569. With respect to the high risk casino sector, no outreach and feedback has occurred.

### *Weighting and Conclusion*

570. Lao PDR has not issued sufficient guidance to REs to better assist them in applying national measures. Despite conducting some awareness raising activities involving feedback to assist REs, the scope of these outreach activities is insufficient and too general to assist REs relative to the size of the sectors.

**Recommendation 34 is rated non-compliant****Recommendation 35 – Sanctions**

571. The 2011 MER rated Lao PDR as non-compliant for the predecessor to R.35 (R.17). The report noted that there had been a lack of sanctions applied for violations and the absence of a range of graded and proportionate sanctions.

*Criterion 35.1.*

572. *Criminal sanctions:* The Law on AML/CFT and the Agreement on AML/CFT Measures both provide for criminal sanctions on REs for breach of AML/CFT measures. Article 61 of the Law on AML/CFT provides that any natural person, legal person or organisation that violates the named laws may be criminally punished. However, the punishment is limited to a fine of 100,000,000 to 2,000,000,000 LAK (approx. USD 6,129 to USD 122,584). These fines are not proportionate and dissuasive for legal persons.

573. Available criminal sanctions for unauthorised MVTS include criminal convictions (Art. 23, Agreement on Payment Service) however the sentences are not specified.

574. *Civil and Administrative Sanctions:* The Decision on Administrative Measures sets out a range of administrative penalties for violations of Articles 19 – 32 and 52 of the Law on AML/CFT, failure to cooperate with AMLIO Officers or comply with AMLIO notices and Order No.03/PM. These sanctions are limited to warning letters, fines, the suspension or removal of managers and the withdrawal of business operating licences or enterprise registration, and are applicable to natural persons and legal persons including REs.

575. The Decision on Administrative Measures sets out that for most requirements, first instances of violations of AML/CFT requirements attract a warning letter only, even for serious failings. A warning letter is issued for an initial violation of Articles 19-32 of the Law on AML/CFT. Fines can be applied in the first instance of failures related to TFS, opening anonymous accounts, dealing with shell banks, and failure to apply provisional measures to suspend transactions, withhold, seize or freeze properties relating to an ML or TF offence (Art. 4.1, Decision on Administrative Measures). These sanctions are applicable to R.6 and R.8-23 with the exception of MVTS (R.14) and unlicensed VASPs (R.15) where separate sanctions are available as spelled out below.

576. The available administrative fines are not proportionate or dissuasive for natural persons. Sanctions for continued violations, and violations of Article 52 of the Law on AML/CFT or Order No.03/PM relating to TF, include fines from LAK 1,000,000 to 10,000,000 (approx. USD 60 to 610) for natural persons. For legal persons fines range from 0.0001% of total assets of REs and not less than LAK 3,000,000 to LAK 200,000,000 (approx. USD 180 to 12,258) (Art. 4.2). Continued violations by REs may result in the suspension or removal from management or withdrawal of business operating licences or enterprise registration (Art. 4.3). There are no measures between the small fines noted and suspension or removal of management or withdrawal of business licences (e.g., action plans to address deficiencies or breaches within a specified time). The lack of additional measures between fines and suspension of management may act as a deterrent for authorities to impose penalties other than fines in any given case.<sup>124</sup>

577. Most first offences attract a warning letter only. Further, the maximum fine for a natural person is approximately USD 60 and for a legal persons USD 610.

<sup>124</sup> Chapter 6 tables that except for FOREX there has been minimal use of these measures.

578. Available administrative sanctions of unauthorised MVTs include warnings, education, disciplining, or fines, (Art. 23, Agreement on Payment Service) however the quantum of fines are not specified. Sanctions are also available in the Law on Enterprises and may include termination of employment, fines from LAK 1 to 10 million (approx. USD 60 – 610) for operating an unregistered business and education or fines from LAK 1 to 5 million (approx. USD 60 to 300) for operating outside of the purpose for which the enterprise was registered (Arts. 211-213, Law on Enterprises).

579. For VASPs, sanctions in the Decision on Cryptocurrency Trial include, educational training, warning letters, fines of up to LAK 1,000,000,000 (approx. USD 61,292) for natural persons who operate a VASP without a licence and for licenced VASPs that fail to meet various obligations.

580. *Criterion 35.2.* The Decision on Administrative Measures provides that administrative sanctions across the range of AML/CFT-related instruments listed in Article 3 are applicable to natural person and legal persons, including management of legal persons (Art. 3.1).

581. However, sanctions on management are applicable in limited circumstances only – for the ‘continuation of violations’ by legal persons and not in the first or second instance. Moreover, the range of sanctions listed in Article 2 (re-education, warnings, fines, withdrawal of business licences) are not available to management. Only ‘removal of management’ is available. This may act as a deterrent to impose measures on management – imposing only one serious measure on management as opposed to fines or warnings. Importantly, no administrative sanctions are applicable to directors of legal persons.

582. Moreover, none of the criminal sanctions in Lao PDR’s AML/CFT laws (including the Law on AML/CFT and the Agreement on AML/CFT Measures) are applicable to senior management and directors, only to REs.

### *Weighting and Conclusion*

583. While Lao PDR provides a range of sanctions to REs, fines are not proportionate or dissuasive. Moreover, neither criminal nor administrative sanctions are available for directors of legal persons, and those sanctions for management of legal persons are limited in scope.

**Recommendation 35 is rated partially compliant.**

### *Recommendation 36 – International instruments*

584. The 2011 MER rated Lao PDR as partially compliant with the former R.35 and non-compliant with SR.1 due to a lack of implementation. Since then, Lao PDR has strengthened some aspects of the legal framework.

585. *Criterion 36.1.* Lao PDR acceded to the Palermo Convention on 26 September 2003, the Vienna Convention on 11 October 2004, the Terrorist Financing Convention on 29 September 2008 and the Merida Convention on 10 December 2009.

586. *Criterion 36.2.* Lao PDR has only partially implemented the relevant articles of the above-referenced Conventions through the Law on AML/CFT, the Penal Code, and the Law on Drugs, Law on Criminal Procedure, and the Law on Extradition. While some reservations in relation to the four conventions have been made, these reservations do not impact on the requirements of R.36.

587. *Implementation of Palermo Convention:* Lao PDR has partially implemented the Palermo Convention via the Penal Code, Law on AML/CFT, Law on Criminal Procedure, and through bilateral and treaties. However, there are minor shortcomings with its implementation in relation to cross-border movement of cash and BNIs (R.32), moderate shortcomings in relation to confiscation and MLA (R.4 and R.37-38), and major shortcomings in relation to the ML offence (R.3).

588. *Implementation of the Vienna Convention:* Lao PDR has partially implemented the relevant Articles of the Vienna Convention through the Law on AML/CFT, Penal Code, and Law on Drugs, Law on Criminal Procedure and Law on Extradition. There are major gaps in Lao PDR's implementation of Articles relating to the ML offence (R.3), and minor gaps relating to implementation relating to MLA (R.37-38), and confiscation (R.4). Investigators lack the power to conduct control deliveries (R.31), and law enforcement authorities cannot conduct joint investigations based on bilateral or multilateral agreements (R.40).

589. *Implementation of TF Convention:* Lao PDR has not criminalised TF in line with the Terrorist Financing Convention. The Penal Code and the Law on AML/CFT set out the TF but there are major shortcomings with the definition and scope of the offence (R.5).

590. *Implementation of the Merida Convention:* Lao PDR criminalises corruption under the Penal Code to implement Articles 15-17 of the Merida Convention (Arts. 354, 355, 356, 357 & 358). It has largely implemented other obligations provided under the Convention. But there are minor gaps related to the proportionality and dissuasiveness of criminal sanctions for legal persons, freezing, seizure and confiscation (R.4), as well as MLA and other forms of international cooperation (R.37-38, and R.40).

### *Weighting and Conclusion*

591. Lao PDR is a party to the relevant Conventions, but there are moderate shortcomings in implementation across those Conventions in many areas with some significant deficiencies in relation to the structure of the ML and TF offences, and in confiscation in line with those UN Conventions.

**Recommendation 36 is rated partially compliant.**

### *Recommendation 37 - Mutual legal assistance*

592. In the 2011 MER, Lao PDR was rated as non-compliant with the former R.36 and SR.V. There were deficiencies with the ML offence and no TF offence, and no legal or procedural framework for mutual legal assistance (MLA). Since the last evaluation, Lao PDR has passed the Law on International Cooperation and the Law on AML/CFT, and amended other laws to provide for MLA.

593. *Criterion 37.1.* The Law on International Cooperation establishes a legislative framework for Lao PDR to provide a wide range of MLA in criminal matters. Criminal matters are defined widely as matters relating to all criminal offences and criminal proceedings (Art. 3.5, Law on International Cooperation). While this includes the TF offence, ML offence and associated predicate offences, the ML and TF offences have significant deficiencies as outlined in R.3 and R.5.

594. MLA can be provided to: exchange information, documents, or evidence; take evidence or statements from persons; provide witnesses, determine name and address of persons of interest; and identify, seize or confiscate assets laundered or intended to be laundered (Art. 7, Law on International Cooperation).



595. MLA can be provided through bilateral and agreements, international conventions and treaties on the basis of reciprocity in accordance with the laws of Lao PDR (Art. 272, Law on Criminal Procedure). Lao PDR is a party to the ASEAN Mutual Legal Assistance in Criminal Matters Treaty (ASEAN MLAT).<sup>125</sup> The ASEAN MLAT provides for all parties to provide the widest possible measure of MLA in criminal matters, including investigations, prosecutions and resulting proceedings. Lao PDR has also ratified a Convention on Civil and Criminal Justice Cooperation with Vietnam.

596. *Criterion 37.2.* The OSPP is designated as the 'central coordination agency' for the transmission and execution of most MLA requests, while the MOJ is the central coordination agency for civil matters (Arts. 35, 36, 44, Law on International Cooperation). The OSPP considers incoming and outgoing requests for MLA in criminal matters, coordinates with relevant competent authorities, monitors the implementation of requests and informs requesting jurisdictions of the execution of such MLA requests. Incoming requests made under international conventions can be directly submitted to the OSPP (or another coordinating agency) if the convention provides for this (Art. 9, Law on International Cooperation). Other requests must be made through diplomatic channels, and are subsequently transferred to the central coordinating agency (Art. 9, Law on International Cooperation). The MLA treaty with China names the MOJ as the central body for MLA coordination, but MOJ forwards all MLA-related requests to the OSPP to action. The treaty with Vietnam specifies either the MOJ or the OSPP, depending on whether the matter is civil (MOJ) or criminal (OSPP).

597. The ASEAN MLAT requires parties to designate a central authority at the time of acceding to the treaty. The OSPP has been designated as the central authority for Lao PDR under the ASEAN MLAT since 2009.

598. There is a manual, paper-based case management system in place for monitoring requests. There are no processes for the timely prioritisation of MLA requests, but requests from ASEAN MLAT parties are given priority and the Law on International Cooperation requires all requests to specify a timeline for implementation (Art. 10, Law on International Cooperation). Competent authorities are required to proceed with the request for cooperation as soon as possible within the time limit specified in the request and in accordance with any treaties (Art. 11, Law on International Cooperation). The OSPP is also required to monitor the implementation of requests and notify the requesting State of any progress or issues that may delay the processing of the request, or may request that the requesting State provide additional information in case of difficulty in processing such requests (Arts. 11 and 36, Law on International Cooperation). The ASEAN MLAT also allows the requesting party to specify any time limit within which compliance with the request is desired and provides for requested parties to notify the requesting party if there are any delays. However, other treaties are silent on the timelines for fulfilling MLA requests.

599. *Criterion 37.3.* Lao PDR responds to the majority of MLA requests and does not subject such requests to unreasonable or unduly restrictive conditions. The grounds for refusal of legal assistance are established in the Law on International Cooperation, treaties and Law on Criminal Procedure. None of these are unreasonable or unduly restrictive.

600. Competent authorities conducting criminal proceedings have the discretion to refuse judicial assistance more generally on the grounds that it is contrary to national interests or it is inconsistent with signed treaties, agreements and conventions, or the law of Lao PDR on similar grounds. (Art. 273, Law on Criminal Procedure; Arts. 42 & 49, Law on AML/CFT).

<sup>125</sup> There are ten members of the treaty: Brunei Darussalam; Cambodia; Indonesia; Lao PDR; Malaysia; Myanmar; the Philippines; Singapore; Thailand; and, Vietnam.

601. Treaties have mandatory and discretionary grounds of refusal for international cooperation consistent with those under the Law on International Cooperation.

602. *Criterion 37.4.* There is no provision in Lao PDR law to refuse MLA requests on the sole ground that the offence involves fiscal matters, or on the grounds of secrecy or confidentiality requirements on FIs or DNFBPs (Art. 8, Law on International Cooperation). The ASEAN MLAT explicitly states that parties should not refuse mutual legal assistance solely on the ground of secrecy of banks and similar FIs, or on the grounds that the office is also consider to involve fiscal matters (Art. 1.5). Other treaties do not list fiscal matters or secrecy or confidentiality as a ground for refusal to cooperate.

603. *Criterion 37.5.* The Law on International Cooperation imposes an obligation to maintain the confidentiality of information about a request for MLA from a requesting country, and not to disclose or deliver such information to a third state except with the written agreement of the requesting country (Art. 12). Public servants and competent authorities are also prohibited from disclosing the secrets of the activities of MLA without permission from the relevant authority (Art. 38). The Law on AML/CFT requires competent authorities to ensure the confidentiality of requests from requesting states, and staff and competent authorities are prohibited from disclosing confidential information on AML/CFT to unrelated natural persons, legal persons or organisations (Art. 51). The ASEAN MLAT also has confidentiality requirements (Art. 9).

604. *Criterion 37.6.* Dual criminality is a mandatory condition for rendering MLA (Art. 8(3), Law on International Cooperation). This applies regardless of whether or not coercive action is involved or requested. The ASEAN MLAT lists non-fulfilment of the dual criminality condition as a mandatory ground for refusal unless the Requested Party is permitted by its domestic laws to provide assistance in the absence of dual criminality (Art. 3), but Lao PDR law does not permit assistance in the absence of dual criminality.

605. *Criterion 37.7.* Under the Law on International Cooperation, dual criminality is satisfied regardless of whether both countries place the offence within the same category of offence, or denominate the offence by the same terminology, as long as both countries criminalise the conduct underlying the offence (Art. 8). Under the Law on International Cooperation the requirement is that the 'activities' stated in the request for cooperation are criminal offences under the law of Lao PDR, and the law of the requesting state.

606. *Criterion 37.8.* The Law on International Cooperation sets out the powers and investigative techniques that competent authorities can use in response to requests for MLA, and direct requests for assistance from foreign judicial authorities and LEAs. This includes: the collection of testimony and providing of evidence; searching premises; identifying persons; searching, seizing and delivering evidence; and, seizing, freezing and confiscating assets (Art. 13, 14, 18, 19 and 20, Law on International Cooperation). The Law on International Cooperation also sets out the responsibilities of the respective domestic competent authorities in relation to providing MLA, which include: collecting information and evidences, addresses, and identities; inspecting and maintaining the evidences; and seizing or freezing assets (Part VI, Law on International Cooperation). These powers are to be exercised in accordance with domestic law (Art. 11, Law on International Cooperation). There are deficiencies in the domestic law that apply to the use of such powers for MLA (R.31).

### *Weighting and Conclusion*

607. Lao PDR has strengthened the legal framework for MLA since the 2011 mutual evaluation to authorise a wide range of MLA in relation to ML, associated predicate offences and TF investigations, prosecutions and related proceedings. MLA requests are not subject to

any unreasonable or unduly restrictive conditions. However, moderate deficiencies in the ML offence and major shortcomings in the TF offence impact on the range of MLA that can be provided, although dual criminality is satisfied as long as both countries criminalise the conduct underlying the offence. Minor deficiencies remain relating to the dual criminality requirements. While there are no clear processes for the timely prioritisation of requests, requesting countries are able to indicate a preferred time-frame for completion of a request. There are minor deficiencies with the powers and investigative techniques that can be applied to MLA requests, as identified under R.31.

**Recommendation 37 is rated largely compliant.**

### *Recommendation 38 – Mutual legal assistance: freezing and confiscation*

608. The 2011 MER rated Lao PDR as non-compliant with these requirements. Since 2011, the Law on International Cooperation has been enacted which provides for MLA for the freezing and confiscation of assets related to all criminal offences and criminal proceedings under the law of Lao PDR (Art 3.5 and 7, Law on International Cooperation). Provisions under the Law on Criminal Procedure have also been strengthened.

609. *Criterion 38.1.* Competent organisations are able to provide MLA to search, seize, freeze and confiscate assets of an accused person or defendant under treaties, agreements or conventions to which Lao PDR is a party to, or on the basis of reciprocity (Art 271 and 272, Law on Criminal Procedure; Art 7 and 20, Law on International Cooperation). Requests must be submitted through diplomatic channels and coordinated by OSPP as the central coordinating authority. (Arts. 9 & 26 Law on International Cooperation).

#### *Scope of assets that can be seized and confiscated*

610. The Law on International Cooperation provides for MLA for the freezing and confiscating assets related to all criminal offences and criminal proceedings, which include ML, TF and predicate offences but not tax offences (Art 3, 7, Law on International Cooperation). While the term 'asset' is not defined for the purposes of the Law on International Cooperation, the Law on Criminal Procedure and other relevant laws of Lao PDR must be followed in the execution of MLA requests. This means the scope of assets that can be seized and confiscated for MLA purposes is the same as the scope that can be seized and confiscated domestically and the deficiencies identified in R.4 cascade to this criterion.

611. Lao PDR can respond to requests from foreign countries related to identifying, freezing, seizing or confiscating property laundered from ML/TF and predicate offences, except for tax offences. For requests relating to the proceeds and instrumentalities of crime, funds already used in the commission of offences and instrumentalities of a non-financial nature are not covered, and requests for confiscation of property related to TF, terrorist acts or terrorist organisations, is restricted to confiscating funds that were used in an attempted TF offence only. Requests relating to the identifying, freezing, seizing and confiscating property of corresponding value are restricted to predicate offences other than tax offences and a narrow range of terrorist related offences (R.4).

612. For requests relating to the proceeds and instrumentalities of crime, funds used in the commission of offences and instrumentalities of a non-financial nature are not covered, and requests for confiscation of property related to TF, terrorist acts or terrorist organisations, is restricted to confiscating funds that were used in an attempted TF offence only. Requests relating to the identifying, freezing, seizing and confiscating property of corresponding value are restricted to predicate offences other than tax offences and a narrow range of terrorist related offences (see R.4).

613. The ASEAN MLAT provides for MLA between treaty members to freeze, seize and confiscate property derived from the commission of an offence and any associated instrumentalities of crime in accordance with domestic law, but not property of corresponding value (Art. 22, Law on International Cooperation).

614. *Criterion 38.2.* Lao PDR has not demonstrated that competent authorities are able to provide assistance for requests for international cooperation made on the basis of a non-conviction based confiscation order and related provisional measures in any circumstances. Lao PDR law does not provide for non-conviction based confiscation, so authorities cannot enforce a foreign non-conviction based confiscation order on the basis that it is inconsistent with the laws of Lao PDR (Art. 8, Law on International Cooperation). Where Lao PDR authorities respond to a request to freeze or seize assets, and the requesting country subsequently secures a non-conviction based confiscation order relating to those assets, the assets would have to be returned to the owner.

615. Authorities indicated that providing assistance for non-conviction based forfeiture orders would be inconsistent with fundamental principles of domestic law. However, there is no presumption of innocence expressed within the Lao PDR Constitution, and Lao PDR did not provide any decisions from the highest level of court demonstrating that there is a presumption of innocence that is binding. The Law on Criminal Procedure includes a presumption of innocence but these provisions can be amended through normal legislative processes, so are not fundamental principles of domestic law (Art. 15).

*Criterion 38.3.*

616. *Criterion 38.3(a).* The Law on International Cooperation provides for the receipt and processing of requests relating to the confiscation of assets in accordance with foreign criminal judgments. The OSPP is responsible for coordinating such requests and assigning responsibility for processing requests to the respective provincial/central people's prosecutor office where the asset is located (Art. 26, Law on International Cooperation). Where the assets are not yet seized or frozen, the relevant prosecutors' office is responsible for seeking such orders from the courts (Art. 26, Law on International Cooperation). The regional PPO has 90 days from the date of receiving the request to review a request and apply to the court for a decision (Art. 27, Law on International Cooperation). Lao PDR confiscated assets can be handed over to the requesting party subject to any agreements (Art. 29 & 30, Law on International Cooperation). The ASEAN MLAT also supports assistance in forfeiture proceedings subject to the domestic laws of the Requested Party (Art. 22).

617. *Criterion 38.3(b).* The Law on Criminal Procedure and the associated Instruction on Application of Provisional Measures for ML/TF apply to the management and protection of seized or frozen assets that are subject to a MLA request (Art. 20). Under the Instruction, authorities are required to store and manage property seized to ensure the value of property is maintained (Art. 7). There are no specific provisions for disposing of property frozen, seized or confiscated.

618. *Criterion 38.4.* Lao PDR is able to share confiscated property with other countries confiscated in response to a request from a foreign authorities (Art. 30, Law on International Cooperation; Art. 22 ASEAN MLAT)).

*Weighting and Conclusion*

619. Competent authorities in Lao PDR have the authority under the Criminal Procedure Act, Law on International Cooperation, and MLA treaties and agreements to identify, freeze, seize and confiscate the proceeds of crime in response to MLA requests. They can also coordinate seizure and confiscation, and share confiscated property with other countries. There

are moderate shortcomings as Lao PDR cannot execute non-conviction based confiscation orders and has limitations in the scope of criminal assets that can be seized and confiscated under a MLA request. While there are mechanisms for managing property confiscated under a MLA order, there are no mechanisms for disposing of property frozen, seized or confiscated.

**Recommendation 38 is rated partially compliant.**

### **Recommendation 39 – Extradition**

620. In the 2011 MER, Lao PDR was rated non-compliant with former R.39. The evaluation found there was no legal basis for extradition, and no relevant procedures in place. Gaps in the ML offence also impeded the basis for extradition. Lao PDR has since implemented legislation to provide for extradition.

621. Extradition is governed by the Law on Extradition, and treaties, agreements and conventions to which Lao PDR is a party. The Law on Extradition is applicable to Lao citizens, foreigners, aliens and stateless persons residing inside the territory of the Lao PDR or those outside, that commit a criminal offence in Lao PDR or a foreign country (Art. 5). Requests must be submitted through diplomatic channels unless a treaty on extradition provides for direct submission to a central authority (Art. 12, Law on Extradition). In practice, the MOFA receives the requests, and forward the requests to the OSPP as the central authority specified under the Law on Extradition (Art. 35(2)). The Manual on Extradition also provides that requesting parties must submit requests as per the specifications of any governing treaty, or through diplomatic channels where no treaty exists (Art. 5.5). Lao PDR currently has extradition treaties with Vietnam, Cambodia, China, Russia and Thailand.

#### *Criterion 39.1.*

622. *Criterion 39.1(a).* Extraditable offences are those punishable under the penal law by imprisonment or detention for more than 12 months (Art. 7, Law on Extradition). The penalties imposed for both ML and TF under the Penal Code (Arts. 130 and 131) qualify these offences for extradition purposes. Deficiencies identified for the ML and TF offence, may impede Lao PDR's ability to provide MLA for these offences because of the dual criminality requirement.

623. *Criterion 39.1(b).* The Law on Extradition sets out the requirements for the consideration of extradition requests (Arts. 12-31). More specific processes are set out in the Extradition Manual. Lao PDR has a manual paper- and excel-based case management system for the execution of requests. There are statutory timeframes attached to each step in the extradition process. MOFA has 30 days within which to coordinate with competent authorities to execute an extradition request, but this time period is only for the extradition process after a court decision has been made or upon the court's final decision (Art. 22, Law on Extradition). There are no clear processes for prioritisation. However, in case of urgency, the requesting state may request a provisional arrest or detention of the person before submitting the official request for extradition through diplomatic channels or through treaties on extradition, and has 60 days to lodge an official request with supporting documents, otherwise the person will be released from custody (Art. 17, Law on Extradition). This may cause delays in the process.

624. *Criterion 39.1(c).* The reasons for refusal of extradition requests, do not seem unreasonable or unduly restrictive (Arts. 8 & 10, Law on Extradition). The grounds for these reasons are explained further in Extradition Manual.

625. *Criterion 39.2.* Lao PDR law prohibits the extradition of Lao PDR citizens, aliens or stateless persons residing in Lao PDR (Art. 11, Law on Extradition). However, this prohibition contains an exception where an extradition treaty provides otherwise. Refusal of a request may

not be grounds for a person to be released from criminal liability, and the requesting state can submit the case file and relevant information to competent authority of Lao PDR so they can be prosecuted by Lao PDR authorities domestically (Art. 11, Law on Extradition). There are no provisions or procedures that require such requests to be processed without delay, but the requesting country must specify in the request whether there is any statutory time limit on the prosecution or the execution of the punishment for the offence (Art. 13, Law on Extradition).

626. *Criterion 39.3.* Lao PDR imposes a dual criminality requirement but an extradition request may still be granted regardless of whether both parties classify the conduct as constituting an offence within the same category of offence or not (Art. 7, Law on Extradition). The Extradition Manual explains how this is to be applied in practice, with competent authorities required to consider whether the conduct underlying the offence is criminalised in both jurisdictions, regardless of the name or specific elements of the offence (Art. 5).

627. *Criterion 39.4.* There are limited simplified extradition mechanisms. In case of urgency, a Requesting State may request provisional arrest or detention of the person sought before submitting the official request for extradition through diplomatic channels or treaties on extradition (Art. 17, Law on Extradition). The extradition treaty with Cambodia facilitates and shortens the procedure for extradited persons between Cambodia and Lao PDR, and includes simplified procedures in cases where the person waives authority of his or her right to a formal extradition proceeding. However, in practice, court adjudication is required and applied to everyone equally prior to extradition to the requesting jurisdiction. The Law on Extradition and the bilateral extradition treaties with Vietnam, China, Russia, and Thailand provide for provisional arrest in cases of urgency.

### *Weighting and Conclusion*

628. Lao PDR has a legislative framework that allows for extradition requests to be executed in relation to ML and TF requests. This framework provides processes and timeframes for execution, and does not impose unreasonable or unduly restrictive conditions. While dual criminality is required for extradition, the underlying conduct of the offence is taken into account regardless of the name or specific elements of the offence. Lao PDR is able to prosecute their own nationals domestically where the nationals have committed foreign offences. There are some minor deficiencies. The processes for the execution of requests does not provide for prioritisation, although a country can indicate the urgency of a request, although it is not clear how requests are prioritised other than by a country indicating a request is urgent and how timely they are executed. Deficiencies in the ML and TF offences may impede Lao PDR's ability to provide MLA because of the dual criminality requirement. There are limited simplified extradition mechanisms in place.

**Recommendation 39 is rated partially compliant.**

## ***Recommendation 40 – Other forms of international cooperation***

### *General Principles*

629. The 2011 MER rated Lao PDR as non-compliant for R.40. The report noted that there was no clear gateway for information exchange on FT, no legal gateway for the direct exchange of ML information with foreign counterparts except for AMLIU (now AMLIO) and the INTERPOL Department which did not allow for rapid prompt, constructive and effective information exchange. The report also noted that AMLIU had not established any mechanism for information exchange and only had one case of FIU information exchange.

630. *Criterion 40.1.* The Law on Treaties provides the legal basis for ministries, organisation-equivalent ministries, the SPPO, and others, to enter into treaties and international agreements (Arts. 14 & 94). The content and conduct of international cooperation is set out in a number of laws, as well as the treaties and agreements.

631. LEAs have powers to provide a wide range of international cooperation under bilateral and multilateral agreements, such as the ASEAN MLAT, treaties and agreements, as well as on the basis of reciprocity (Art. 271, Law on Criminal Procedure). This can be done spontaneously, as well as upon request. Competent authorities, including AMLIO, can also provide international cooperation under the Law on AML/CFT for assistance, and cooperation on: investigation, seizure and freezing of funds of the accused, defendant, or offender; use of other legal measures; extradition; and, requests for additional information and evidence relating to offences (Art. 44). However, AMLIO can only provide international cooperation in relation to the combatting and prevention of ML/TF, not associated predicates (Art. 55, Law on AML/CFT). Lao PDR has not demonstrated that AMLIO meets the definition of an authority involved in criminal proceedings, and whether AMLIO could provide international cooperation for predicate offences under the Law on Criminal Procedure.

632. Financial supervisors can also enter into MOUs with foreign counterparts but these appear to be focused on capacity building and training, and do not permit cooperation on supervision. The LSCO has a very broad power to enter into agreements on cooperation with foreign counterparts for the purpose of sharing information, assisting with training and development and other matters as agreed by the parties (Art. 165, Law on Securities). DNFBP supervisory agencies are unable to provide cooperation with their foreign counterparts, except for supervisors of auditors and notaries.

633. Lao PDR did not demonstrate that all competent authorities were able to provide international cooperation rapidly.

*Criterion 40.2:*

634. *Criterion 40.2(a).* LEAs in Lao PDR have a legal basis to conduct a wide range of international cooperation for criminal proceedings formally and informally under international agreements and treaties, and on the basis of reciprocity (Art. 271, Law on Criminal Procedure). Criminal proceedings are broadly as criminal cases and the process under which investigators, public prosecutors, the people's courts and other parties participating in the criminal process to search out wrongful acts in order to take offenders to proceedings, to ensure the correct application of the laws, justice, to not allow offenders to escape from punishment, and to avoid punishing those who are innocent (Art. 2). Criminal cases include conduct that is criminalised under the Lao PDR, which covers ML offences, associated predicate offences and TF offences. Competent authorities, including AMLIO, can also provide a wide range of international cooperation under the Law on AML/CFT (Arts. 42 and 43, Law on AML/CFT). The LSCO has a specific power to enter into agreements on cooperation with foreign counterparts for the purpose of sharing information, assisting with training and development and other matters as agreed by the parties (Art. 165, Law on Securities). Seventeen supervisors of REs have MOUs in place that permit cooperation and coordination at the international level. The MOUs appear to be focused on capacity building and training. Lao PDR did not demonstrate that these MOUs provide for the exchange of information for other AML/CFT purposes, such as information on the supervision of REs that may operate in Lao PDR with foreign branches or subsidiaries in another country or vice versa.

635. *Criterion 40.2(b).* There are no provisions or procedures that specifically authorise competent authorities to use the most efficient means to cooperate. The ASEAN MLAT only requires the requested party to respond as soon as possible (Art. 7.3).

636. *Criterion 40.2(c)*. There are no provisions in Lao PDR law or treaties related to the obligation for competent authorities to use secure gateways, mechanisms or channels that will facilitate and allow for the transmission and execution of requests. Lao PDR provided limited evidence on how competent authorities use gateways to exchange information internationally and ensure the security of information. There are some multilateral cooperation agreements in place to share information. The Immigration Department uses INTERPOL's 'I24/7' system to transmit and execute requests. Negotiations are underway for AMLIO to have access. Lao PDR did not provide information on the legislative basis for the Immigration Department to transmit and execute requests using this database. Other competent authorities seeking to use INTERPOL's I24/7 system must ask the Immigration Department to access the system on their behalf. Some competent authorities use the Electronic Asian Database System (EADS), a website which used to exchange the information between police within 10 ASEAN countries. Lao PDR also became a WCO member in 2007 and can exchange information using the API/PNR. Lao PDR is not a member of Egmont. Requests for international cooperation can also be transmitted securely through diplomatic channels. AMLIO exchanges information internationally through a paper based system or electronically through 20 MOUs.

637. *Criterion 40.2(d)*. There are no provisions in the law or procedures that require Lao PDR's competent authorities to prioritise and ensure timely execution of requests. Lao PDR states that in practice such requests are prioritised and executed based on priority of risk, but there are no formal procedures or processes that set out how this is to be done.

638. *Criterion 40.2(e)*. There are no clear processes for competent authorities to safeguard the information received beyond the confidentiality provisions in some MOUs. However, LEAs that exchange information under the ASEAN MLAT have an obligation to ensure the information is kept confidential. There are also no obligations to protect information against loss and unauthorised access, use, modification, disclosure, or other misuse. INTERPOL, and other exchanges through the WCO, however do have safeguards in place for information.

639. Competent authorities have obligations under legislation, agreements and treaties to maintain the confidentiality of information obtained through international cooperation, but there are no formal processes for competent authorities to safeguard the information received (see c.40.6 below).

640. *Criterion 40.3*. The Law on Treaties sets out the process for establishing treaties and agreements and provides some statutory timeframes for each stage of the process when considering proposals. These timeframes ranges from 15 to 30 days (for example, see Arts. 15, 16, 97, and 99). However, Lao PDR did not provide any information on the extent to which these timeframes are adhered to. The ability of the authorities to meet these timeframes would be contingent on the timeliness of the respective parties to the agreement. Agreements and arrangements to cooperate are in place with a wide range of foreign counterparts, specifically regional counterparts. This is consistent with risk profile.

641. *Criterion 40.4*. There are no provisions in law or procedures that require Lao PDR's competent authorities to provide feedback in a timely manner to competent authorities from which they have received assistance on the use and usefulness of the information obtained, except for the FIU. Lao PDR did not provide evidence that other competent authorities, in practice, provide feedback.

642. *Criterion 40.5*. There do not appear to be any prohibitions, or unduly restrictive conditions set in legislation on the provision or exchange of information; and there are no legislative provisions specifically authorising or requiring international cooperation requests to be refused on the grounds set out in c.40.5(a), (b), (c) and (d). Conditions within MOUs generally relate to where the disclosure is outside of the scope of the enabling laws, impair an



ongoing investigation, is disproportionate to the legitimate interests of a natural or legal person or the national interests of the requesting jurisdiction, or would otherwise contravene fundamental principles of national law. Requests will be refused more generally if they are inconsistent with the laws of Lao PDR.

643. *Criteria 40.6.* The Law on AML/CFT and the Law on International Cooperation do not require that competent authorities only use information exchanged internationally for the purpose for, and by the authorities for which, the information is sought or provided. LEAs exchanging information using the ASEAN MLAT are required to keep requests confidential except to the extent that the information is needed for the purpose described in the request and, protect it from loss and unauthorised use and disclosure. The MOUs between FIUs prevent requesting competent authorities from using information provided other than as stated in the MOU and prevent further disclosure without permission from the requested counterpart. The MOUs between LSCO and its foreign counterparts also generally include a requirement that information exchanged is to be used for the purpose specified in the MOUs and shall be subject to the same level of security control as this kind of information is afforded in the requesting state. Customs MOUs with China and Cambodia require information and documents received under the MOU to only be used for the purpose specified in the request.

644. *Criteria 40.7.* Competent authorities are required to ensure the confidentiality of requests from requesting states (Art. 47, Law on AML/CFT). Staff and competent authorities are prohibited from disclosing 'confidential information' to unrelated natural persons, legal persons or organisations (Art. 51, Law on AML/CFT). Confidentiality requirements also appear in the AMLIO Standard Operating Procedures MOUs for FIU to FIU information exchange (for example, Art. 7, MoU between AMLIO and AMLCO) and for LEAs exchanging information under the ASEAN MLAT (Art. 9.2). Lao PDR has indicated that supervisor to supervisor MOUs have confidentiality provisions but this was not clearly demonstrated.

645. *Criterion 40.8.* While the Law on International Cooperation provides for domestic competent authorities to conduct enquiries on behalf of foreign counterparts, the relevant provisions only apply to law enforcement agencies engaging in MLA in criminal matters (Art. 7). The extent to which other competent authorities have the authority to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically is unclear. While the Lao PDR authorities indicate that enquiries could be conducted on behalf of foreign counterparts by other competent authorities if the incoming request required such cooperation, no legislative basis for this type of cooperation was provided.

#### *Exchange of Information Between FIUs*

646. *Criterion 40.9.* AMLIO has a legal basis for engaging in international cooperation on ML/TF with all 'related parties' through bilateral and agreements with foreign countries or under international treaties and agreements to which Lao PDR is a party, but not on the basis of reciprocity (Arts. 42, 43.2, & 55, Law on AML/CFT). While the legal basis for this international cooperation refers to ML and TF, and not predicate offences, Lao PDR provided evidence that, in practice, international cooperation is provided on predicate offences. AMLIO currently has 20 MOUs in place with foreign FIUs. AMLIO's Standard Operating Procedure provides the policy upon which AMLIO cooperates with foreign FIUs.

647. *Criterion 40.10.* The AMLIO Standard Operating Procedures require AMLIO to provide feedback to jurisdictions either periodically or upon request on how information has been used operationally. Lao PDR also indicated that AMLIO and MOUs to which AMLIO is a party include feedback requirements, both upon request and whenever possible. However, consistency of these MOUs was not demonstrated.

648. *Criterion 40.11.* AMLIO has broad powers of information collection under the Agreement on Organisation and Operations of AMLIO. AMLIO is able to share the information it is able to collect within its powers through bilateral and agreements with foreign FIUs (Section 2.1-2.3, AMLIO Standard Operating Procedure). This includes information required under R.29. AMLIO can exchange information which they have the power to obtain or access, directly or indirectly, at the domestic level, under MOUs but not on the basis of reciprocity.

#### *Exchange of Information Between Financial Supervisors*

649. *Criterion 40.12.* There is a legislative basis for some supervisors to exchange information with foreign counterparts. AMLIO is the designated supervisor of casinos and all FIs, other than securities businesses and insurance companies, and supervises FIs, while other sectoral supervision is done by dedicated supervisors as per the Decree on Entrust. Lao PDR indicated that there are 15 MOUs signed between Lao PDR and foreign supervisors, but this was not clearly demonstrated.

650. AMLIO is able to exchange supervisory information for AML/CFT purposes and engage with other types of international cooperation (seminars, technical knowledge upgrading and capacity building, technical assistance) with foreign supervisors under bilateral and agreements and treaties (Arts. 14, 42, & 43, Law on AML/CFT). However, AMLIO does not have any MOUs in place with foreign supervisors.

651. The LSCO is empowered to conduct international cooperation including for the sharing of information pursuant to signed agreements (Arts. 164 & 166.1 Law on Securities). The LSCO also has the right and duty to cooperate with other countries and international organisations regarding supervision (Art. 3.14, Decision on Organisation and Operations of LSCO). However, foreign counterparts for the purposes of the Law on Securities are limited to foreign securities commissions, so it is unclear if the Commission could exchange information with a foreign supervisor where supervision of the securities sectors was conducted, for example, by a dedicated AML/CFT supervisor (Art. 165). LSCO has MOUs in place with China, Thailand and Vietnam, as well as bilateral agreements with CPA Australia, IOD Institute of Thailand and Luxembourg.

652. BOL: Article 6 of the Law on Bank of Lao PDR includes a statement that Lao PDR promotes international cooperation, both bilateral, regional, and global in the banking sector, including the sharing of information. This is a statement of principle and does not provide a specific legal basis for BOL to engage in international cooperation. Lao PDR did not provide any evidence to demonstrate an alternative basis for the BOL to enter into MOUs, or any examples of MOUs that the BOL has entered into with foreign counterparts.

653. MOF: The Law on Insurance provides for the promotion of international cooperation, both bilateral, regional, and global in the insurance sector by the Ministry for Finance, which includes the exchange of information (Art. 7). This cooperation must occur under an agreement (Art. 166.1, Law on Insurance). International cooperation can be conducted in many forms, including sharing information, techniques, specialization, and human resources but can only be provided to foreign counterparts (Art. 165, Law on Securities). There is no legal basis for DNFBP's supervisory agencies to provide cooperation with their foreign counterparts on AML CFT, except for auditors and notaries (Art. 7, Law on Independent Audit; Art. 8, Law on Notary Public).

654. *Criterion 40.13.* The legislative basis for supervisors other than BOL to exchange information with foreign supervisors provides for broad cooperation, without limiting the scope of information exchanged. However, Lao PDR did not provide evidence to demonstrate that BOL can exchange all information domestically available to them with foreign

counterparts, including information held by FIs. There is no legal basis for DNFBP's supervisory agencies to exchange any information with their foreign counterparts.

655. *Criterion 40.14.* Most supervisors have broad authorisation to engage in international cooperation for AML/CFT purposes and there is no limitation on the exchange of regulatory and AML/CFT information. As noted above, BOL does not appear to have a clear legislative basis to exchange information with foreign counterparts, so it is not clear if prudential information can be exchanged internationally.

656. The LSCO has an MOU in place with Thailand for the purpose of providing a framework for cooperation and exchange of information on debt security offerings by foreign issuers, including channels for communication, increased mutual understanding, and sharing of regulatory information. However, the information provisions of this MOU are limited to providing registration statements and sale reports, and providing updated registration and other documents required by law where the issuer has failed to provide them to the other party (Arts. 10 & 12).

657. There is no legal basis for DNFBP's supervisory agencies to exchange any information with their foreign counterpart.

658. *Criterion 40.15.* There is no explicit provision authorising financial supervisors to conduct inquiries on behalf of foreign counterparts, or to authorise or facilitate the ability of foreign counterparts to conduct inquiries themselves in the country, in order to facilitate effective group supervision. There is no legal basis for DNFBP's supervisory agencies to provide cooperation with their foreign counterpart, except for auditors and notaries.

659. *Criterion 40.16.* There are no specific legislative provisions that require all financial supervisors to ensure that they have the prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use of that information for supervisory and nonsupervisory purpose. However, LSCO is only able to use information shared for the purpose set out in the request for assistance, and must seek permission from the foreign securities supervisor to use the information for any other purpose (Art. 168, Law on Securities). Other legislative provisions provide more generally for agencies and employees to maintain the confidentiality of information but it is not clear that these requirements extend beyond domestic confidential information. One MOU between AMLIO and a foreign counterpart provides for written consent prior to disclosing information to a third party. Lao PDR provided no other evidence of legal provisions that apply to other supervisors seeking dissemination of information exchanged, or the use of that information for supervisory and nonsupervisory purposes, or other MOUs with confidentiality provisions.

#### *Exchange of Information Between Law Enforcement Authorities*

660. *Criterion 40.17.* The Law on Criminal Procedure provides the legal basis for law enforcement authorities to engage in information exchanges with foreign counterparts on criminal proceedings in compliance with agreements and international conventions, and in accordance with Lao PDR law (Arts. 271 & 272). Criminal proceedings are broadly defined as processes in order to urgently search out wrongful acts, completely and thoroughly, and prosecute alleged offenders (Art. 2). Investigative organisations include police, military, customs, forestry, and other agencies (Art. 46). Criminal cases include offences under the Penal Code and other Lao PDR laws which impose criminal penalties (Art. 2) including ML, TF and predicate offences.

661. In practice, LEAs exchange information formally under the ASEAN MLAT. Some LEAs also exchange information informally with foreign counterparts, particularly with the

customs authorities of neighbouring countries. This is done through telephone calls and emails. Laos Customs has MOUs for international cooperation with China, France, Cambodia and Vietnam. Lao PDR did not provide information on MOUs for other LEAs.

662. *Criterion 40.18.* LEAs are able to provide international cooperation in criminal proceedings in compliance with agreements that Lao PDR has signed with foreign countries or international conventions that it has entered into, and in accordance with the laws of the Lao PDR (Art. 271, Law on Criminal Procedure). This allows LEA authorities to use their powers under the law on Criminal Procedure to conduct inquiries and obtain information on behalf of foreign counterparts.

663. LEAs use channels such as INTERPOL (through the Immigration Department) and WCO to exchange information. The parameters required by those channels apply. Customs-to-Customs MOUs impose conditions that govern the exchange of information.

664. *Criterion 40.19.* There are no legislative provisions that specifically enable Lao PDR's LEAs to conduct cooperative investigations or form joint investigative teams with foreign counterparts. There also are no bilateral or arrangements that enable such joint investigations.

#### *Exchange of Information Between Non-Counterparts*

665. *Criterion 40.20.* While investigating officials have a broad obligation under the Law on Criminal Procedure to cooperate with other LEAs (Art. 47), there are no provisions that facilitate the sharing of information between LEAs for indirect cooperation with non-counterparts. There are no requirements for competent authorities that request information indirectly from non-counterparts to make it clear for what purpose and on whose behalf the request is made. The deficiencies related to safeguards and controls, and confidentiality as outlined above, also apply to these types of exchanges.

#### *Weighting and Conclusion*

666. Competent authorities in Lao PDR are able to exchange information with foreign counterparts, but with moderate deficiencies. There are no provisions or procedures that specifically authorise competent authorities to use the most efficient means to cooperate for the prioritisation and timely execution of requests. While there are provisions to maintain the confidentiality of requests and the information shared, the scope of safeguards to protect the information is unclear. Only AMLIO appears to provide feedback on the use and usefulness of information exchanged internationally. The extent to which supervisory agencies exchange information for supervisory, prudential or AML/CFT purposes is unclear and there is no legal basis for supervisory agencies of DNFBPs to provide cooperation with their foreign counterparts, except for auditors and notaries. The extent to which competent authorities, other than LEAs, can use their powers to conduct inquiries and obtain information on behalf of foreign counterparts is unclear, and LEAs are unable to conduct cooperative investigations or form joint investigative teams with foreign counterparts.

**Recommendation 40 is rated partially compliant.**

Attachment to the TC Annex: 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	PC	<ul style="list-style-type: none"> <li>NRA did not identify and assess significant risks including corruption and bribery, transnational organised crime associated with narcotics production and trafficking, human trafficking and environmental crimes (c.1.1)</li> <li>Risk assessments are not kept up-to-date (c.1.3)</li> <li>There is no mechanism to share the findings of the risk assessment (c.1.4)</li> <li>The risk-based approach did not focus on the highest risk sector, casinos (c.1.5)</li> <li>Lao PDR has not issued notices requiring enhanced measures in high risk sectors such as casinos (c.1.7)</li> <li>Simplified measures are not required to be consistent with Lao PDR’s assessment of risk (c.1.8)</li> <li>Supervision ensuring FIs and DNFBPs implement their obligations is limited (c.1.9)</li> <li>FIs and DNFBPs are not required to consider all relevant risks or provide risk assessment information to a competent authority other than AMLIO or SRB (c.1.10)</li> </ul>
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> <li>There is only a limited coordination mechanism to combat PF (c.2.4)</li> </ul>
3. Money laundering offence	PC	<ul style="list-style-type: none"> <li>ML in the Law on AML/CFT and Penal Code are inconsistent with Art 6 of UNTOC and between themselves and the scope of the ML offence is restricted (c.3.1)</li> <li>Only a limited number of criminal offences satisfy FATF’s list of designated offences (c.3.2)</li> <li>In the Law on AML/CFT predicate offences are limited to those that ‘are the causes of money laundering’ and in the Penal Code predicate offence is undefined (c.3.3)</li> <li>The definition of ‘funds’ in the Law on AML/CFT does not meet the FATF definition and the Penal Code does not define the term ‘funds’ or ‘property’ (c.3.4)</li> <li>The Penal Code requires a conviction on a predicate offence for the prosecution on the ML offence (c.3.5)</li> <li>The Penal Code does not include conduct committed by legal persons (c.3.6)</li> <li>The Penal Code does not include a range of objective facts including documents, behaviour by other parties, statements by other parties etc. in the proof of intent and knowledge (c.3.8)</li> <li>Sanctions in the Penal Code are not sufficient to be dissuasive for legal persons (c.3.10)</li> </ul>
4. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>Property held by third parties is not covered, limitations in the definition of predicate crimes in R.3 mean property laundered may not include proceeds of most underlying predicates, the Law on AML/CFT does not include funds already used in the commission of an offence and financial instruments does not include other instruments of crime such as chattels, real estate etc. Confiscation of property does not extend to proceeds of, used by or intended for use in terrorist acts or by terrorist organisations and the TF offence is restricted to ‘attempts’. The range of terrorist related offences for the confiscation of equivalent value is too narrow (c.4.1)</li> <li>Measures to identify, trace and evaluate property subject to confiscation are unclear, authorities do not have ability to take steps to examine, prevent or void actions that may prejudice ability to seize or freeze or recovery property, and there are gaps in appropriate investigative measures (see R.31) (c.4.2)</li> <li>It is unclear that the rights of <i>bona fide</i> third parties other than victims of crime are protected (c.4.3)</li> <li>There is no obligation to manage property so as to preserve and maintain value pending confiscation (c.4.4)</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
5. Terrorist financing offence	NC	<ul style="list-style-type: none"> <li>The Penal Code and Law on AML/CFT definitions of TF offences are not consistent with the TF Convention, not all acts listed in TF Conventions are criminalised (c.5.1)</li> <li>The Law on AML/CFT and Penal Code are restricted to ‘attempts’, the Penal Code does not cover actions provided in the TF Convention (c.5.2)</li> <li>The Law on AML/CFT and Penal Code do not criminalise the financing of travel of individuals (c.5.2<sup>bis</sup>)</li> <li>The Law on AML/CFT and Penal Code do not refer to whether funds are from legitimate or illegitimate sources (c.5.3)</li> <li>The Law on AML/CFT requires funds to be link to the terrorism act and the Penal Code does not require that funds or properties be used to carry out or attempt a terrorist act (c.5.4)</li> <li>The Penal Code restricts the offence to ‘behaviour’ of the offender (c.5.5)</li> <li>Fines for TF are not considered dissuasive (c.5.6)</li> <li>Fines for legal persons are not considered proportionate and dissuasive (c.5.7)</li> <li>In the Penal Code all ancillary offences relate to attempts and the Law on AML/CFT definition of a TF offence is deficient (c.5.8)</li> <li>TF is not clearly listed as a predicate offence to ML (c.5.9)</li> <li>Lao PDR law does not provide that TF offences that occurred in other countries apply in Lao PDR (c.5.10)</li> </ul>
6. Targeted financial sanctions related to terrorism & TF	PC	<ul style="list-style-type: none"> <li>Lao PDR requires an evidentiary standard of ‘sufficient evidence’ but considers this to be a criminal evidentiary standard (c.6.1(c)).</li> <li>Lao PDR requires an evidentiary standard of ‘sufficient evidence’ but considers this to be a criminal evidentiary standard (c.6.2(c)).</li> <li>Lao PDR requires an evidentiary standard of ‘sufficient evidence’ but considers this to be a criminal evidentiary standard (c.6.2(d))</li> <li>Not all investigative mechanisms are available for the collection of documents and information (see c.31.1) (c.6.3(a)).</li> <li>The mechanism for communicating designations is in English only and there is no guidance on obligations in taking actions under freezing mechanisms (c.6.5(d))</li> <li>The rights of <i>bona fide</i> third parties are not protected other than when they withhold funds because of false positive matches (c.6.5(f))</li> <li>Procedures to submit de-listings are not expressly specified and website links direct users to the UN website which is only in English (c.6.6(a))</li> <li>De-listing procedures and mechanisms are not clear (c.6.6(b))</li> <li>The process for a petitioner to request the NCC’s review of a designation is unclear (c.6.6(c))</li> <li>Procedures for the review of listings under UNSCR1988 are available in English only. There are no guidelines in Lao language (c.6.6(d))</li> <li>There are no procedures for informing a designated persons of the availability of the UN Office of the Ombudsman (c.6.6(e))</li> <li>There is no unfreezing mechanism for ‘false positives’ (c.6.6(f))</li> <li>There is no mechanism to provide guidance to REs and other persons or entities on their obligations in respect to a de-listing or unfreezing action (c.6.6(g))</li> <li>Access is not permitted to all basic expenses detailed by UNSCR 1452 and there is no mechanism under UNSCR 1373 to access withheld, frozen or seized funds (c.6.7)</li> </ul>
7. Targeted financial sanctions related to proliferation	PC	<ul style="list-style-type: none"> <li>Notification of updated designations are not without delay (c.7.1)</li> <li>The freezing mechanism is delayed by two to three days (c.7.2(a))</li> <li>It is unclear if the freezing obligation; (ii) applies to funds or other assets that are jointly owned or controlled, directly or indirectly by designated persons, (iii) apply to funds or other assets derived or generated from funds or others assets owned or</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<p>controlled directly or indirectly by designated persons, or (iv) extend to funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons (c.7.2(b))</p> <ul style="list-style-type: none"> <li>• It is unclear how sanctions to prevent funds or other assets being made available to designated persons on entities are applied (c.7.2(c))</li> <li>• Mechanisms for communicating designations are available only in English (c.7.2(d))</li> <li>• Deficiencies in the coverage of DNFBPs limit requirements to report. See R.22. (c.7.2(e))</li> <li>• There are no protections for individuals, legal persons or organisations implementing freezing obligations (c.7.2(f))</li> <li>• There is limited supervision outside of the banking sector and criminal sanctions in relation to TFS for PF are not specified in the Penal Code and not specified in the Law on AML/CFT (c.7.3)</li> <li>• There are no procedures for the submission of delisting requests (c.7.4(a))</li> <li>• There are no procedures to unfreeze funds or other assets of persons or entities where a false positive name match arises (c.7.4(b))</li> <li>• There is no guidance on obligations in respect to delisting or unfreezing actions associated with proliferation (c.7.4(d))</li> </ul>
8. Non-profit organisations	NC	<ul style="list-style-type: none"> <li>• The NPO risk assessment is not comprehensive, did not incorporate all INGOs, did not assess the overall risk level or identify features and types of NPOs likely to be at risk of TF abuse (c.8.1(a))</li> <li>• Lao PDR did not identify the nature of threats posed by TF to at-risk NPOs or how terrorist actors abuse NPOs (c.8.1(b))</li> <li>• There has been no review of the adequacy of measures including laws and regulations (c.8.1(c))</li> <li>• The reassessment of risk was not comprehensive and did not identify features and types of NPOs at risk. It was unclear if new information on potential vulnerabilities was reviewed (c.8.1(d))</li> <li>• Record-keeping obligations in the Law on AML/CFT do not apply to NPOs and not all associations and foundations submit annual reports as required by law (c.8.2(a))</li> <li>• There was no outreach or education programmes to INGOs and the donor community. Workshops with local NPOs only covered TF risk and indicators, and risk assessment procedures in brief (c.8.2(b))</li> <li>• It was unclear how outreach activities supported development and refinement of best practices to address TF risks and vulnerabilities and protect NPOs from abuse (c.8.2(c))</li> <li>• There are no requirements for INGOs to operate a bank account and there are no incentives to discourage NPOs from using cash in order to avoid regulated financial channels (c.8.2(d))</li> <li>• Risk-based supervision and monitoring of local NPOs is only at its initial stage and has not commenced for INGOs. (c.8.3)</li> <li>• There is no monitoring or supervision of INGOs (c.8.4(a))</li> <li>• There are no fines for persons acting on behalf of NPOs and some sanctions may not be effective, proportionate or dissuasive (c.8.4(b))</li> <li>• There is no provision for cooperation and coordination amongst relevant agencies in the Decree on Foundations and deficiencies in c.8.5(d) cascade (c.8.5(a))</li> <li>• There is no specific mechanism for sharing of information on TF abuses for NPOs nor a requirement for prompt information sharing. (c.8.5(d))</li> </ul>
9. Financial institution secrecy laws	LC	<ul style="list-style-type: none"> <li>• The extent to which domestic competent authorities can exchange information is unclear (c.9.1)</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
10. Customer due diligence	PC	<ul style="list-style-type: none"> <li>For occasional transactions, there is no requirement to verify the originator of the wire transfer (c.10.2(c))</li> <li>It is not specifically mentioned that CDD measures must be undertaken regardless of exemptions or thresholds when there is a suspicion of ML/TF (c.10.2(d))</li> <li>When acting on behalf of a customer, there is no requirement for legal persons or legal arrangements to be identified and verified or for verification of their authorisation to act on behalf of a customer. (c.10.4)</li> <li>Deficiencies in the definition of beneficial owner in c.10.10 cascade to this criterion (c.10.5)</li> <li>There is no requirement to understand the purpose and intended nature of the business relationship' (c.10.6)</li> <li>There is no requirement to understand the nature of the customer's business (c.10.8)</li> <li>Definitions in the Law on AML/CFT and Agreement on AML/CFT Measures are inconsistent and not consistent with the FATF definition. This deficiency cascades through the R.10 sub-criterion (c.10.10(a) - (c))</li> <li>There is no requirement to verify the identity of the beneficial owners or to identify classes of beneficiaries or any other natural person exercising ultimate effective control over a legal arrangement or other types of legal arrangements and CDD obligations on REs are limited to arrangements deemed high risk (c.10.11(a)&amp;(b))</li> <li>The deficiencies in the definition of beneficial owner (see c.10.10) cascade to these criterion (c.10.13 &amp; c.10.14)</li> <li>When applying CDD measures there is no requirement to consider when CDD measures were previously undertaken or the adequacy of data obtained (c.10.16)</li> <li>Deficiencies in the definition of beneficial owner adversely affect this sub-criterion (see c.10.10) (c.10.19(a))</li> <li>Deficiencies in R.20 linked to the deficiencies in R.3 and R.5 adversely affect this sub-criterion (c.10.20)</li> </ul>
11. Record keeping	PC	<ul style="list-style-type: none"> <li>There is no requirement to maintain records on results of any analysis undertaken, laws do not specify the time period for holding records on account files, there is no requirement to hold business correspondence (c.11.2)</li> <li>There is no requirement to provide records to competent authorities 'swiftly' (c.11.4)</li> </ul>
12. Politically exposed persons	NC	<ul style="list-style-type: none"> <li>The definition of a foreign PEPs omits foreign senior government, judicial or military officials, senior executives of state owned corporations and political party officials (c.12.1(a)&amp;(b))</li> <li>There is no requirement to identify a PEP's source of wealth and deficiencies in the definition of 'funds' (see c.3.4.) cascade to this criterion. See also deficiencies in c.12.1(a) (c.12.1(c))</li> <li>There is no requirement to apply enhanced ongoing monitoring (c.12.1(d))</li> <li>The definition of a domestic PEP does not include heads of state or government, senior politicians, judicial or military officials (c.12.2(a))</li> <li>Deficiencies in the definitions of 'funds' and PEPs and deficiencies in c.12.1(d) for enhanced ongoing monitoring cascade to this criterion (c.12.2.(b))</li> <li>Deficiencies in the definition of PEPs cascade to this criterion (c.12.3 &amp; c.12.4)</li> </ul>
13. Correspondent banking	LC	<ul style="list-style-type: none"> <li>FIs are not explicitly prohibited from entering into relations with shell banks (c.13.3)</li> </ul>
14. Money or value transfer services	PC	<ul style="list-style-type: none"> <li>The definition of MVTS does not include 'other stores of value' (c.14.1)</li> <li>No action has been taken to identify natural or legal persons carrying out an MVTS business without a licence or registration (c.14.2)</li> </ul>



Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>MVTS providers who use agents are not obliged to include them in their AML/CFT programme (c.14.5)</li> </ul>
15. New technologies	NC	<ul style="list-style-type: none"> <li>There is no requirement on FIs to assess new business practices or on Lao PDR authorities to identify and assess the ML/TF risks of new products, business practices including delivery mechanism or new or developing technologies (c.15.1)</li> <li>There is no requirement to conduct a risk assessment of new products, practices and technologies prior to their launch (c.15.2(a))</li> <li>Risk control measures are not required to be put in place prior to the launch or use of new technologies or business practices (c.15.2(b))</li> <li>The ML/TF risk assessment of VAs and VASPs did not consider the findings of the NRA, its applicability to VAs and VASPs in the context of Lao PDR, the risk posed by all types of VASPs and different VA activities, and other factors (c.15.3(a))</li> <li>Lao PDR did not demonstrate an understanding of risk and measures applied were not risk-based (c.15.3(b))</li> <li>Deficiencies in c.10.1(b) and c.10.1(d) cascade to this criterion and there are no obligations on VASPs operating outside the pilot that are not cryptocurrency trading platforms (c.15.3(c))</li> <li>Not all VASPs in the FATF definition are included in the definition of 'cryptocurrency trading platform' and therefore are not required to be licenced or registered (c.15.4(a))</li> <li>Measures do not apply to all criminals, only those convicted of specific crime types. Measures do not prevent criminals from being a beneficial owner, holding a significant or controlling interest, or management function in a VASP. The deficiency in 15.4(a) also applies (c.15.4(b))</li> <li>Lao PDR is yet to take action to identify natural or legal persons operating without the requisite licence or registration and other than in a single instance, the range of prohibitions are unused.(c.15.5)</li> <li>There are no supervisors of VAPS for AML/CFT requirements. Risk-based supervision and monitoring of VASPs is yet to commence (c.15.6(a))</li> <li>Supervisors are not empowered to apply appropriate measures against all VASPs (see c.15.4(a)) (c.15.6(b))</li> <li>No guidelines of feedback has been issued (c.15.7)</li> <li>Sanctions are not proportionate or dissuasive, do not apply to directors and deficiencies in 15.4(a) apply (c.15.8(a) &amp;(b))</li> <li>VASPs are not required to comply with R.10-21 and CDD requirements for VASPs, there is no threshold for CDD and no requirement to comply with R.16 (c.15.9(a)&amp;(b))</li> <li>Lao PDR did not demonstrate that a communication mechanism, and reporting obligations and monitoring for TFS are implemented for VASPs (c.15.10)</li> <li>There is no legal basis for supervisors to exchange information with foreign counterparts for VASPs (c.15.11)</li> </ul>
16. Wire transfers	PC	<ul style="list-style-type: none"> <li>There is no requirement to ensure originator information is accurate (c.16.1(a))</li> <li>There are no provisions addressing instances where several individual cross-border wire transfers from a single originator are bundled in a batch file (c.16.2)</li> <li>FIs are not required to accompany transfers below LAK 8,000,000 (approx. USD 490) with the required originator and beneficiary information (c.16.3)</li> <li>There is no requirement to verify the required originator or beneficiary information in c.16.3 where there is a suspicion of ML/TF (c.16.4)</li> <li>Deficiencies in R.11 cascade to this criterion (c.16.7)</li> <li>There is no prohibition on FIs to not allow a wire transfer if it does not comply with the requirements of c.16.1-16.7 (c.16.8)</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>• There is no requirement for FIs to have risk-based policies for determining when to suspend a wire transfer (c.16.12)</li> <li>• There is no requirement for beneficiary FIs to take reasonable measures to ascertain whether required originator or beneficiary information is lacking (c.16.13)</li> <li>• There is no requirement to have policies or procedures on when to suspend wire transfers that lack required originator or required beneficiary information (c.16.15)</li> <li>• Deficiencies in R.20 cascade to this criterion and there is no requirement to a) take into account all information from both the ordering and beneficiary sides in order to determine whether to file an STR, or (b) file an STR in any country affected by the suspicious wire transfer (other than Lao PDR). Record-keeping obligations under R.11 to make information available to foreign FIUs cascade to this criterion. (c.16.17(a)&amp;(b))</li> </ul>
17. Reliance on third parties	N/A	
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> <li>• Financial institutions programmes against ML/TF are not required to have regard to business size (c.18.1(a))</li> <li>• There is no requirement to implement staff screening procedures (c.18.1(b))</li> <li>• There is no requirement for group-wide programmes against ML/TF to have regard to business size or to implement staff screening procedures (c.18.2(a))</li> <li>• There are no specific requirements on sharing account data and no obligation for branches or subsidiaries to receive information from group-level functions when relevant and appropriate to risk management (c.18.2(b))</li> </ul>
19. Higher-risk countries	PC	<ul style="list-style-type: none"> <li>• There are no laws or regulations requiring Lao PDR authorities to implement counter-measures proportionate to risk when called upon by the FATF or independent of any call (c.19.2(a) &amp; (b))</li> <li>• Lao PDR does not ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries (c.19.3)</li> </ul>
20. Reporting of suspicious transaction	PC	<ul style="list-style-type: none"> <li>• Lao PDR laws require the filing of STRs only if they are linked to ML and TF and not more widely to the proceeds of criminal activity and there are contradictions in law relating to the time to file an STR. Some concerns with 'promptly'. Deficiencies in R.3 with respect to predicate offences cascade to this criterion. (c.20.1)</li> <li>• There is a requirement to file attempted transactions, but they must relate to activities connected with ML or TF and the deficiencies in c.20.1 apply to this criterion (c.20.2)</li> </ul>
21. Tipping-off and confidentiality	PC	<ul style="list-style-type: none"> <li>• Directors of FIs are not protected from criminal and civil liability. There are no protections from civil liability (initiated by customers) (c.21.1)</li> <li>• The requirement to postpone transactions suspected of ML/TF for three working days may tip-off the customer (c.21.2)</li> </ul>
22. DNFBPs - Customer due diligence	PC	<ul style="list-style-type: none"> <li>• Lawyers, real estate agents, and precious metal &amp; stone dealers that practice as sole traders are not defined as DNFBPs for the purpose of the AML/CFT law. Deficiencies in R.10 apply to R.22 (c.22.1(a) – (e))</li> <li>• The DNFBP definition does not include accountants or TCSPs and therefore they are not required to apply CDD measures (c.22.1(d) &amp; (e))</li> <li>• Deficiencies in R.11 apply to DNRBPs and obligations on accountants do not include records of CDD measures, business correspondence and results of analysis (c.22.2)</li> <li>• Deficiencies in R.12 apply to DNFBPs (c.22.3)</li> <li>• Deficiencies in R.15 apply to DNFBPs (c.22.4)</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
23. DNFBPs - Other measures	NC	<ul style="list-style-type: none"> <li>Deficiencies in R.20 apply to this criterion and accountants, accounting firms and TCPSs are not included in the definition of DNFBPs (c.23.1(a) – (c))</li> <li>Deficiencies in R.18 and the scope gap in the definition of DNFBPs apply (c.23.2)</li> <li>Deficiencies in R.19 and the scope gap in the definition of DNFBPs apply (c.23.3)</li> <li>Deficiencies in R.21 and the scope gap in the definition of DNFBPs apply (c.23.4)</li> </ul>
24. Transparency and beneficial ownership of legal persons	NC	<ul style="list-style-type: none"> <li>Lao PDR has not assessed ML/TF risks associated with legal persons created in the country (c.24.2)</li> <li>There are no requirements for State-owned and mixed enterprises to register and provide basic information that can be made publicly available, public companies only have to provide limited information from the by-laws application for registration and basic regulating powers are not provided, for limited partnerships the basic regulating powers are not provided, information on cooperatives, foundations, associations and INGOs is not publicly available, (c.24.3)</li> <li>There are no provisions under the Law on Enterprises that require all types of legal persons to maintain basic information within Lao PDR at a location to be notified to the company register, record-keeping obligations under the Law on Documents and the Decree on Official Documents do not apply to companies and partnerships, the Enterprise Register does not include the nature of associated voting rights for companies, there are no requirements for public companies State and mixed enterprises, and foreign companies to maintain a register of shareholders or members, there are no requirements for limited ordinary or limited partnerships to maintain a register of partners or shareholders, and for cooperatives there is no obligation to maintain a register of members containing the number of shares held by each member and categories of shares (c.24.4)</li> <li>For companies and partnerships, there is no requirement to verify the accuracy of names of partners/directors or shareholder information, whether original or certified copies of documents are required for the registration process is unclear and there are no offences for providing false or misleading information to the registrar. For state and mixed enterprises, there is no requirement to keep basic information accurate and updated on a timely basis. It is unclear if associations and foundations annual reports to government must include information that updates basic information (c.24.5)</li> <li>The ERO collects very limited beneficial ownership information which is not verified in any systemic way, and public companies are not required to update the beneficial owner, only the legal owner. Shareholder registers kept by private companies are not required to hold accurate information on the beneficial owner (c.24.6(a) &amp; (b))</li> <li>There is no requirement for companies to hold beneficial ownership information in their share registers nor register of members where such an obligation exists and deficiencies in R.10 and R.22 apply. Competent authorities responsible for licensing and registration may collect some BO information (c.24.6(c))</li> <li>Enterprises are required to keep legal, not beneficial ownership up-to-date, there are no requirements on INGOs to keep BO information accurate and up-to-date, and it is unclear if providing ERO with false or misleading information is an offence. There are no specific obligations requiring BO information be accurate and up-to-date for associations, foundations and INGOs. (c.24.7)</li> <li>There are no specific mechanisms in place as required under sub-criteria 24.8 (a) and (b) (c.24.8)</li> <li>The Law on Accounting and Law on Commercial Banks does not cover all BO information required by R.24 and requirements do not apply to payment services. Supervisors, relevant agencies, and companies are required to maintain official documents, but only for at least one year and the scope of this requirement is unclear (see c.24.4)</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>• There are no provisions that provide for timely access to basic and beneficial ownership information (c.24.10)</li> <li>• There are no measures in place to mitigate the risks of bearer shares or bearer share warrants (c.24.11)</li> <li>• There are no mechanisms to ensure nominee shares and nominee directors are not misused (c.24.12)</li> <li>• Sanctions in the Law on Enterprises are not proportionate or dissuasive and are not applicable to providing false or misleading information for breaches of record-keeping obligations. It is unclear if penalties in the Law on Enterprises and Decision on Enterprise Registration are dissuasive. (c.24.13)</li> <li>• The MOIC does not exchange information directly with foreign competent authorities and there are no provisions for rapid access (c.24.14(a))</li> <li>• There is no ability to rapidly provide information on beneficial owners (c.24.14(b))</li> <li>• The extent to which law enforcement and other competent authorities can use their powers to conduct inquiries and obtain information on behalf of foreign counterpart is unclear (c.24.14(c))</li> <li>• Not all competent authorities monitor the quality of assistance they receive from other countries (c.24.15)</li> </ul>
25. Transparency and beneficial ownership of legal arrangements	NC	<ul style="list-style-type: none"> <li>• Deficiencies in the definition of beneficial owner applicable to trusts limits the amount of BO information available to trust services providers and non-professional trustees are not required to keep the required information. There is no requirement to collect information on 'classes of beneficiaries' (c.25.1(a))</li> <li>• Collection of basic information is limited to who has effective control over the trust (c.25.1(b))</li> <li>• Requirements to maintain information for at least five years after their involvement with the trust ceases do not apply to non-professional trustees (c.25.1(c))</li> <li>• Non-professional trustees are not required to keep information accurate and up-to-date as possible (c.25.2)</li> <li>• Only trustees that are also REs are subject to enforceable obligations to disclose their status to FIs and DNFBBPs. There are no requirements on non-professional trustees (c.25.3)</li> <li>• Deficiencies in the definition of 'beneficial owner' (see c.10.11) in the trust context cascade to this criterion (c.25.5)</li> <li>• International cooperation is not provided 'rapidly'. There are no forms of registries of trusts or legal arrangements to facilitate access to basic information (c.25.6(a))</li> <li>• There is no evidence that Lao PDR can exchange domestically available information on the trusts or other legal arrangements (c.25.6(b))</li> <li>• There is no evidence that competent authorities use their investigative powers to obtain beneficial ownership on trusts or other legal arrangements on behalf of foreign counterparts (c.25.6(c))</li> <li>• Compensation for damages provides that damages can only relate to ambiguous general categories and do not include intangible assets. The scope of damages and quantity imposed are not stated. There do not appear to be any penalties available to hold foreign trustees to account (c.25.7)</li> <li>• The range of applicable sanctions under the Penal Code is unclear as the status of the offence of failing to obey a request from a LEA officer as a minor or major offence is not known. Sanctions in the Law on AML/CFT and AML/CFT measures are not proportionate or dissuasive (see R.35) (c.25.8)</li> </ul>
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> <li>• There is no prohibition on the continued operation of shell banks that may have been operating before 15 January 2016 (c.26.2)</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>For banks, securities companies and insurance businesses there are no measures that apply to criminals’ associates, insurers’ market entry requirements apply to a narrow range of crimes and there are no measures in place for SEZs (c.26.3)</li> <li>Core principle FIs are subjected to limited AML/CFT supervision and consolidated group supervision was not demonstrated (c.26.4(a))</li> <li>Other FIs have not been subjected to AML/CFT supervision since 2018 (c.26.4(b))</li> <li>Supervisors do not sufficiently consider enterprise and group risk in determining the frequency and intensity of on-site and off-site AML/CFT supervision (c.26.5(a))</li> <li>Supervisors rely on the NRA which only partly captures the ML/TF risks present in Lao PDR. Changes in risk or new or emerging risks do not influence the frequency or intensity of AML/CFT supervision (c.26.5(b))</li> <li>Characteristics of financial groups or the degree of discretion allowed under a risk-based approach to determine the frequency or intensity of AML/CFT supervision were not assessed (c.26.5(c))</li> <li>Supervisors do not sufficiently review the assessment of ML/TF risk profile of the financial institution or group and there is no mechanism to identify major events or developments in the management or operations of a financial institution of group to trigger a risk re-rating (c.26.6)</li> </ul>
27. Powers of supervisors	LC	<ul style="list-style-type: none"> <li>Supervisors right to compel information is limited to ‘necessary information’ as opposed to ‘any information’ (c.27.3)</li> </ul>
28. Regulation and supervision of DNFBPs	NC	<ul style="list-style-type: none"> <li>There are no measures to prevent criminals or their associates from owning, controlling, managing or operating casinos (c.28.1(b))</li> <li>Only limited supervision of casinos has taken place (c.28.1(c))</li> <li>There is no AML/CFT supervisor for accountants and accounting firms (c. 28.2).</li> <li>DNFBPs are not subject to systems for monitoring compliance with AML/CFT obligations (c.28.3)</li> <li>Supervisors do not have powers to issue sanctions (c.28.4(a))</li> <li>There are no measures in place to prevent criminals and their associates from being professionally accredited, or being the owner, controller or manager of a DNFBP (c.28.4(b))</li> <li>Supervisors of DNFBPs are unable to apply sanctions for non-compliance (c.28.4(c))</li> <li>There are no requirements or policies for risk-based supervision of DNFBPs including determining the frequency and intensity of on-site or off-site supervision, and supervision of DNFBPs does not take into account the DNFBPs’ ML/TF risk profile and the degree of discretion allowed to them under the risk-based approach (c.28.5)</li> </ul>
29. Financial intelligence units	PC	<ul style="list-style-type: none"> <li>AMLIO’s operational analysis is limited (29.4(a))</li> <li>It is not explicit whether the electronic means used to disseminate information are dedicated, secure, and protected channels (c.29.5)</li> <li>There is no legal requirement to hold a security clearance or procedural document that defines the security clearance process for staff of the FIU (c.29.6(b))</li> <li>It is unclear whether there is an IT system security policy or measures to limit access to information(c.29.6(c))</li> <li>AMLIO’s authority and capacity to carry out its functions and responsibilities freely are not independent or autonomous (c.29.7(a) – (d))</li> </ul>
30. Responsibilities of law enforcement and investigative authorities	LC	<ul style="list-style-type: none"> <li>There are no legal provision explicitly authorising investigative bodies other than MOPs to conduct financial investigations or ML offences investigations parallel with financial investigations. There are no legal provisions for the referral of financial investigations to MOPs or another body for parallel investigation (c.30.2)</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>There is no legal provision explicitly authorising the LSCO to pursue financial investigations or to refer ML cases related to security offences to another LEA (c30.4)</li> </ul>
31. Powers of law enforcement and investigative authorities	PC	<ul style="list-style-type: none"> <li>Powers to request information are broad and not compulsory (c.31.1(a))</li> <li>There are no legal provision for conducting undercover operations or controlled deliveries by competent investigative authorities (c.31.2(a) &amp; (d))</li> <li>Legal provisions for intercepting communications and accessing computer systems do not extend to all competent investigative authorities (c.31.2(b) &amp; (c))</li> </ul>
32. Cash couriers	LC	There are no safeguards in place to ensure proper use of information collected through the declaration system (c.32.10)
33. Statistics	PC	<ul style="list-style-type: none"> <li>STR statistics are not comprehensive across a number of statistical areas (c.33.1(a))</li> <li>ML/TF investigations, prosecutions and convictions statistics are not comprehensive and lack detail on underlying predicate crimes (c.33.1(b))</li> <li>Comprehensive statistics are not maintained on property frozen, seized and confiscated (c.33.1(c))</li> </ul>
34. Guidance and feedback	NC	<ul style="list-style-type: none"> <li>Lao PDR authorities have not issued sufficiently detailed guidance to FIs, DNFBPs and VASPs (c.34.1)</li> </ul>
35. Sanctions	PC	<ul style="list-style-type: none"> <li>Criminal sanctions in the Law on AML/CFT are limited to a fine and are not proportionate or dissuasive for legal persons. Available criminal sanctions for unauthorised MVTS are not specified Civil and administrative sanctions are not proportionate or dissuasive for natural persons and for legal persons the range of sanctions is not dissuasive. The quantum of fines for unauthorised MVTS is not specified (c.35.1)</li> <li>Not all sanctions on management are applicable and some in limited circumstances only and administrative sanctions are not applicable to directors of legal persons. Criminal sanctions are not applicable to senior management and directors of REs (c.35.2)</li> </ul>
36. International instruments	PC	<ul style="list-style-type: none"> <li>Lao PDR has only partially implemented the relevant articles of the Palermo Convention, Vienna Convention and the Terrorist Financing Convention (c36.2)</li> </ul>
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> <li>ML and TF offences have significant deficiencies as outlined in R.3 and R.5 (c.37.1)</li> <li>Treaties other than the ASEAN MLAT are silent on the timeliness of fulfilling MLA requests and there are no processes for timely prioritisation (c.37.2)</li> <li>Lao PDR law does not permit assistance in the absence of dual criminality (c.37.6)</li> <li>There are deficiencies in the domestic law that apply to the use of powers for MLA for domestic competent authorities collecting information and evidences, addresses, and identities: inspecting and maintaining the evidences; and seizing or freezing assets (see R.31) (c.37.8)</li> </ul>
38. Mutual legal assistance - freezing and confiscation	PC	<ul style="list-style-type: none"> <li>MLA for the freezing and confiscating of assets does not include tax offences, the scope of assets that can be seized or confiscated is limited by the deficiencies identified in R.4, and for instrumentalities of crime a range of requests are excluded (c.38.1)</li> <li>Lao PDR authorities cannot enforce a foreign non-conviction based confiscation order (c.38.2)</li> <li>There are no specific provisions for disposing of property frozen, seized or confiscated (c.38.3(b))</li> </ul>
39. Extradition	PC	<ul style="list-style-type: none"> <li>Deficiencies in the ML and TF offence may impede Lao PDR's ability to provide MLA for these offences because of the dual criminality requirement (c.39.1(a))</li> <li>Extradition requests are not prioritised (c.39.1(b))</li> <li>There are no provisions or procedures that require requests for prosecution by competent authorities to be processed without delay (c.39.2)</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>Simplified extradition mechanisms are limited to cases of urgency and some bilateral extradition treaties (c.39.4)</li> </ul>
40. Other forms of international cooperation	PC	<ul style="list-style-type: none"> <li>AMLIO can only provide international cooperation in relation to the combatting and prevention of ML/TF, not associated predicates. Financial supervisors' MOUs do not permit cooperation on supervision and DNFBP supervisors other than for auditors and notaries are unable to cooperate with foreign counterparts (c.40.1)</li> <li>MOUs for providing cooperation do not include the exchange of information for other AML/CFT purposes, such as information on the supervision of REs that may operate in Lao PDR with foreign branches or subsidiaries in another country or vice versa (c.40.2(a))</li> <li>There are no provisions or procedures that specifically authorise competent authorities to use the most efficient means to cooperation (c.40.2(b))</li> <li>There are no provisions in Lao PDR law or treaties related to the obligation for competent authorities to use secure gateways, mechanisms or channels (c.40.2(c))</li> <li>There are no provisions or procedures that require the prioritisation and timely execution of requests by competent authorities (c.40.2(d))</li> <li>There are no clear processes for competent authorities to safeguard the information received beyond the confidentiality provisions in some MOUs (c.40.2(e))</li> <li>Lao PDR did not provide any information on the extent to which statutory timeframes are adhered to (c.40.3)</li> <li>There are no provisions in the law or procedures requiring competent authorities to provide feedback in a timely manner on the use and usefulness of the information obtained, except for the FIU (c.40.4)</li> <li>Competent authorities are not required to only use information exchanged internationally for the purpose for, and by the authorities for which the information was sought or provided (c.40.6)</li> <li>Confidentiality provisions in supervisor to supervisor agreements were not evidenced (c.40.7)</li> <li>Other than law enforcement agencies engaging in MLA in criminal matters, no other domestic competent authorities can conduct enquiries on behalf of foreign counterparts and the exchange all information that would be obtainable if such inquiries were being carried out domestically is unclear (c.40.8)</li> <li>It was not demonstrated that all FIU to FIU MOUs include a requirement to provide feedback upon request and whenever possible (c.40.10)</li> <li>AMLIO is not able to obtain or access information, directly or indirectly, at the domestic level, on the basis of reciprocity (c.40.11)</li> <li>AMLIO does not have any MOUs in place with foreign supervisors, whether the LSCO can exchange information with a dedicated AML/CFT supervisor is unclear, there is no legal basis for BOL or DNFBP supervisors (except auditors and notaries) to engage in international cooperation, and MOUs for the exchange of information with foreign supervisors were not provided (c.40.12)</li> <li>Lao PDR has not provided evidence to demonstrate that BOL can exchange information with foreign counterparts all information domestically available to them, including information held by FIs. There is no legal basis for DNFBP's supervisory agencies to exchange any information with their foreign counterparts (c.40.13)</li> <li>There is no clear legislative basis for BOL to exchange prudential information with foreign counterparts, information exchange by the LSCO is possible in limited circumstances, and there is no legal basis for DNFBP supervisors to exchange information with foreign counterparts (c.40.14)</li> <li>Financial supervisors are not authorised to conduct inquiries on behalf of foreign counterparts, or to authorise or facilitate the ability of foreign counterparts to</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		<p>conduct inquiries themselves in the country, in order to facilitate effective group supervision. There is no legal basis for DNFBP’s supervisory agencies to provide cooperation with their foreign counterpart, except for auditors and notaries (c.40.15)</p> <ul style="list-style-type: none"> <li>• Other than LSCO, financial supervisors are not required to ensure that they have the prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use of that information for supervisory and nonsupervisory purpose (c.40.16)</li> <li>• MOUs governing information exchange for LEAs other than Customs were not provided (c.40.17)</li> <li>• There are no legislative provisions that specifically enable Lao PDR’s law enforcement authorities to conduct cooperative investigations or form joint investigative teams with foreign counterparts. There also are no bilateral or multi-lateral arrangements that enable such joint investigations. (c.40.19)</li> <li>• There are no provisions that facilitate the sharing of information between LEAs for indirect cooperation with non-counterparts, no requirements for competent authorities that request information indirectly from non-counterparts to make it clear for what purpose and on whose behalf the request is made. Deficiencies related to safeguards and controls, and confidentiality also apply to these types of exchanges. (c.40.20)</li> </ul>



*Annex A: Glossary of Relevant Legal Instruments*

Short Name	Full Name
Agreement on AML/CFT Measures	Agreement on Anti-Money Laundering and Counter-Financing of Terrorism Measures for Reporting Entities (revised Version) No.10/NCC 25 August 2021
Agreement on KYC and CDD	Agreement on Know Your Customers and Customer Due Diligence No. 01/NCC 15 January 2016
Agreement on Organisation and Operations of AMLIO	Agreement on Organization and Operations of the Anti-Money Laundering Intelligence Office No. 02/NCC
Agreement on Payment Service	Agreement on Payment Service 288/BOL 17 March 2020
Agreement on Provision of Additional Information by FIs	Agreement on the Provision of Additional Information by Financial Institutions No. 45/BOL 15 January 2016
AML/CFT Strategy 2021-2030	Strategy on Anti-Money Laundering and Countering of Financing Terrorism (AML/CFT) of the Lao PDR in the Period of 10 years 2021-2030 and Vision to 2035 (June 2022)
Civil Code	Civil Code No. 55/NA effective 27 May 2020
Decision on Department of Administration Development	Decision on the Implementation and Activity of the Department of Administration Development No.661/MOHA 24 December 2018
Decision on Administrative Measures	Decision on Administrative Measures Violated Regulations and Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 09/NCC 30 March 2016
Decision on Commercial Banks	Decision on the Establishment of Commercial Banks and Commercial Bank Branches No.42/BOL 15 January 2016
Decision on Cryptocurrency Trial	Decision On Trial of Cryptocurrency Trading Business Operation No.777/BOL 13 December 2021
Decision on Digital Asset Transactions	Decision on Pilot Projects for Digital Asset Transactions No. 888/MOTC 9 November 2021
Decision on Enterprise Registration	Decision on Enterprise Registration No. 0023/MOIC.DERM 9 January 2019
Decision on MVTS	Decision of the Supervision of MVTS
Decision on Opening Bank Accounts, Money Transfer and Carrying Cash	Decision on Opening Bank Accounts, Money Transfer and Carrying Cash In and Out of Lao PDR No.454/BOL, 30 May 2019
Decision on Organisation and Operations of LSCO	Decision On Organisation and Operations of Lao Securities Commission Office No. 013/LSC
Decision on STRs	Decision on Reporting Suspicious Transaction Related to ML/TF No.13/NCC 19 October 2015
Decision on Supervisor for Security Exchange	Decision on Designate AML/CFT Supervisor for Security Exchange No.07/NCC 19 May 2015
Decision on Wire Transfers	Decision on the Reporting of Wire Transfers In Exceeding the Specified Limit No:963/BOL 27 November 2015
Decree on Associations	Decree on Associations No.238/Gov 11 August 2017
Decree on Entrust	Decree on Entrust and Responsibilities in Implementing the Activities of AML/CFT No127/Gov 20 February 2020
Decree on Foundations	Decree on Foundations No.149/PM 19 May 2011
Decree on Groups and Cooperatives	Decree on Groups and Cooperatives No. 606/GOL 26 November 2020
Decree on INGOs	Decree on International Non-Governmental Organisations No.013/PM 8 January 2010
Decree on Microfinance Institutions	Decree on Microfinance Institutions No. 460/G 3 October 2012

Decree on Official Documents	Decree on Official Documents No. 293/Gov 13 August 2015
Decree on SEZ	Decree on Special Economic Zone No 188/Gov 7 June 2018
Decree on State Investment Enterprises	Decree on State Investment Enterprises No.322/G 2 September 2022
Instruction on Application of Provisional Measures for ML/TF	Instruction on Application of Provisional Measures on Properties Relating to ML or TF No 08/NCC 30 March 2016
Instruction on the MVTs Transaction Report	Instruction on the Money Value Transfer Service Provider Transaction Report No. 22/FISD 26 September 2018
Instruction on Procedure of Domestic and Foreign Listing and Delisting	Instruction on Procedure of Domestic and Foreign Listing and Delisting of Terrorists or Financing of Terrorism No.03/NCC 27 April 2022
Instruction on STRs	Instruction on Suspected Transactions Reporting on ML/TF No.42/AMLIO 12 January 2016
Internal Instruction on Information Supervision	Internal Instruction on Information Supervision and Entry-Exit Server's Room No.880/AMLIO 13 June 2019
Law on Accounting	Law on Accounting (Amended) No. 47/NA 26 December 2013
Law on AML/CFT	Law on Anti Money Laundering and Countering Financing of Terrorism No50/NA 21 July 2014
Law on Anti-Corruption	Law on Anti-Corruption No. 27/NA 18 December 2012
Law on Bank of Lao PDR	Law on the Bank of The Lao People's Democratic Republic (Amended) No. 47/NA 19 June 2018
Law on Commercial Banks	Law on Commercial Bank (Amended Version) No. 56/NA, 7 December 2018
Law on Criminal Procedure	Law on Criminal Procedure No.321/LP 22 December 2017
Law on Customs	Law on Customs (Amended) No. 81/NA 29 June 2020
Law on Documents	Law on Documents No. 69/NA 20 June 2019
Law on Drugs	Law on Drugs No. 10/NA 25 December 2007
Law on Enterprises	Law on Enterprises (Amended Version) No. 46/NA 26 December 2013
Law on Extradition	Law on Extradition No. 18/NA 11 July 2012
Law on Foreign Exchange Management	Law on Foreign Exchange Management No. 55/NA 22 December 2014
Law on Independent Audit	Law on Independent Audit No. 51/NA 22 July 2014
Law on Insurance	Law on Insurance No.78/NA 29 November 2019
Law on International Cooperation	Law on International Cooperation for Criminal Matters No.88/NA 12 November 2022
Law on Investment Promotion	Law on Investment Promotion No.14/NA 17 November 2016
Law on Judgment Enforcement	Law on Judgment Enforcement (Revised Version) No. 04/NA 25 July 2008
Law on Notary Public	Law on Notary Public (Revised) No. 11/NA 26 November 2009
Law on Officials-Civil Service	Law on Officials-Civil Service No.74/NA 18 December 2015
Law on Public Security Forces	Law on Public Security Forces (Amended Version) No. 20/NA 9 May 2017
Law on Securities	Law on Securities (Amended Version) No.79/NA 3 December 2019
Law on State Inspection	We do not appear to have this law mentioned at para 59 on page 25
Law on Treaties	Law on Treaties and International Agreement No. 18/NA 8 May 2017

Order No. 03/PM	Order on the Withholding, Freezing or Seizure of Funds Relating to Terrorists or Financing of Terrorism (revised version) No.03/PM 11 February 2016
Order No. 20/PM	Order on Withholding, Freezing or Seizure of Funds Relating to Proliferation Financing No.20/PM 26 November 2020
Penal Code	Penal Code No.26/NA 17 May 2017
Police Order on TF	Order on increase attention for giving direction, leading, follow up, monitoring strictly in the investigation, prevention, anti and combating financing of terrorism' (No. 17/Police, issued 17 December 2020)
Regulation on Declaration	Regulation on the Declaration of Cash Precious Metals and Bearer Negotiable Instruments While Entering/Exiting the Lao PDR No.06/NCC 19 May 2015
Regulation on Provision of Additional Information	Regulation on Provision of Additional Information relating to Sources of Registered Capital, Shareholder Structure and Beneficiaries of Securities Companies No. 006/LSC 28 January 2016

*Annex B: Glossary of Abbreviations*

Abbreviation	Full Name
AMLIO	Anti-Money Laundering Intelligence Office
BOL	Bank of Lao PDR
CTR	Cash Transaction Report
ERO	Enterprise Registration Office
FIR	Financial Intelligence Report
GDP	General Department of Police
ITD	Internal Trade Department, Ministry of Industry Commerce
LAK	Lao Kip
LSCO	Lao Securities Commission Office
MND	Ministry of National Defence
MOAF	Ministry of Agriculture and Forestry
MOF	Ministry of Finance
MOFA	Ministry of Foreign Affairs
MOHA	Ministry of Home Affairs
MOI	Ministry of Information, Culture and Tourism
MOJ	Ministry of Justice
MOPS	Ministry of Public Security
MOTC	Ministry of Technology and Communications
MPI	Ministry of Planning and Investment
NCC	National Coordination Committee
NRA	National Risk Assessment
OSPP	Office of the Supreme People’s Prosecutor
PSC	People’s Supreme Court
SEZ	Special Economic Zone
WMD	Weapons of Mass Destruction