

# EAG



## Mutual Evaluation Report of the Republic of Tajikistan



# 2018

# EAG

ЕВРАЗИЙСКАЯ ГРУППА  
по противодействию легализации преступных доходов  
и финансированию терроризма

EURASIAN GROUP  
on combating money laundering  
and financing of terrorism

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### ***EXECUTIVE SUMMARY***

1. This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in place in the Republic of Tajikistan (Tajikistan) as of the date of the EAG assessors' on-site visit (March 5-16, 2018). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Tajikistan's AML/CFT system, and provides recommendations on how the system could be strengthened.

### ***Key Findings***

1. The country has conducted a National Risk Assessment, identifying the key ML/TF risks facing Tajikistan.
2. The Tajik competent authorities have demonstrated a limited understanding of ML risks and a good understanding of TF risks. At the same time, there are areas requiring more attention, in particular the analysis of abuse of legal persons and NPOs.
3. In order to effectively mitigate and manage ML/TF risks, Tajikistan has adopted a National Concept AML/CFT/PF on 2018 – 2025 (National concept) and Strategies that list AML/CFT/PF efforts, to be undertaken in response to the National Risk Assessment (NRA) findings, among the competent authorities' tasks and priorities.
4. The quality of interagency cooperation and coordination in Tajikistan is good. Tajikistan has put in place the necessary mechanisms and legal framework for AML/CFT/PF cooperation and information sharing.
5. The country's law enforcement agencies regularly use the Financial Monitoring Department's (FMD) spontaneous disseminations and financial intelligence both to detect criminal offences and investigate them, with the latter being predominantly used to investigate predicate offences.
6. Facts of ML are detected and investigated in practice. For the law enforcement agencies combating ML is not one of their priorities, serving instead as an additional element of a criminal conduct in the investigation of predicate offences.
7. As part of the investigation process, law enforcement agencies search for and freeze the property of the accused, as well as the property that became the subject of the criminal offence, both for the purpose of providing compensation for the material damage caused by the crime and possible confiscation. There are difficulties in collecting and analysing the outcomes of such efforts.
8. The State Committee for National Security (SCNS), the prosecution authorities and the Interior Ministry are involved in TF detection and investigation. TF risks are defined and understood by representatives of these authorities. There are examples of criminal investigations into, and prosecutions for, TF.
9. Tajikistan has a legal framework in place for the application of targeted financial sanctions (TFS) against individuals and organizations designated by the UNSC for TF. At the same time, there are shortcomings in TFS implementation, as well as in the establishment and maintenance of domestic and international lists.
10. Tajikistan has taken certain steps to bring its legal framework in line with the R.7 requirements. Despite this, some significant shortcomings warranting urgent action remain.
11. Tajikistan plans to implement the risk-based approach to AML/CFT supervision over FIs

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based on the findings of its NRA and the approved National Concept. However, not all financial and DNFBP sector supervisors are involved in these efforts.

12. There are signs and characteristics of effective international cooperation mechanisms in place in Tajikistan. Under the existing law, the Tajik government agencies can provide the widest possible range of MLA and secure extraditions.

### *Risks and General Situation*

2. Among the main predicate offences responsible for generating substantial criminal proceeds in Tajikistan are bribery, corruption, tax crimes and drug trafficking. Criminal proceeds from these crimes are laundered through the purchase of movable and immovable property. A significant threat is also posed by the popularity of cash transactions and the size of the shadow economy.

3. With regard to TF, the high level of the TF threat in Tajikistan is due to the large number of terrorist offences and increased terrorist activity in the region, with the former being financed with the help of small amounts of legal funds or criminal proceeds. The Tajik authorities do not do enough to prevent the abuse of NPOs for TF purposes.

4. The country's financial sector is dominated by credit institutions, whose total assets are estimated at over USD 2.4 billion.

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

5. In the previous Mutual Evaluation Report of the Republic of Tajikistan of 2007, assessors noted the lack of an AML/CFT legal framework, including an AML/CFT law. To address this deficiency, as well as in order to implement the FATF Recommendations, Tajikistan adopted in 2011 an AML/CFT Law, which has since been amended to bring it in line with the FATF Recommendations 2012, including on proliferation financing. Tajikistan has conducted an assessment of ML/TF risks and adopted a National Strategy designed to mitigate and manage the identified risks.

6. Tajikistan has put in place a robust AML/CFT legal framework. Still, some technical shortcomings related to TFS, PEPs, new technologies and remittances remain.

7. With regard to the effectiveness of the AML/CFT regime, the Tajik law enforcement agencies regularly use the FMD's spontaneous disseminations and financial intelligence both to detect criminal offences and investigate them. At the same time, law enforcement agencies failed to demonstrate sufficient effectiveness in investigating ML offences and confiscating criminal assets. The country's competent authorities understand TF risks and are fairly successful in their efforts to identify and investigate TF offences.

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

8. Tajikistan completed the NRA process in 2017, with the list of contributors spanning all AML/CFT stakeholders and representatives of the private sector. In carrying out the NRA, a large array of data from different competent authorities and the private sector was used.

9. Overall, competent authorities demonstrated a limited understanding of ML risks, while having a good understanding of TF risks. At the same time, there are areas requiring more attention, in particular the analysis of abuse of legal persons and NPOs.

10. In order to mitigate and manage ML/TF risks, Tajikistan has adopted a National Concept and

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Strategies that are commensurate with the ML/TF risks identified. In this concept, AML/CFT/PF efforts, to be undertaken in response to the NRA findings, are listed among the competent authorities' objectives and priorities.

11. The level of interagency cooperation and coordination conducted by Tajikistan is sufficient. Tajikistan has put in place the necessary mechanisms and legal framework for AML/CFT/PF cooperation and information sharing.

12. Tajikistan has established procedures for notifying FIs and DNFBPs of the existing ML /TF risks. First, representatives of financial institutions and DNFBPs were among the contributors to the NRA; and second, following the NRA approval, the FMD organized a number of workshops for FIs and DNFBPs to share with them the NRA findings.

### *Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)*

13. The Tajik law enforcement agencies and the FMD enjoy a broad access to various data sources, including financial intelligence, which they actively use to discharge their duties.

14. At the same time, law enforcement agencies regularly use the FMD's spontaneous disseminations and financial intelligence both to detect criminal offences and investigate them, with the latter being predominantly used to investigate predicate offences. The use of the FMD's intelligence in ML investigations is limited to a few isolated cases.

15. The workload placed on the FMD is in line with its capacity (IT and human), which has a positive impact on the timeliness of collection, processing and dissemination of intelligence to law enforcement agencies. At the same time, given that the work to conduct strategic analysis had just begun, the FMD was unable to fully demonstrate its outcomes.

16. As a central authority, the FMD receives reports on suspicious transactions and transactions subject to mandatory control. Among the reporting entities responsible for the submission of the largest number of STRs and threshold reports are credit institutions, with the rest of reporting entities having submitted only threshold reports.

17. Tajikistan demonstrated that its law enforcement agencies (the Interior Ministry, the Anti-Corruption Agency, the Drug Control Agency and the Prosecutor's Office) are detecting and investigating ML in practice. For the above agencies, AML is not a priority, serving instead as an additional element of a criminal conduct in the investigation of predicate offences. The country takes certain steps to prosecute ML offences.

18. Although the opportunities for detecting and investigating these types of crimes by law enforcement agencies within the framework of predicate offences do exist, they are not fully utilized. Parallel financial investigations tend to be sporadic, while law enforcement agencies responsible for the detection and investigation of ML lack a clear understanding of the need and the procedure for conducting them.

19. ML-related investigations and prosecutions are not fully commensurate with the risks and threats identified in the national risk assessment. Representatives of law enforcement agencies only have a general understanding of ML risks, which is not enough to implement effective AML measures.

20. Tajikistan utilizes legislative opportunities for, and uses in practice, the confiscation of the proceeds and instrumentalities of crime and property of equivalent value. And law enforcement, judicial and other authorities have sufficient powers to ensure the enforcement of the law. At the same time, the country failed to demonstrate that confiscation is one of the priorities for law enforcement and other government agencies.

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21. At the pre-trial stage, law enforcement agencies take steps to enable the recovery of damages caused by criminal wrongdoing, as well as to ensure that any future court verdict authorizing confiscation can be enforced at the expense of the property detected or seized in the course of the investigation. There are practical examples involving the detection and seizure of the property owned by persons charged with committing ML, TF and predicate offences, including where the FMD's potential was utilized.

22. The country lacks a comprehensive approach to the detection and confiscation of the property and proceeds of crime; nor has it developed mechanisms for effective management of seized or confiscated assets.

### *Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9- 11; R.5-8)*

23. Tajikistan has a legal framework in place to detect and investigate offences committed by persons who collect, transfer and raise funds for terrorist purposes. At that, law enforcement agencies utilize the entire range of intelligence gathering and investigative activities provided by law to gather evidence in support of TF.

24. Tajikistan demonstrated that its law enforcement agencies (SCNS, the Interior Ministry and the Prosecutor's Office) do detect and investigate TF in practice. TF risks are defined and understood by representatives of these authorities.

25. CFT efforts are assigned a priority status in the national policies. At the same time, TF investigations call for the existence of detailed guidelines for all law enforcement agencies and judges.

26. Tajikistan has put in place legal and institutional measures needed to identify and detect individuals and entities involved in TF, as well as to apply TFS. Despite the existence of legal mechanisms for the inclusion/removal of individuals and entities on/from the domestic list, there are practical difficulties in implementing the adopted measures.

27. The Tajik law provides for mechanisms for appeals against listing/de-listing decisions, as well for the de-freezing of funds. At the same time, the procedure for appealing against the decisions to include an individual, entity or a group on the international and domestic lists, as well as for their removal therefrom, is not detailed enough.

28. Tajikistan's supervisory and licensing authorities match all applicants and founders against the list of designated terrorists and terrorist organizations posted on the FMD website at the time of their registration or licensing. In the event of a complete or partial match, financial institutions, DNFBPs, supervisory and licensing authorities promptly notify SCNS and the FMD.

29. Tajikistan has legal mechanisms in place for the freezing of funds or other property of individuals or legal persons in respect of whom there are sufficient grounds to suspect their involvement in proliferation financing; that is, it is possible to suspend a suspicious transaction for a certain period of time if there are reasonable grounds or suspicions that the transaction is carried out for proliferation financing purposes.

30. Given the absence of the relevant procedures and mechanisms in the country's legislation, the work to detect the funds of individuals and legal persons involved in proliferation financing is not carried out in Tajikistan.

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### *Preventive Measures (Chapter 5 - IO4; R.9-23)*

31. Almost all financial institutions demonstrated a general understanding of ML/TF risks based on the NRA report and training activities organized by the FMD in response to its findings. That said, only credit institutions adopt ML/TF risk mitigation measures based on the implementation of enhanced CDD measures and transactions monitoring. Other financial institutions, meanwhile, focus on the management of their operational risks. DNFBPs lack a good understanding of ML/TF risks and fail to take steps to mitigate them.
32. Financial institutions understand their AML/CFT responsibilities. The most complete understanding of such responsibilities was demonstrated by banks and non-bank credit institutions. AML/CFT internal control procedures, including ongoing training and internal control audit programmes, are applied fairly extensively by FIs. DNFBPs lack a good understanding of their AML/CFT responsibilities (CDD, internal controls and record keeping) and do not apply enhanced CDD measures.
33. The majority of threshold and suspicious transaction reports are submitted by banks and some non-bank credit institutions. The submission of these reports is subject to the criteria established by law. Reports based on reasonable doubts account for a small number of reports submitted to the FMD. DNFBPs understand their reporting obligations, but failed to send even a single report to the FMD.
34. The identification of beneficial owners of customers is carried out primarily by financial institutions based on the information provided by the customer himself, or through analysis of the publicly accessible data on his business relationships. Credit institutions apply enhanced CDD measures against both foreign and domestic PEPs. However, the requirements do not apply to all categories of domestic PEPs, including members of their families and affiliated persons.
35. Targeted financial sanctions against TF are applied by all financial institutions based on the lists published on the FMD website. There have been several instances of transactions freezing in response to false positive alerts triggered by the partial match of the customer data with the information from the designation lists.

### *Supervision (Chapter 6 - IO3; R.26-28, R. 34-35)*

36. Tajikistan's supervisory regime, which applies to all types of financial institutions other than leasing companies is largely commensurate with the scale and scope of the country's financial sector. In the DNFBP sector, notaries, independent legal professionals and real estate agents are not subject to supervision. In addition, the Finance Ministry was not authorized at the time of the on-site visit to conduct AML/CFT on- and off-site inspections of auditors and audit firms, pawnshops, and entities owning sweepstakes, betting offices and lotteries.
37. The country's licensing and supervisory regime for credit institutions, payment services and postal money transfer sectors largely does a good job of preventing persons convicted of economic crimes from holding a controlling interest or management function in such entities. However, there are shortcomings in the insurance and securities sectors. As regards registration and licensing of DNFBPs, although the mechanisms in place in Tajikistan, whose effectiveness has been proven in practice, allow authorities to block criminals from entering the market, they fail to safeguard it against their associates.
38. Tajikistan plans to implement the risk-based approach to AML/CFT supervision in the financial sector based on the findings of the national risk assessment and approved National Concept. Not all financial sector supervisors are involved in this work. In the DNFBP sector, no RBA supervision is

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exercised.

39. Sanctions for non-compliance with AML/CFT requirements are regularly applied against credit institutions, which is due to the broad sanctioning powers of Tajikistan's National Bank. Other FIs were not sanctioned due to the lack of appropriate authority and attention from other supervisors to the enforcement of compliance with AML/CFT requirements in their sector. Sanctions for AML/CFT violations were not used in respect of DNFBNs.

40. The 2015-2017 shift in the type of sanctions applied in the banking sector from monetary fines to written warnings points to the decline in the number and severity of the identified violations and, consequently, the increase in the level of compliance by credit institutions with AML/CFT requirements.

41. The FMD, supervisors and enlisted international experts and organizations organize regular AML/CFT trainings for the employees of the FMD, the National Bank, supervisory and competent authorities, as well as for internal control and other departments of financial institutions. Not enough is being done to inform DNFBNs about the requirements of AML/CFT legislation.

### *Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)*

42. All types of legal persons in Tajikistan are subject to mandatory registration and inclusion in the Unified State Register. Information on the types and characteristics of legal persons and their establishment is accessible via the website of the Tax Committee under the Government of the Republic of Tajikistan.

43. At the same time, Tajikistan has not assessed legal persons for ML/TF vulnerabilities.

44. The Tajik competent authorities have access to the basic information on legal persons, but there are difficulties in ensuring reliable and up-to-date information contained in the Unified State Register. To obtain information on the beneficial owners of legal persons, law enforcement agencies rely on the current CDD regime maintained by FIs and DNFBNs. However, this approach has a number of shortcomings related to the CDD regime maintained by FIs and DNFBNs.

45. Assessors could not assess the timeliness of access to data on legal arrangements due to the latter's absence in Tajikistan.

46. The existing types of sanctions imposed for violation of state registration/re-registration requirements, as well as for non-implementation of CDD measures, are neither proportionate nor dissuasive.

### *International Cooperation (Chapter 8 - IO2; R. 36-40)*

47. Tajikistan provides assistance in mutual legal and extradition matters in support of ML/TF investigations, prosecutions and other proceedings related to ML/TF predicate offences. In doing so, Tajikistan takes advantage of the possibilities offered by international cooperation to investigate criminal offences. The country's legal framework contains no provisions prohibiting the sharing of data with foreign competent authorities. In practice, cooperation is conducted in accordance with the terms of international treaties and agreements that are enforced in accordance with the norms and principles of international law. MLA may also be provided based on the principles of reciprocity.

48. The country's law enforcement bodies lack the experience of engaging in international cooperation on matters related to ML and TF. At the same time, law enforcement agencies utilize the opportunities of information sharing with foreign competent authorities to investigate predicate offences.

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49. The FMD utilizes its authority in the area of international cooperation to collect operational intelligence needed for a full picture of the identified suspicious transactions. According to Tajikistan, information sharing is conducted in relation to both ML/TF and predicate offences.

### *Priority Actions*

1. Tajikistan should conduct analysis of abuses of legal persons for ML and NPOs for TF purposes.
2. The Tajik supervisors, based on the NRA findings, should implement the risk-based approach to supervision in the financial and DNFBP sectors.
3. Implement the National Concept and coordinate the efforts of all stakeholders in combating ML and TF based on the analysis of existing risks.
4. Law enforcement activities aimed at detecting, investigating and prosecuting all ML/TF-related offences should be carried out in coordination with the FMD. Strengthen the strategic analysis carried out by the FMD.
5. Take practical steps to detect and confiscate criminal assets and proceeds. Establish a mechanism for effective management of frozen and confiscated assets.
6. The country's competent authorities should implement in practice the mechanisms for the inclusion of individuals and entities on the domestic list on grounds other than the existence of criminal proceedings. The country should also establish a procedure for the application of TFS based on the overall TF risk profile.
7. Tajikistan should ensure full compliance with R. 7. – put in place institutional measures, adopt procedures for a prompt application of TFS, and develop mechanisms for the detection and designation of individuals and entities and freezing/unfreezing of funds in accordance with UNSC resolutions related to PF.
8. Competent authorities should make greater use of the opportunities of international cooperation to investigate ML/TF and submit MLA requests.

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### *Effectiveness & Technical Compliance Ratings*

#### *Effectiveness Ratings*

<b>IO.1</b> Assessing risks and applying a risk-based approach	<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>Substantial</b>	<b>Substantial</b>	<b>Moderate</b>	<b>Moderate</b>	<b>Moderate</b>	<b>Moderate</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>Moderate</b>	<b>Substantial</b>	<b>Moderate</b>	<b>Low</b>	

#### *Technical Compliance Ratings*

##### *National AML/CFT Policies and Coordination*

<b>R.1</b>	<b>R.2</b>
<b>LC</b>	<b>C</b>

##### *Money laundering and confiscation*

<b>R.3</b>	<b>R.4</b>
<b>LC</b>	<b>LC</b>

##### *Terrorist financing and financing of proliferation*

<b>R.5</b>	<b>R.6</b>	<b>R.7</b>	<b>R.8</b>
<b>LC</b>	<b>PC</b>	<b>NC</b>	<b>PC</b>

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### *Preventive measures*

<b>R.9</b>	<b>R.10</b>	<b>R.11</b>	<b>R.12</b>	<b>R.13</b>	<b>R.14</b>
C	LC	LC	PC	LC	LC
<b>R.15</b>	<b>R.16</b>	<b>R.17</b>	<b>R.18</b>	<b>R.19</b>	<b>R.20</b>
PC	PC	NA	LC	LC	C
<b>R.21</b>	<b>R.22</b>	<b>R.23</b>			
C	PC	LC			

### *Transparency of beneficial ownership or legal persons and arrangements*

<b>R.24</b>	<b>R.25</b>
LC	PC

### *Powers and responsibilities of competent authorities and other institutional measures*

<b>R.26</b>	<b>R.27</b>	<b>R.28</b>	<b>R.29</b>	<b>R.30</b>	<b>R.31</b>
PC	LC	PC	C	LC	C
<b>R.32</b>	<b>R.33</b>	<b>R.34</b>	<b>R.35</b>		
LC	LC	LC	PC		

### *International cooperation*

<b>R.36</b>	<b>R.37</b>	<b>R.38</b>	<b>R.39</b>	<b>R.40</b>
C	LC	PC	LC	LC

## **MUTUAL EVALUATION REPORT**

### ***Preface***

50. This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in Tajikistan as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Tajikistan's AML/CFT system, and provides recommendations on how the system could be strengthened.

51. This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by Tajikistan, and information obtained by the assessment team during its on-site visit to Tajikistan 5-16 March 2018.

52. The evaluation was conducted by an assessment team consisting of:

- Chyngyz T. Kenenbaev, head of the Organizational and Legal Office, State Financial Intelligence Service under the Government of the Kyrgyz Republic;
- Soat A. Rasulov, deputy head of directorate, Uzbekistan's Central Bank;
- Galina A. Tivinskaya, chief specialist of the Financial Monitoring Department, State Control Committee of the Republic of Belarus;
- Daniyar Sh. Tukenov, head of the F7 Directorate, Financial Monitoring Committee of Kazakhstan's Finance Ministry;
- Sergei V. Shirokih, deputy head of directorate, Main Directorate for Combating Organized Crime and Corruption of the Ministry of Internal Affairs of the Republic of Belarus;
- Elena A. Malyk, chief prosecutor of the Directorate of Methodological and Analytical Support of Supervision over Procedural Activities of the Pre-Trial Investigation Authorities and Intelligence Gathering Activities of the General Prosecutor's Office of the Russian Federation;
- Aliaksandr V. Vadziyany, EAG Secretariat administrator;
- Dmitry A. Kostin, EAG Secretariat administrator.

53. The report was reviewed by the following representatives of the EAG member and observer countries: (for Belarus) Angelica V. Hadanovich, head of the Department of Methodology and Financial Monitoring, Chief Directorate of Banking Supervision of the National Bank of the Republic of Belarus; (for MONEYVAL) Anar Salmanov, director of the Financial Monitoring Service of Azerbaijan's Financial Markets Supervision Chamber; and (for the FATF) the FATF Secretariat.

54. The previous mutual evaluation of Tajikistan was conducted by the World Bank in 2007 using the FATF 2004 Methodology. The Mutual Evaluation Report of Tajikistan, conducted as part of the EAG first round of AML/CFT mutual evaluations, was approved by the EAG 9th Plenary in December 2008. This report is a public document accessible via EAG website (<https://eurasiangroup.org/ru/mutual-evaluation-reports>).

55. In the first mutual evaluation of Tajikistan, the country was rated: non-applicable with 2 recommendations; non-compliant with 40; partially compliant with 5; and largely compliant with 2. Following the discussion of the report, Tajikistan was placed in the EAG enhanced follow-up process. In addition, in 2011 Tajikistan became subject to the FATF's International Cooperation Review Group (ICRG) process.

56. After making progress in improving its AML/CFT system, Tajikistan was removed from the ICRG process in October 2014 after the completion of a FATF on-site mission to the country, which acknowledged the government political will and progress achieved. In May 2014, Tajikistan presented its 11th detailed follow-up report to the EAG 20th Plenary meeting as part of the procedures for the country's removal from the EAG follow-up process. Following its discussion, Tajikistan was deemed to have made progress in respect of all core and key recommendations. The level of technical compliance with these recommendations can be considered as corresponding to the 'largely compliant' (LC) level. The 11th Follow-Up report is accessible via the EAG website (<https://eurasiangroup.org/ru/mutual-evaluation-reports>).

## **CHAPTER 1. ML/TF RISKS AND CONTEXT**

### **General Information**

57. Tajikistan is located in the south-east of Central Asia and covers an area of 143,100 sq. km. Its capital city is Dushanbe. The Republic of Tajikistan shares a common border in the west and in the north with the Republic of Uzbekistan (1332.9 km) and the Kyrgyz Republic (approximately 987 km); in the south with the Islamic State of Afghanistan (1344.15 km); in the east with the People's Republic of China (494.95 km). Tajikistan has a population of 9 million people. Tajikistan's GDP is worth USD 6.952 billion<sup>1</sup>. The somoni<sup>2</sup> (TJS) is the official currency of Tajikistan.

58. Tajikistan is a sovereign, democratic, secular, unitary state governed by the rule of law. The politics of Tajikistan takes place in a framework of a presidential republic, whereby the President is both head of state and head of government. The President is elected by citizens of Tajikistan on the basis of universal, direct and equal suffrage, by secret ballot for a term of 7 years.

59. Majlisi Oli is the Parliament of the Republic of Tajikistan and the supreme representative and legislative body of the Republic of Tajikistan. Majlisi Oli consists of two Majlises (Assemblies): the Majlisi Milli (the National Assembly) and the Majlisi Namoyandagon (Assembly of Representatives), both of which are elected for a term of 5 years.

60. The country's government consists of the Prime Minister, a first deputy, deputies, ministers, and chairmen of state committees. The Government is responsible for ensuring the successful management of economic, social and cultural blocks, as well as for the implementation of laws and joint resolutions of the Majlisi Milli and the Majlisi Namoyandagon, resolutions of the Majlisi Milli, resolutions of the Majlisi Namoyandagon, decrees and orders of the President of Tajikistan.

61. Tajikistan is a member of the United Nations since 1992, SCO, CSTO and IMF, as well as a member state of the CIS and OSCE.

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

#### **Overview of ML/TF Risks**

62. Bribery and corruption<sup>3</sup> are among the main ML threats in the Republic of Tajikistan that generate significant criminal incomes. Transparency International's Corruption Perceptions Index ranks Tajikistan 161 out of 180 countries<sup>4</sup>, underscoring the widespread corruption permeating all strata of the Tajik society. Despite this, the country has managed to climb up the rankings in the past three years.

63. According to the NRA, tax crimes account for a large proportion of criminal proceeds generated in the country, which can be used for ML purposes<sup>5</sup>.

64. Drug trafficking is yet another criminal offence responsible for generating large volumes of criminal proceeds<sup>6</sup>. Tajikistan is a transit country for Afghan drugs sent to Russia and some Western European countries via the northern transit route.<sup>78</sup>In addition, Tajikistan accounts for a significant

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<sup>1</sup> <https://data.worldbank.org/country/tajikistan>

<sup>2</sup> 1 U.S dollar = 9 somoni

<sup>3</sup> p. 7 of Tajikistan's NRA Summary

<sup>4</sup> <https://www.transparency.org/country/TJK#>

<sup>5</sup> p. 3 of Tajikistan's NRA Summary

<sup>6</sup> p. 3 of Tajikistan's NRA Summary

<sup>7</sup> pp. 3-4 of Tajikistan's NRA Summary

<sup>8</sup> [https://eurasiangroup.org/files/FATF\\_docs/Afganskie\\_opiaty\\_2014\\_-\\_dlya\\_sajta.pdf](https://eurasiangroup.org/files/FATF_docs/Afganskie_opiaty_2014_-_dlya_sajta.pdf)

volume of drugs seized in Central Asia<sup>9</sup>. In 2017, the Tajik law enforcement and security agencies seized 1.7 tons of drugs<sup>10</sup>.

65. Tajikistan's geographical location makes it particularly vulnerable to terrorism and terrorist financing. As a consequence, Tajikistan pays considerable attention to international cooperation in combating terrorism and TF.

66. In addition, the high TF threat facing Tajikistan is due to the large number of terrorist offences financed with the help of small amounts of legal funds or criminal proceeds. At the same time, the Tajik authorities take steps to prevent the abuse of NPOs for TF purposes. According to law enforcement officials and representatives of NPOs, no attempts to abuse NPOs for TF purposes have been detected.

### *National risk assessment*

67. Tajikistan completed the NRA in September 2017, conducted according to the 2013 FATF NRA Methodology with account for ML/TF risk assessment experience of other countries. The Interagency Committee, made up of representative of all law enforcement, supervisory and other government bodies involved in the AML/CFT efforts, acted as a NRA coordinating body.

68. Each ministry and agency involved in the NRA was required to provide information and complete a questionnaire. No independent sectoral risk assessments were conducted by the ministries or departments.

69. The NRA public version is accessible via Tajikistan's National Bank website ([http://nbt.tj/files/monitoring/otchet/krat\\_otchet.pdf](http://nbt.tj/files/monitoring/otchet/krat_otchet.pdf)). The full version of the report is for internal use only by state authorities, which received it through secure communication channels.

70. The purpose of the NRA was to identify high ML/TF risks by revealing the key threats, vulnerabilities and consequences necessitating the adoption of urgent ML/TF risk mitigation and management measures.

71. The NRA was conducted using the information obtained through interviews (meetings) and workshops, statistical and other data provided by government agencies and representatives of the private sector, media reports and other open source data, as well as expert opinions of the relevant agencies.

### *Scoping of higher-risk issues*

72. In deciding what issues to prioritize for increased focus prior to the start of the on-site visit the assessment team reviewed material provided by Tajikistan, including the NRA summary and open source data.

73. **National Risk Assessment:** In the absence of a full version of the NRA report, assessors evaluated the role of the competent authorities in conducting the risk assessment, the methodology and data used, the level of understanding of the identified risks and the steps taken to mitigate them.

74. **National Cooperation and Coordination:** Given the large number of Tajik competent authorities (supervisors and law enforcement agencies) involved in AML/CFT, their efforts in developing common policies are coordinated by the permanent IC, which includes two working

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<sup>9</sup> [https://www.unodc.org/doc/wdr2016/WORLD\\_DRUG\\_REPORT\\_2016\\_web.pdf](https://www.unodc.org/doc/wdr2016/WORLD_DRUG_REPORT_2016_web.pdf)

<sup>10</sup> <https://www.paris-pact.net/upload/0d46268e673005fa855ee5f94b484c30.pdf>,

<https://news.tj/en/news/tajikistan/security/20180109/over-1740-kg-of-narcotic-drugs-reportedly-seized-by-tajik-border-guards-in-2017>

groups: on NRA and the FMD's access to law enforcement databases. Also, Tajikistan has mechanisms for promoting cooperation and coordination between competent authorities on operational matters. The assessment team paid considerable attention to the issue of cooperation and coordination between competent authorities on operational matters.

75. **Predicate Offences and ML:** According to the NRA summary, virtually all predicate offences – corruption, tax crimes, drugs, smuggling, human trafficking, fraud, sexual exploitation, etc. – pose a higher risk. In general, the assessment team agree with Tajikistan's conclusions, which are also confirmed by data from various open sources<sup>11,12</sup>. Therefore, the focus of the on-site visit was on the investigation of various types of ML offences, including parallel financial investigations.

76. **Terrorist Financing and Foreign Terrorist Fighters:** Terrorists, their financing and foreign terrorist fighters pose a serious threat to Tajikistan. The high TF risk facing the country is due to its proximity to Afghanistan, drug trafficking and participation of Tajik nationals (more than 400 persons)<sup>13</sup> in the military conflict in Syria and Iraq. There were also cases involving the abandonment of their duties by senior military personnel who decided to join ISIL. All of these factors point to a high risk of terrorism facing the country. In this regard, assessors focused on Tajikistan's understanding of TF risks and the steps being taken to combat terrorists and their financing. In particular, extra attention was paid to domestic and international cooperation and coordination between the competent authorities, strategies, preventive measures and freezing mechanisms.

77. **Transparency of Legal Persons:** All legal persons operating in Tajikistan are required to be registered in the Unified State Register, which contains basic information on legal persons (R.24). However, there are doubts as to the relevance and up-to-date of the information contained therein. Information on the beneficial ownership of legal persons is not provided to the Tax Committee at registration. Instead, it is collected as part of CDD procedures (R.24 and R.10). For this reason, assessors focused on the registration of legal persons and the relevance of information at registration and thereafter, as well as on financial institutions' (FIs) and designated non-financial businesses and professions' (DNFBPs) compliance with the Framework Law with regard to beneficial ownership.

### ***Materiality***

78. The total value of credit institutions' assets is estimated at about USD 2.4 billion. The country's financial industry is dominated by the banking sector, which specializes in the provision of traditional banking services such as deposits, loans, remittances and currency exchanges. The level of credit institutions' vulnerability to ML is high.

79. Revenues of DNFBPs total at about USD 30 million. Among the DNFBPs with a high level of ML vulnerability are lawyers, legal professionals, pawnshops, lotteries, sweepstakes, bookmakers and real estate agents. At the same time, casinos, including online casinos, are banned in Tajikistan. In addition, there are no private accountants, notaries, legal arrangements or trust service providers in Tajikistan.

80. Cash is used in the majority of transactions carried out in the country. Tajikistan takes various steps to reduce its dependence on cash.

### ***Structural Elements***

81. Tajikistan has put in place all the structural elements of an AML/CFT system.

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<sup>11</sup> [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](https://www.transparency.org/news/feature/corruption_perceptions_index_2016)

<sup>12</sup> <https://www.paris-pact.net/upload/c53d09f0be1e758ccff20d37599b265c.pdf>

<sup>13</sup> [http://www.un.org/en/sc/ctc/docs/2015/N1527299\\_RU.pdf](http://www.un.org/en/sc/ctc/docs/2015/N1527299_RU.pdf)

82. Attention, including at the highest level, paid to AML/CFT matters in Tajikistan is considerable. In particular, Tajikistan has created the Interagency Commission, chaired by an assistant to the President of Tajikistan on legal issues, responsible for the development and improvement of the country's AML/CFT system.

## ***Background and other Contextual Factors***

### *AML/CFT strategy*

83. Presidential Decree dated March 5, 2018 approved the National AML/CFT/PF Concept 2018-2025. According to this decree, the activities envisioned by the National Concept should be reflected in the plans of the ministries and departments.

84. The National Concept sets out the following strategic goals and directions for the development of the national AML/CFT system: develop and improve the legal framework; strengthen international cooperation in matters related to confiscation; establish an assets recovery centre; provide harsher punishment for terrorist financing, corruption, fraud, and trafficking in weapons, and nuclear and chemical materials; improve the methods of studying and identifying FI and DNFBP customers based on the level of risk; improve the effectiveness of supervisory activities, in particular by applying the risk-based approach; improve the approaches to detecting, disclosing and investigating crimes; strengthen cooperation between the FMD and law enforcement agencies, etc.

### *Legal & institutional framework*

85. The legal and institutional framework of AML/CFT system is regulated by the AML/CFT Law, the Criminal Code, the Criminal Procedure Code, the Code of Administrative Offences, the Civil Code, the Law "On Banking", the Law "On State Registration of Legal Persons and Individual Entrepreneurs", the Law "On the Securities Market" and others.

86. Among the key ministries and agencies involved in AML/CFT are:

### *Interagency authorities*

87. **The Interagency AML/CFT/PF Commission (IC)** is an advisory body set up by the Government of the Republic of Tajikistan. The IC is primarily responsible for the submission of proposals for the development and implementation of a consolidated national AML/CFT/PF policy; preparation and review of draft regulations; and coordination of activities of state bodies.

### *Ministries and departments*

88. **The Ministry of Justice of the Republic of Tajikistan (Justice Ministry)** is responsible for the registration of statutes of public associations and monitoring of compliance. Besides, it maintains the State Register of Legal Acts of the country; and systematizes the country's legislation and participates in drafting of proposals for its amendment. It supervises the NPOs within its competence.

89. **The Ministry of Finance of the Republic of Tajikistan (Finance Ministry)** is responsible for monitoring the activities of the securities market participants, including AML/CFT matters.

90. **The Ministry of Foreign Affairs of the Republic of Tajikistan (Foreign Ministry)** is responsible for developing a consolidated foreign policy strategy and monitoring and coordinating the international activities of other executive bodies of the Republic of Tajikistan with a view to supporting a single policy thrust, including processing international TFS requests.

### *Criminal justice and operational agencies*

91. **The Ministry of Internal Affairs of the Republic of Tajikistan (Interior Ministry)** is responsible for the detection, prevention and suppression of criminal and administrative offences and

investigation of criminal cases that fall within the purview of the internal affairs agencies, including those related to ML/TF. The organization structure of the Interior Ministry includes the department for combating organized crime, the department for combating drug trafficking and the investigative department.

92. **The Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan (Anti-Corruption Agency)** is an authorized state financial control and law enforcement agency responsible for exercising state financial control over the effective use of state funds and state property with the aim of safeguarding the country's economic security, by preventing, detecting and suppressing corruption offences; solving, as well as conducting inquiries and preliminary investigations into, corruption crimes, corruption-related economic offences and tax crimes; and performing other tasks provided by law. The Anti-Corruption Agency is the leading law enforcement agency for combating ML.

93. **The Drug Control Agency under the President of the Republic of Tajikistan (Drug Control Agency)** is a law enforcement agency responsible for pursuing the state policy for combating illicit trafficking in narcotic drugs, psychotropic substances and their precursors, regulating trade therein and monitoring the implementation of this policy in Tajikistan. One of the Drug Control Agency's main functions is to combat drug-related money laundering.

94. **The State Committee for National Security of the Republic of Tajikistan (SCNS)** is responsible for safeguarding the national security of Tajikistan. SCNS performs intelligence gathering and pursues preliminary investigations, including into terrorism and terrorist financing, extremism, organized crime and some other types of criminal offences.

*Prosecution authorities, including specialized confiscation agencies*

95. **The Prosecutor General's Office of the Republic of Tajikistan (Prosecutor's Office)** is a central authority responsible, within its competence, for exercising control over strict observance and uniform enforcement of laws in the territory of the Republic of Tajikistan.

96. **The Supreme Court of the Republic of Tajikistan (Supreme Court)** is the highest judicial authority in the country responsible for exercising original jurisdiction for appeal and supervision proceedings, adjudicating, within its competence, issues arising from international treaties recognized by Tajikistan and fulfilling other functions.

*Financial sector authorities*

97. **The Financial Monitoring Department under the National Bank of Tajikistan (FMD)** is a structural subdivision of the NB and the designated AML/CFT/PF authority responsible, within its competence, for the regulation and supervision of the efforts to prevent and combat ML/TF/PF. In addition, the FMD collects, processes and analyses information on transactions with funds or other assets for AML/CFT/PF purposes and coordinates the activities of state supervisory authorities in preventing and combating ML/TF/PF.

98. **The National Bank of Tajikistan (NB)** is the central issuing and reserve bank of the Republic of Tajikistan. It is accountable to the Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan. The NB is responsible for developing and implementing the country's monetary policy, issuing licenses to credit institutions to engage in banking activities, and regulating and overseeing their activities. It also monitors compliance of banks, non-bank financial and microfinance institutions, and insurance companies with AML/CFT requirements.

### *Financial sector*

99. The number and type of financial institutions operating in Tajikistan are shown in Table 1 below.

Table 1

<b>Types of financial institutions</b>	<b>Number of licensed/registered FIs</b>
<b>Banks</b>	17
<b>Micro-credit custodial institutions</b>	27
<b>Micro-credit institutions</b>	7
<b>Micro-credit funds</b>	33
<b>Insurance companies</b>	22
<b>MVTS providers</b>	Only credit institutions (banks and micro-credit custodial institutions) are authorized to provide remittance services in Tajikistan
<b>Professional securities market participants (registrars, brokers, dealers and the central depository)</b>	4 licenses to operate as a registrar; 8 as a broker/dealer; and 1 as a depository in the securities market
<b>Leasing companies</b>	19

100. The country's financial sector is dominated by credit institutions, whose total assets are estimated at over USD 2.4 billion.

101. Among the 17 banks operating in the country, 11 national banks (more than 50% share), including 1 state bank, and 6 foreign banks (more than 50% share), including 3 subsidiaries and 1 branch of a foreign bank.

### *DNFBP sector*

102. The number and type of DNFBPs operating in Tajikistan are shown in Table 2 below.

Table 2

<b>Types of DNFBP</b>	<b>Number of licensed/registered DNFBPs</b>
<b>Casinos</b>	According to President Decree "On Casino Operations" (No. 328 of July 20, 2000), casino operations are illegal in Tajikistan.
<b>Lawyers</b>	360
<b>Legal professionals</b>	17 bar associations 179 legal practices 23 legal advisers
<b>Notaries</b>	68 notary offices

	132 notaries
<b>Auditors and audit firms</b>	73, including 38 audit firms and 35 individual auditors
<b>Accountants</b>	None
<b>Dealers in precious metals and stones</b>	755
<b>Trust and company service providers</b>	None
<b>Pawnshops</b>	25
<b>Organizations owning sweepstakes and betting offices and holding lotteries and other games</b>	163, including 112 organizations owning sweepstakes and betting offices and 51 lotteries and other games
<b>Real estate agents</b>	240

### *Preventive measures*

103. In the previous Mutual Evaluation Report of the Republic of Tajikistan, assessors noted the lack of an AML/CFT legal framework, including an AML/CFT law. To address this efficiency, as well as in order to implement the FATF Recommendations, Tajikistan adopted in 2011 an AML/CFT Law, which has since been amended to bring it in line with the FATF Recommendations 2012, including on proliferation financing.

104. In general, it should be noted that all FIs and DNFBPs are covered by the AML/CFT Law and are subject to all relevant requirements.

105. Therefore, Tajikistan has eliminated most of the shortcomings identified in the previous report. All outstanding shortcomings are set out in the TC Annex.

### *Legal persons and arrangements*

106. Tajikistan's law allows the creation of various types of legal persons. Pursuant to article 50 of the Civil Code, legal persons that are for-profit organizations can be incorporated as economic partnerships and societies, commercial cooperatives, and state and municipal unitary enterprises. Legal persons that are not-for-profit organizations can be incorporated as non-profit cooperatives, consumer cooperatives, public associations or religious organizations funded by their owners, charitable and other foundations, as well as other types of entities provided by law.

107. The Tax Committee under the Government of the Republic of Tajikistan is responsible for state registration of legal persons. All types of legal persons are subject to mandatory registration in the Unified State Register of Legal Persons and Individual Entrepreneurs. The basic information on legal persons is available to public authorities and the private sector. Since 2014 till March 2018, the tax authority has registered and entered into the Unified State Register of Legal Persons and Individual Entrepreneurs more than 5901 legal persons.

108. A limited liability company is the most popular type of legal of entities in Tajikistan.

109. The number of legal persons registered and entered into the Unified State Register of Legal Persons and Individual Entrepreneurs is shown below in Table 3.

Table 3

Types of legal persons	Number of registered legal persons
Limited liability companies	3702
Closed joint-stock companies	43
Subsidiary companies	4
Open joint-stock companies	18
Associations	194
Unlimited partnerships	13
Public funds	14
Non-profit organizations	24
State unitary enterprises	62
State subsidiaries	73
Economic cooperatives	255
Non-profit cooperatives	35
Production cooperatives	2
Unions	10
Institutions	1209
Liquidated legal persons	243
<b>Total:</b>	<b>5901</b>

110. The creation and operations of legal arrangements are not regulated in Tajikistan. At the same time, the Tajik law does not prohibit the operations of foreign legal arrangements.

### *Supervisors*

111. The monitoring of compliance of FIs and DNFBPs with legal, including AML/CFT, requirements is carried out by different ministries and departments.

112. A list of supervisors operating in Tajikistan is given in the table below.

Table 4

Types of FIs and DNFBPs	Supervisors
Credit institutions: - banks - non-bank credit institutions - micro-finance institutions	National Bank of Tajikistan

- insurance companies	
Pochtai Tojik	Communications Agency under the Government of the Republic of Tajikistan
Professional securities market participants (brokers/dealers and the central depository)	Ministry of Finance (the Agency for the Development of the Securities Market and the Special Registrar of the Ministry of Finance of the Republic of Tajikistan)
Casinos	Prohibited by law
Real estate agents	NB's FMD
Lawyers	NB's FMD
Legal professionals	NB's FMD
Notaries	Ministry of Justice
Auditors and audit firms	Ministry of Finance
Accountants	Ministry of Finance
Dealers in precious metals and precious stones	Ministry of Finance
Trust and company service providers	NB's FMD
Pawnshops	Ministry of Finance
Organizations owning sweepstakes and betting offices and holding lotteries and other games	Ministry of Finance

### *International cooperation*

113. The country's Prosecutor's Office is a central designated authority responsible for the provision of all types of mutual legal assistance. The said agency maintains statistics on incoming and outgoing international investigative requests for legal assistance in criminal matters. A major role in conducting international cooperation is assigned to the FMD. Major partners in international cooperation are Russia, Kyrgyzstan, Kazakhstan, Uzbekistan, Afghanistan and other countries.

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

### Key Findings and Recommended Actions

#### **Key Findings**

##### **Immediate Outcome 1**

1. Tajikistan completed the NRA process in 2017, with the list of contributors spanning all AML/CFT stakeholders and representatives of the private sector. Despite using a large volume of data, the findings of typologies studies were left out of the NRA. Not enough focus is placed in the NRA on the abuse of legal persons and NPOs.
2. Competent authorities have a limited understanding of ML risks, while having a good understanding of TF risks.
3. Tajikistan has adopted a National Concept, which is consistent with the identified ML/TF risks and provides for measures to mitigate and manage them. In addition, Tajikistan adopted other government strategies. Although, these policies do not call for the allocation of additional human resources to meet their objectives, they are still allocated in practice.
4. Tajikistan amended some regulations in the course of the NRA. In addition, Tajikistan has also used NRA findings to introduce amendments pertaining to the application of CDD measures.
5. The tasks assigned to the competent authorities are consistent with the National AML/CFT/PF Concept and other strategies adopted by Tajikistan. At the same time, ML is not listed among the priorities of law enforcement and supervisory bodies. TF, though, is a priority in the activities of competent authorities.
6. The overall level of interagency cooperation and coordination conducted by Tajikistan is sufficient. The country has put in place the necessary mechanisms for effective cooperation and a legal framework.
7. Tajikistan has established procedures for notifying FIs and DNFBPs about the existing ML/TF risks, which are regularly used by the competent authorities.

##### ***Recommended Actions***

1. Conduct a more in-depth analysis on the abuse of legal persons and NPOs.
2. Law enforcement and supervisory authorities should pay more attention to the ML issues in their activities.
3. Incorporate typologies research findings into NRA updates. In addition, the process of statistical data collection and maintenance should be improved.
4. The Republic of Tajikistan should take measures to raise awareness of law enforcement and supervisory authorities on inherent ML risks.
5. The Republic of Tajikistan should enhance cooperation among competent authorities on PF issues by conducting thematic interagency meetings.

114. The relevant Immediate Outcome considered and assessed in this section is IO.1. The recommendations relevant for the assessment of effectiveness under this section are R 1, 2.

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

##### ***Country's understanding of its ML/TF risks***

##### **Identification and assessment of ML/TF risks**

115. The NRA of Tajikistan was conducted according to the 2013 FATF NRA Guidance with account for ML/TF risk assessment experience of other countries. The NRA was conducted using available data and the information obtained through interviews (meetings) and workshops, statistical and other data provided by government agencies and representatives of the private sector, media reports and other open source data, as well as expert opinions of the relevant agencies.

116. Based on the information provided and the interviews conducted during the on-site visit, assessors concluded that Tajikistan used a rather large volume of data to conduct the NRA, although not the findings of typologies studies. In addition, as also noted in the NRA findings, the difficulties experienced by law enforcement and supervisory authorities in gathering and maintaining statistical data had a negative impact on both the conduct of the NRA and the accuracy of its findings.

117. Overall, assessors agree with the identified ML/TF risks and their assessment. Thus, the high ML risks facing Tajikistan are linked to bribery/corruption, tax crimes, fraud, drugs and smuggling. Tajikistan came to these conclusions after analysing statistical data on the number of committed predicate offences and criminal cases heard in courts. In addition, the determination about the high level of ML risk was made based on the data on the volume of criminal proceeds.

118. At the same time, the highest level of ML vulnerability was observed among credit institutions, lawyers, pawnshops, lotteries, sweepstakes, betting offices and real estate agents.

119. Tajikistan rates its TF risk as high. Tajikistan's position is based on the analysis of the impact on TF of the popularity of cash and wire transfers, as well as the country's geographical position. The existence of TF investigations, meanwhile, also points to high TF risks.

120. At the same time, not enough attention is paid in the NRA to ML risks related to legal persons and to the abuse of NPOs for TF purposes, as was confirmed during meetings with representatives of government agencies and the private sector. With respect to NPOs, Tajikistan has only carried out an assessment of the vulnerabilities of the laws governing the activities of public organizations. No other work, such as to determine the nature of the threats posed by terrorist organizations to NPOs at risk or to identify the methods used by terrorists to abuse these NPOs (see also IO.10), has been carried out by Tajikistan.

121. In general, the assessment team praised Tajikistan's approach to ML/TF risks detection and assessment. At the same time, improvements to the statistics collection and maintenance procedures, as well as the use of typologies research findings, will improve the quality of the risk assessment process and the accuracy of its findings.

#### Competent authorities' understanding of ML/TF risks

##### **ML**

122. Only the FMD understands ML risks, while the rest of Tajikistan's competent authorities have a limited understanding of ML risks.

123. During the meetings with the supervisors, the FIU, law enforcement and supervisory authorities they highlighted ML risks related to such predicate offences as bribery/corruption, tax crimes, fraud, drugs and smuggling, which are consistent with the NRA findings.

124. According to law enforcement, the proceeds derived from these crimes are used to acquire movable and immovable property. Having analysed the available criminal cases, the assessment team agreed with the opinion of law enforcement agencies regarding the ML risks inherent in Tajikistan. Law enforcement agencies didn't come across any other methods of laundering criminal proceeds. In addition, law enforcement agencies were unable to explain which FIs and DNFBPs are most at risk of ML.

125. With regard to the possible abuse of legal persons for ML purposes, law enforcement officials noted the lack of such cases in practice. At the same time, as noted earlier, as well as in IO.5, the absence of an assessment of legal persons' vulnerabilities to ML, has, in the opinion of the assessors, a negative effect on the understanding of the abuse of legal persons for ML purposes.

126. Understanding by the supervisors of ML risks is also limited. Thus, despite being aware of the ML risks inherent in Tajikistan, the supervisors did not always understand the methods of laundering criminal proceeds through the supervised sectors, nor did they understand the vulnerabilities of the sectors. In addition, some supervisors other than the NB believed that their supervised sectors, despite being identified in the NRA as highly vulnerable, were not at risk of ML (see also IO.3).

127. Therefore, the supervisors' poor understanding of the vulnerabilities existing in their sectors complicates the adoption and implementation of an RBA to supervision (see IO.3).

128. Unlike law enforcement and supervisory authorities, the FMD has a good understanding of the ML risks inherent in Tajikistan, the knowledge it actively uses in practice. In addition, the FMD's objectives and priorities are consistent with the ML risks. However, the lack of typological studies, coupled with the weak strategic analysis, limits their understanding of the ML risks.

## **TF**

129. The Tajik competent authorities demonstrated a good understanding TF risks. According to them, terrorist organizations continue to pose a serious threat to Tajikistan, and so do a large number of Tajik nationals traveling to/returning from conflict zones. Being aware of the threat posed by terrorist organizations and FTFs and the severity of terrorism-related consequences, competent authorities cooperate closely with each other both at the domestic and international levels (see IO.2).

130. A significant number of TF-related criminal cases, coupled with the popularity of cash transactions and wire transfers, which enable a high level of anonymity and can be used for TF purposes, point to the high level of TF risk. In addition, law enforcement practice (TF investigations) shows that the amounts of funds used for TF may be insignificant and come from either a legitimate or illegitimate source.

131. Among the sources of TF, according to law enforcement officials, are Tajik nationals working overseas and remitting home money which is subsequently used to finance travel by other Tajik nationals to conflict zones, or to fund the activities of domestic terror groups; and the use of crowdfunding techniques for TF purposes.

132. In addition, Tajikistan's geographical location – particularly its common, 1340-km long border with Afghanistan – significantly increases the level of TF risk. Furthermore, the intensification of terrorist activities in Afghanistan creates prerequisites for the growth of both terrorist and TF threats.

133. Competent authorities are working closely with NPOs to counter the terrorist threat. Representatives of NPOs and competent authorities are well aware of the threat terrorism poses to NPOs. At the same time, after holding meetings with the both, assessors concluded that neither NPOs nor competent authorities fully understand the way how NPOs can be abused for TF purposes (see IO.10), which, among others, is due to the absence of a detailed analysis of the abuse of NPOs for TF purposes in the NRA.

### *National policies to address identified ML/TF risks*

134. Tajikistan, based on the NRA findings, has identified six strategies for the national AML/CFT system whose implementation will help mitigate ML/TF risks. Among these are legislative amendments; improvements to the statistics collection and maintenance procedures; steps to reduce the popularity of cash transactions; improved supervision over FIs and DNFBPs; allocation of additional human and technological resources for law enforcement and supervisory bodies; and combating TF.

135. In order to implement these strategies, the President of the Republic of Tajikistan, by its Decree dated March 5, 2018, approved the National AML/CFT/PF Concept for 2018-2025, requiring the country's ministries and departments to align their plans with the National Concept and report on progress to the FMD on an annual basis. Meanwhile, the FMD is required to monitor the implementation of the National Concept once every two years. Therefore, the Presidential Decree calls not only for the integration of AML/CFT strategies into interdepartmental plans, but also for their monitoring and evaluation of the effectiveness of the measures taken.

136. The National Concept sets out the following strategic goals and directions for the development of the national AML/CFT system: develop and improve the legal framework; strengthen international cooperation in matters related to confiscation; establish an assets recovery centre; provide harsher punishment for terrorist financing, corruption, fraud, and trafficking in weapons, nuclear and chemical materials; improve the methods of studying and identifying FI and DNFBP customers based on the level of risk; improve the effectiveness of supervisory activities, in particular by applying the risk-based approach; improve the approaches to detecting, disclosing and investigating ML/TF/PF offences; strengthen cooperation between the FMD and law enforcement agencies, etc.

137. Although the National Concept does not envisage the allocation of additional human resources for the accomplishment of these goals, in practice, however, the Tajik authorities are provided with additional human resources to carry out this work.

138. For example, as part of the implementation of some of the provisions of the National Concept, Tajikistan plans to create an asset recovery centre, which will require the allocation of additional human resources. In addition, with a view to strengthening supervision, an inspection directorate has been created within the structure of the FMD, which will employ three additional staff members. Furthermore, in order to strengthen the strategic analysis work, an additional staff position has been created in the analysis and research department.

139. In addition, the Interior Ministry has also taken practical steps to allocate human resources to combat and mitigate ML/TF risks. For example, from September 2017 to February 2018, it appointed a total of 26 AML/CFT personnel.

140. Besides the National Concept, Tajikistan has enacted since 2013 several national strategies, in particular the National Strategy to Combat Drug Trafficking 2013-2020, the National Strategy to Combat Extremism and Terrorism for 2016-2020 and the Anti-Corruption Strategy 2013-2020.

141. Overall, assessors praised Tajikistan for the steps taken to develop and adopt various concepts and strategies aimed at managing and mitigating ML/TF risks and improving its AML/CFT system. In addition, the focus areas highlighted in the concepts and strategies match the ML/TF risks identified in Tajikistan.

142. Despite the early phase of the concepts and strategies implementation, as well as the fact that it is not possible to fully assess how effective the measures taken by the competent authorities to implement them are, the assessors believe that the measures undertaken by Tajikistan so far are already proving their effectiveness and appropriateness.

#### *Exemptions, enhanced and simplified measures*

143. Tajikistan's law mandates compliance with all FATF Recommendations applicable to FIs and DNFBPs (see criterion 1.6 in the TC Annex).

144. The AML/CFT Law envisages the application of enhanced and regular CDD measures (see R.1 and R.10 in the TC Annex). The Tajik law does not provide for the application of simplified CDD measures (Criterion 1.8 in the TC Annex). With respect to enhanced CDD measures, FMD representatives taking part in the on-site visit pointed out that changes had been made during the NRA in response to the preliminary findings.

145. In addition, NB Board Resolution No. 29 of March 12, 2018 amended Instruction No. 200 to improve the identification of customers carrying out cash transactions using software and hardware, electronic cashiers, and other software and hardware systems. As noted previously, due to the use of insignificant amounts and different money transfer methods for TF, the threshold for conducting CDD has been lowered, including to help mitigate TF risks.

#### *Operational objectives and activities of competent authorities*

146. The objectives assigned to the competent authorities are consistent with the National AML/CFT/PF Concept and other strategies adopted by Tajikistan. At the same time, ML, unlike TF, is not a priority for law enforcement and supervisory authorities. TF, though, is a priority in the activities of competent authorities.

147. The goals and objectives assigned to law enforcement agencies are consistent with the national strategies, concepts and ML risks identified in the NRA. At the same time, law enforcement agencies do not pay enough attention to ML issues in their activities. In particular, the number of ML investigations launched by law enforcement agencies is small, while the frequency of parallel financial investigations is sporadic, with some law enforcement agencies lacking an understanding of the need for parallel financial investigations (see also IO.7).

148. The goals and objectives assigned to the supervisors are consistent with the identified ML risks and national concepts and strategies. Supervisors plan to use the NRA findings in their supervisory activities in order to enable the implementation of a RBA (see also IO.3).

149. As regards the FMD, its ML/TF objectives and priorities are consistent with the adopted National Concept and NRA findings. The FMD actively uses NRA findings in its activities. In addition, as noted earlier, the FMD is hiring more personnel to strengthen work in such areas as supervision and analytics.

150. Speaking of TF, all objectives and activities of the competent authorities are consistent with the identified TF risks and national concepts and strategies. The competent authorities are well aware of the TF risks facing Tajikistan and take various robust measures to manage them. In addition, the competent authorities cooperate with each other to identify various TF schemes and prosecute individuals behind them (see also IO.9).

#### *National cooperation and coordination*

151. The Tajik competent authorities involved in the development of strategic AML/CFT policies and measures engage in close cooperation and coordination with each other.

152. Tajikistan has put in place the necessary mechanisms and legal framework for domestic cooperation and coordination, both on high-level and operational issues. To this end, the country has set up a permanent Interagency Committee, chaired by an assistant to the President of the Republic of Tajikistan, comprising representatives of all ministries and departments involved in AML/CFT/PF efforts. The IC is primarily responsible for the submission of proposals for the development and implementation of a consolidated state policy for AML/CFT/PF, as well as for the development and approval of comprehensive annual AML/CFT/PF work plans.

153. With respect to operational coordination, it is conducted in accordance with interagency agreements concluded in the country, including the Guidance on AML/CFT Cooperation and Information Sharing between the FMD and Law Enforcement Agencies. In addition, the existing legal framework provides for the creation of joint investigative teams.

154. Based on the outcomes of the meetings and information provided, assessors came to the conclusion that the Tajik competent authorities engage in fruitful cooperation and coordination, including with the FMD, in investigating predicate offences and ML, and utilizing the FMD's

capabilities to obtain financial intelligence and data on beneficial owners of legal persons (see IO.6 and IO.7).

155. In terms of CFT, a good level of coordination and cooperation was observed between all competent authorities. The assessment team were provided with several examples of TF investigations underpinned by effective cooperation and coordination (see IO.9).

156. Supervisors and law enforcement officials cooperate with each other in licensing FIs, with the former also being closely engaged with the FMD in conducting field inspections (see IO.3).

157. PF is made part of the IC's agenda, which is also responsible for formulating PF policies. As previously noted, the National Concept adopted by Tajikistan also covers PF matters (see IO.11). For intensity and the level of interaction of competent authorities in PF matters see IO.11.

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

158. Tajikistan has established procedures for notifying FIs and DNFBPs about the existing ML/TF risks. First, as noted earlier, other NRA contributors included representatives of financial institutions and DNFBPs, whose role was to provide answers to questionnaires and participate in the discussion of the preliminary NRA findings held at workshops. Second, following the NRA approval, the FMD organized a number of workshops for FIs and DNFBPs to share with them the NRA findings. In addition, the NRA summary is published on the NB website.

159. During their meetings with the private sector, assessors were informed about the aforementioned workshops and access to the report summary provided for the private sector. Private sector representatives told the assessors that they mostly agreed with the findings on ML/TF risks and plan to use them in their work, in particular to integrate them into their internal regulations (IO.4).

#### *Overall conclusions on Immediate Outcome 1*

**160. Tajikistan is rated as having a substantial level of effectiveness for Immediate Outcome 1.**

## CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

### Key Findings and Recommended Actions

#### *Key Findings*

##### **Immediate Outcome 6**

1. The Tajik law enforcement agencies have a broad access to various data sources, including containing financial intelligence, which are predominantly used to gather evidence and trace criminal proceeds linked to predicate offences. The use of the FMD's intelligence and requests in ML investigations remains low. The extent of information sharing between law enforcement agencies and FMD is not fully consistent with the ML risks. Law enforcement agencies make extensive use of the FMD's intelligence in TF investigations.
2. The FMD enjoys direct and request-based access to various databases, which it actively uses for primary analysis. In addition, the FMD works to expand direct access to the databases of other government agencies.
3. Credit institutions account for the vast majority of suspicious transaction and threshold reports submitted to the FMD. Almost all submitted STRs are based on the previously established criteria for identifying suspicious transactions. The quality of submitted STRs and their usefulness for analysis conducted by the FMD are in doubt.
4. Analysis conducted and intelligence provided by the FMD both spontaneously and upon request help boost to a certain extent the operational capacity of the competent authorities. Meanwhile, the FMD's TF intelligence helps meet the requirements of law enforcement agencies. As regards the supervisors, the FMD regularly provides intelligence for use in their activities.
5. The FMD conducts operational analysis based on the identified ML risks, typologies and trends, whose findings are used by law enforcement in investigations. Analysis findings are not always used to conduct ML investigations. Law enforcement agencies noted the rise in the quality and scope of predicate offences in the FMD's spontaneous disseminations.
6. The quality of strategic analysis conducted by the FMD in the framework of participation in the activities of international organizations has been good. However, the FMD has failed to demonstrate the independent scope of strategic analysis conducted by it and its findings.
7. The FMD regularly shares ML- and TF-related operational intelligence with law enforcement agencies. In addition, the FMD and law enforcement agencies have shown that they understand the key role of close engagement in the fight against ML, predicate offences and TF.

##### **Immediate Outcome 7**

1. AML matters are addressed both in the government policies and the National Concept. Although law enforcement authorities identify and investigate ML, the effectiveness of this work and their understanding of ML risks need to improve.
2. Law enforcement authorities responsible for ML detection and investigation do not always have a clear understanding of the purpose and procedure for conducting parallel financial investigations. ML is viewed as an additional indicator of criminal activity in investigation of predicate offences.
3. Law enforcement authorities noted the good quality of the material provided by the FMD and its effectiveness in international information sharing and use of information constituting bank secrecy. These circumstances contribute to the fight against ML. The low effectiveness of cooperation with some law enforcement agencies may affect the quality of their efforts to identify and investigate ML.

4. The experience in initiating and pursuing criminal proceedings into some types of ML is absent (where a predicate offence is committed in a third country, or ML is committed by third parties or there is no predicate offence).

5. Perpetrators of ML offences are prosecuted. The sanctions applied are dissuasive as long as they are applied and implemented in their full scope.

#### **Immediate Outcome 8**

1. As part of the investigation process, law enforcement agencies generally search for and freeze the property of the accused and the property that became the subject of a criminal offence, both for the purpose of providing compensation for the material damage resulting from criminal wrongdoing and enabling confiscation. Although, the identification and seizure of property obtained by criminal means are listed among the responsibilities of law enforcement and judicial authorities, the extent of the practical implementation of these measures is limited.

2. The Tajik authorities have seized and confiscated the property of persons charged with both predicate offences and ML, including using for these purposes the potential of the FMD. Confiscation in cases related to FT was not applied.

3. Comprehensive work to collect and analyse data on the steps taken to provide compensation for damages and enable confiscation is carried out only by some competent authorities. There is no unified approach to the collection of such data.

4. Tajik authorities take steps to enforce court decisions on recovery of damages and confiscation of any available property. There is no objective information on how the management of the seized property is carried out in practice at the pre-trial stage; nor is there any information on the procedures for preserving and managing the value of the seized/confiscated assets.

5. The confiscation outcomes only partially reflect ML/TF risks. The difficulties in enforcing court decisions on recovery of damages and confiscation are due, among others, to the absence of property registered to the convicted persons. The issue related to the confiscation of undeclared and falsely declared currency and bearer negotiable instruments remains problematic for the country.

#### **Recommended Actions**

#### **Immediate Outcome 6**

1. The FMD should activate work on development of spontaneous materials. Law enforcement authorities should make a greater use of the FMD's intelligence to investigate ML.

2. The Republic of Tajikistan should take measures to enhance the use of financial intelligence and other relevant information by law enforcement agencies in order to improve effectiveness of investigation of ML cases and conducting parallel financial investigations.

3. The Republic of Tajikistan should enhance the existing STR system.

4. The FMD should continue to improve the quality of strategic analysis.

5. To improve the quality of the feedback it is needed to ensure the functioning of unified system of data on the results of interaction of law enforcement agencies with the FMD.

#### **Immediate Outcome 7**

1. Competent authorities should implement the measures provided for in the National Concept. Law enforcement agencies should use risk analysis findings to detect and investigate ML.

2. The DCA, the Anti-Corruption Agency and the Prosecutor's Office should improve the sharing of information and cooperation with the FMD in identifying, investigating and prosecuting ML.

3. Tajikistan should conduct parallel financial investigations to identify the financial component of crime. Tajikistan should develop and ensure the practical implementation of a guidance that requires law enforcement agencies tasked with investigating predicate offences to conduct parallel financial investigations.

4. Train representatives of law enforcement and judicial authorities to detect, investigate and prosecute various types of ML offences (committed by third parties, or where the predicate offence is committed in another country or where it is not preceded by a predicate offence).

5. The practice of conducting joint investigations and setting up ad hoc investigation teams specializing in ML investigations should be better used. The structure of the competent authorities should include the staff specializing in the detection and investigation of the financial component of crime.

**Immediate Outcome 8**

1. In implementing the strategic documents, provide for the adoption of practical measures to detect and confiscate criminal assets and proceeds.

2. Set up a system for the accounting and disposal of the seized (confiscated) property at different stages (seizure, investigation, court hearing, etc.) prior to its forfeiture and payment of compensation to the victims.

3. Law enforcement agencies should take proactive and robust measures to identify, seize and freeze criminal proceeds for the purpose of subsequent recovery and confiscation.

4. Create a mechanism for effective management of the seized and confiscated property, and designate an authority vested with the necessary powers.

5. Conduct parallel financial investigations to identify, trace and evaluate the property, including registered to third parties, and funds held in the accounts of individuals and legal persons.

161. The relevant Immediate Outcomes considered and assessed in this section are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.3, R.4 & R.29-32.

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

*Use of financial intelligence and other information*

162. Law enforcement agencies enjoy a broad access to various data sources, including containing financial intelligence. However, law enforcement agencies predominantly use this intelligence to gather evidence and trace criminal proceeds related to predicate offences. With regard to TF, law enforcement agencies regularly use data provided by the FMD either upon request or as part of spontaneous exchanges.

163. Statistics on information sharing between the FIU and law enforcement agencies for 2014 -2017 are provided below (Table 5).

Table 5

Name of law enforcement authority		Incoming requests				Outgoing requests			
		2014	2015	2016	2017	2014	2015	2016	2017
Law enforcement agencies	Interior Ministry	6	14	25	62	8	6	40	40
	State Committee for National Security	34	22	58	102	11	11	12	18

	General Prosecutor's Office	9	11	8	13	5	9	27	13
	Drug Control Agency under the President of the Republic of Tajikistan	23	17	22	3	9	7	12	8
	Agency for State Financial Control and Combating Corruption under the Presidential of the Republic of Tajikistan	4	13	3	3	4	5	2	3
<b>Total</b>	Law enforcement agencies	76	77	116	183	37	34	93	82

164. From 2014 to 2017, the FMD received from law enforcement authorities more than 452 requests (Table 5). According to the statistics provided and the outcomes of the meetings held with the representatives of law enforcement agencies, the assessors noted considerable growing interest on their part in cooperating with the FIU. For example, law enforcement agencies noted a rise since 2016 in the quality of the FMD's spontaneous disseminations and the intensity of their use in predicate investigations. At the same time, the use of the FMD's intelligence, provided as part of spontaneous disseminations or on demand in ML investigations, remains low (see also Table 10).

165. In addition, it is worth noting that the level of cooperation between law enforcement agencies is not fully consistent with the ML risks inherent in Tajikistan. According to Table 5, the FMD regularly sends TF-related intelligence to, and receives requests from, the Interior Ministry and SCNS, which is consistent with the level of the TF risk. When it comes to ML, the situation is different. As noted in IO.1, corruption and drug trafficking pose one of the biggest ML risks. As seen from Table 5, the number of corruption- and drug trafficking-related requests sent and received to/from law enforcement steadily decreases, which is not consistent with the risk.

166. In addition to the intelligence provided by the FMD, law enforcement agencies frequently access information contained in various databases, such as, for example, the national passport database, the register of legal persons and individual entrepreneurs, the register of taxpayers and the vehicle registry. In the absence of the relevant databases, information can be obtained upon written request. Law enforcement agencies and the FIU highlighted the tight deadlines for data provision (within a few hours) to government agencies on the basis of urgent requests. This access procedure has no negative impact on the speed or timeliness of information exchange.

167. Law enforcement agencies also point to the use of the FMD's powers and capabilities to provide information necessary to detect a link between suspicious transactions and TF/ML/predicate offences, including counting on the provision of accumulated information from all credit institutions. The workload placed on the FMD is in line with its capacity (IT and human), which has a positive impact on the timeliness of collection, processing and dissemination of intelligence to law enforcement agencies. The FMD's powers allow it collect and transmit data constituting bank and other secrets protected by law to law enforcement authorities. The FMD's intelligence is used for intelligence purposes, while the collection of data for use as evidence is carried out after the initiation of criminal proceedings.

168. The Financial Monitoring Department under the National Bank of Tajikistan is an administrative-type FIU responsible, as part of its key functions, for generating operational financial

intelligence from its own databases, submitted reports, and information requested from reporting entities, authorized government agencies and foreign FIUs. The FMD collects, analyses, studies, retains and provides information to the relevant law enforcement agencies of Tajikistan on transactions with funds and other property linked to money laundering, terrorist and PF financing.

169. In addition, the FMD has access to the following databases (Table 6), which are frequently used in primary analysis.

Table 6

#	Data source (ministries and departments)	Access mode	Information contained in the database
1	Customs Service under the Government of the Republic of Tajikistan	<i>Direct</i>	<ol style="list-style-type: none"> <li>1. Information on import and export of goods to/from Tajikistan.</li> <li>2. Information on the import and export of cash and securities in national and foreign currency by individuals (residents and non-residents).</li> </ol>
2	Tax Committee under the Government of the Republic of Tajikistan	<i>Direct</i>	Reference data on legal persons and individual entrepreneurs.
3	Ministry of Finance of the Republic of Tajikistan	<i>Indirect (updated at least once in two weeks)</i>	<ol style="list-style-type: none"> <li>1. The register of non-profit companies (public associations) registered with the Ministry of Justice of the Republic of Tajikistan;</li> <li>2. Information on voluntary contributions, donations, grants or property received from foreign countries, foreign legal persons, legal persons established with the participation of foreign entities, international organizations and international public movements.</li> </ol>
4	Ministry of Finance of the Republic of Tajikistan	<i>Indirect (updated at least once in two weeks)</i>	<ol style="list-style-type: none"> <li>1. Information on the bookmakers operating in Tajikistan;</li> <li>2. Information on legal persons and individual entrepreneurs engaged in the purchase and sale of precious metals and precious stones;</li> <li>3. Information on the lotteries registered in Tajikistan;</li> <li>4. Information on the pawnshops operating in Tajikistan.</li> </ol>
5	Statistics Agency under the President of the Republic of Tajikistan	<i>Indirect (updated at least once in two weeks)</i>	Statistics on predicate offences
6	Committee on Religions of the Republic of Tajikistan	<i>Indirect (updated at least once in two weeks)</i>	Information on the religious associations operating in Tajikistan.

170. As can be seen from Table 6, the FMD has direct access to some databases and request-based access to others. According to the FMD, there have been no refusals to provide information, nor have they been detected during meetings with the representatives of various agencies. This allowed the

assessors to conclude that the use of a request-based data access mode does not affect the timeliness of data collection for primary analysis.

171. Notably, the FMD uses the Working Group on the Provision of Access to Government Databases for the FMD, set up by the IC decision on 08.04.2016 and chaired by the FMD director, to expand direct access to the databases of other government agencies. The key objective of this working group lies in addressing technical issues and protecting the security of the transmitted data. These activities are also set out in detail in the National Concept.

172. Overall, law enforcement agencies have a positive experience of information sharing with the FMD. To highlight the effectiveness of its cooperation, Tajikistan provided the following example (Case study 1) of investigations conducted with the help of intelligence requested from the FMD, including examples of international cooperation. Other examples of investigations utilizing the FMD's intelligence are given in IO.7.

#### Case study 1

In June 2017, the FMD detected suspicious transactions carried out by members of the same family 'X', who received large transfers from Russia. The information on suspected drug sales and money laundering was referred to law enforcement. Using the intelligence provided by the FMD, the Drug Control Agency initiated criminal proceedings under art. 36, par. 2, (perpetrator as a type of accomplices in a crime), art. 262 (money laundering), art. 320, par. 2, subpar. "b", (bribery) and art. 340, par. 2, (counterfeiting, manufacture or sale of forged documents, state awards, stamps, seals and forms) of the RT Criminal Code. Three bank employees involved in the receipt of remittances were charged with committing an offence falling under art. 340, par. 2, subpar. "a" and "b" (counterfeiting, manufacture or sale of forged documents, state awards, stamps, seals and forms) and art. 295, par. 1, (abuse of authority by employees of commercial and other organizations) of the Criminal Code.

Authorities identified more than 20 persons who were involved in the illegal sale of drugs across Russia as part of a criminal gang. Earnings from drugs sales were deposited into the e-wallet accounts of gang members prior to being remitted by them to the family 'X' members. Subsequently, the funds were distributed among other members of the gang and laundering through the purchase of real estate and other property.

The investigation against the leader and regular members of the gang is still ongoing, with active involvement of the FMD. Investigators are working to identify other members of the gang and establish the ownership of the property.

173. At the same time, there are a number shortcomings impacting the quality of operational financial intelligence gathered and its subsequent use for evidence gathering and tracing of criminal proceeds related to ML, underlying predicate offences and TF.

174. Some of these shortcomings are connected with the incomplete and accurate information contained in databases. For example, there are difficulties in ensuring the actual basic information on legal persons and beneficial owners of legal persons (see IO.5 for more details).

175. Of the reporting entities covered by AML/CFT requirements, only credit institutions submit STRs, which are based on the indicators of suspicious transactions developed by the FMD. It is obvious that this approach does not help in the private sector's understanding of difference between the STRs and threshold reporting. Besides, the STRs do not adequately reflect the ML/TF risks inherent in Tajikistan (see IO.4 and STR information below for more details).

176. In addition, as noted earlier, the use of the FMD's intelligence provided spontaneously or on demand in ML investigations is inadequate, due to the greater focus of law enforcement agencies on

the use of intelligence in predicate investigations. The FMD, in turn, sends written requests to law enforcement agencies for information on persons placed on the domestic or international wanted list; on owners of motor vehicles and their registration; on previous convictions; on initiated, suspended or referred to court criminal proceedings into predicate, ML and TF offences; as well as for other relevant statistics and information on matters falling within the FMD's purview, in volumes required by applicable law.

*Suspicious transaction reports received and sent by the competent authorities*

177. As a central authority, the FMD receives reports on suspicious transactions and transactions subject to mandatory control.

178. The FMD's analytical software combines available databases and has a data visualization module. This data analysis software uses the specified parameters and various classification and categorization methods to identify high and very high risk STRs for subsequent analysis by analysts. For example, the high-risk rating is assigned to the STRs on individuals whose names match with the persons on terror lists (unified, national and international lists) or the CIS ATC wanted list. The high-risk level is assigned to the STRs with information reflecting the pre-set by the FMD criteria and typologies which are reviewed and supplemented on a permanent basis, including in order to detect transactions related to FT. The incoming STRs are stored on a dedicated server.

179. According to the STR incoming statistics, there has been a significant rise in the number of submitted STRs (Table 7).

Table 7

#	Type of reporting entity	2015		2016		2017	
		STRs	Threshold	STRs	Threshold	STRs	Threshold
1	Credit institutions	569	111617	19210	198418	143279	246215
2	Notaries	0	224	0	175	0	210
3	Insurance companies	0	6	0	0	0	0
4	Other	0	0	0	0	0	0
	Total	569	111847	19210	198593	143279	246425

180. According to the FMD, the growth in the number of STRs sent by credit institutions (including banks) is primarily due to improved AML/CFT/PF training and skills-upgrading opportunities available to the employees of these entities. However, if we study the data contained in Table 8 (criteria of suspicious transactions), we will see that the number of reports sent in accordance with the predetermined criteria corresponds approximately to about 98% of the number of STRs received by the FMD. As a result, there are doubts about the quality of submitted STRs and their usefulness for the FMD's analysis. STR statistics broken down by the indicators of suspicious transactions are shown in the table below (Table 8).

Table 8

#	Indicators of suspicious transactions	2015	2016	2017
1	transfers of funds to a non-resident in the form of grants, financial assistance, loans or non-repayable aid	110	7513	50691
2	a person performs multiple identical transactions whose total value is below the threshold set by the AML/CFT Law	0	566	28661
3	a client deposits small amounts to his bank account at irregular intervals, or his account is credited with small amounts at irregular intervals, or funds are transferred to/from different accounts of the same person	242	4358	13571
4	a client performs transactions with natural and legal persons unrelated to one another	1	1596	5549
5	transactions with high terror risk jurisdictions	4	1848	21162
6	transactions with offshore jurisdictions with unclear economic purpose	14	358	2269
7	an individual client or an authorized person performs occasional transactions which generate no profit or which make no economic sense	8	9	257
8	a client, an authorized person, a beneficiary or another transaction participant is suspected of terrorism	3	3	199
9	a client performs transactions with large amounts	2	56	164
10	an STR does not match the criteria set out in the Suspicious Transaction Indicators Registry (Section 1, pars. 2 and 4, of the Registry)	152	1344	2302
11	a STR matches two or more criteria from the Suspicious Transaction Indicators Registry	33	1559	18,454

181. Besides credit institutions, only notaries and insurance companies sent a certain number of reports on financial transactions subject to mandatory control, with the rest of reporting entities submitting neither STRs nor threshold reports.

182. It is obvious in this situation that the FMD does not maintain a comprehensive database of transactions that are potentially of interest to the competent authorities, including in high-risk sectors. Tajikistan puts the absence of STRs down to the poorly developed financial market and the lack of any large capital flows, citing only a small number of identified non-submissions. However, the assessors also believe that not enough training has been provided to other types of entities, except credit institutions, carrying out transactions with funds or other property.

183. The overwhelming majority of reports on both suspicious transactions and transactions over the designated threshold are submitted by credit institutions. STRs sent by reporting entities (in fact, only by credit institutions) from 2014 to 2017 were mostly based on the criteria developed by the FMD and set out in the Suspicious Transaction Indicators Register, approved by the decision of the Board of the National Bank of Tajikistan No. 84 dated April 28, 2011 which were not based on the findings of the NRA conducted by Tajikistan. A majority of reporting entities other than banks have a limited understanding of ML/TF risks and do not recognize them in their activities. DNFBPs do not conduct an assessment of their ML/TF risks (see IO.4 for more details). These circumstances allow the

assessors to conclude that the STRs submitted to the FMD are limited in their scope and do not adequately reflect the ML/TF risks existing in the country.

184. With respect to TF-related STRs (line 8 of table 8), it should be noted that the majority of reporting entities (including banks) send STRs on individuals whose names match with the persons on terror or other lists (e.g., wanted by the CIS ATC for committing serious crimes). At the same time, there are examples of successful TF investigations launched on the basis of the FMD's spontaneous disseminations, including related to bank transfers. In this case, both information on transactions and the FMD's conclusions regarding their possible link to TF were fully utilized in the investigation (see case study in IO.9).

185. The FMD organizes regular AML/CFT training and skills upgrading workshops for financial institutions and DNFBPs. However, the shortcomings noted above necessitate the adoption of additional measures aimed at increasing the level of understanding by reporting entities other than credit institutions of their duties, regulatory requirements, modern typologies, and ML/TF schemes and scenarios.

186. In addition to receiving STRs and threshold reports, the FMD may request and receive information from entities carrying out transactions with funds or other property, regardless of whether they previously sent STRs or other information. Statistics related to such information exchange are shown in Table 9. The information sharing mechanism used by reporting entities is fully functional, with no cases of refusal to provide information detected. That said, the volume of submitted requests is not fully consistent with the risks identified. As noted in IO.1, despite the high-risk status of the real estate sector, no requests were sent to real estate agents.

Table 9

	2014	2015	2016	2017
Banks	106	136	157	165
MCIs	43	71	97	121
Notaries	5	4	2	0
Dealers in precious metals and stones	5	4	2	0
Securities market participants	0	0	0	0
Bookmakers	0	0	0	0
Insurance companies	0	0	0	0

187. The FMD has direct access to the database of the Customs Service under the Government of the Republic of Tajikistan (Customs Service) on the movement of funds across the border. Despite being classified as a reporting entity, the Customs Service does not submit any STRs, providing the FMD with direct real-time access to its databases.

188. The FMD also cooperates closely and successfully with foreign FIUs in collecting operational financial intelligence to assist in investigations (see also IO.2 for more information on the level of the FMD's international cooperation).

*Analysis findings and intelligence provided by the FMD for operational activities*

189. The FMD's analysis findings and intelligence, provided both spontaneously and upon request, to a certain extent, support the operational activities of the competent authorities. The information

on the use of spontaneous disseminations made available to the assessors does not confirm its effective use in criminal investigations.

190. The FMD, after receiving STRs and threshold reports, enters this data into an automated analytical system for preliminary analysis, conducted by the FMD's data processing unit. After completing the initial screening of data, and depending on the risk profile, the case is assigned to the relevant analyst. The analyst examines the case and determines which additional information he needs for a full analysis of the case. This information is then collected from the available databases or requested from reporting entities, government agencies or foreign counterparts.

191. The FMD makes its analysis findings available to law enforcement authorities both upon request and as part of spontaneous exchanges. The effectiveness of the use by law enforcement authorities of the analytical data requested from/spontaneously provided by the FMD is shown in Table 10. As can be seen, analysis and intelligence provided by the FMD is actively used by law enforcement agencies conducting TF investigations. Cooperation between the FMD and law enforcement in this area is also conducted in different formats: the FMD sends intelligence to these agencies spontaneously and provides assistance upon request. The information on the methods and techniques used by authorities to investigate TF and gather additional information (including financial) is confidential.

192. With respect to predicate offences, the FMD's role primarily lies in providing intelligence to law enforcement authorities upon request. The number of investigations into predicate crimes launched on the basis of spontaneous disseminations is insignificant. As regards ML, the data contained in Table 10 point to a poor use of spontaneous exchanges in ML investigations. Therefore, the FMD better supports the operational activities of law enforcement agencies through the provision of information upon request. At the same time, the use by law enforcement agencies of spontaneous information is limited, which casts doubts on their understanding of how to use it in their investigations.

Table 10

Agency name	<i>On request of law enforcement</i>				<i>Spontaneous disseminations</i>				<i>On request of law enforcement</i>				<i>Spontaneous disseminations</i>				<i>On request of law enforcement</i>				<i>Spontaneous disseminations</i>			
	2015								2016								2017							
	Request s	ML result s	TF result s	Other result s	Spontaneous dissemination s	ML result s	TF result s	Other result s	Request s	ML result s	TF result s	Other result s	Spontaneous dissemination s	ML result s	TF result s	Other result s	Request s	ML result s	TF result s	Other result s	Spontaneous dissemination s	ML result s	TF result s	Other results
Interior Ministry	14	0	0	9	0	0	0	25	0	9	12	16	0	0	0	62	1	7	17	17	0	5	6 (401.1)	
State Committee for National Security	22	0	0	13	1	0	0	58	0	0	5	7	0	0	0	102	1	1	28	14	0	3	2 (292), (401.1)	
General Prosecutor's Office	11	0	0	7	6	0	0	8	0	0	2	23	1	0	0	11	0	0	9	7	0	2	1 (187, 401.1)	
Drug Control Agency under the President of the Republic of Tajikistan	17	0	0	11	0	0	0	22	0	0	14	2	0	0	0	3	0	0	1	4	1	0	1 (320)	
Agency for State Financial Control and Combating Corruption under the President of the Republic of Tajikistan	13	0	0	8	0	0	0	3	1	0	1	1	0	0	0	3	0	0	1	2	0	0	2 (340, 287) (292)	
<b>Total</b>	<b>77</b>	<b>0</b>	<b>0</b>	<b>48</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>116</b>	<b>1</b>	<b>9</b>	<b>34</b>	<b>49</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>181</b>	<b>2</b>	<b>8</b>	<b>56</b>	<b>44</b>	<b>1</b>	<b>10</b>	<b>12</b>	
<b>Results</b>	<b>48</b>				<b>0</b>				<b>44</b>				<b>1</b>				<b>66</b>				<b>23</b>			

Note: Some material provided by the FMD in 2016 triggered criminal investigations in 2017

Article 340. Forgery, manufacture or sale of forged documents, state awards, stamps, seals and forms

Article 292. Tax/duty evasion by legal persons

Article 287. Non-return of funds in national and foreign currency from abroad

Article 320. Bribery

Article 187. Establishment of a criminal association (criminal organization)

193. As regards the supervisors, the FMD regularly supplies them with intelligence for use in their activities (Table 11). According to the data provided, most of the requests to the FMD are sent by the DBS. The DBS uses the requested information in supervisory activities and licensing of financial institutions. The FMD also sends spontaneous disseminations to the DBS, which sometimes becomes the cause of unscheduled inspections.

194. With respect to other supervisory authorities, the intelligence received by them from the FMD is predominantly used in supervisory activities.

Table 11

Name of state authority		Incoming requests				Outgoing requests			
		2014	2015	2016	2017	2014	2015	2016	2017
Regulatory and supervisory authorities	Ministry of Finance		1			5	4		
	Ministry of Justice			1	2	5	4	2	
	Ministry of Foreign Affairs	2	1		3	2	2	6	4
	Tax Committee under the RT Government	3	1	1		6	11	30	26
	Ministry of Labour, Migration and Employment								
	Customs Service under the RT Government				1	5	6	15	12
	Communication Service under the RT Government							1	
	Department for Banking Supervision of the National Bank of Tajikistan	5	5	9	13	4	5	4	3
Total	Regulatory and supervisory authorities	10	8	11	19	27	32	58	45

195. The FMD's Analysis and Research Department, as part of the implementation of the key components of the AML/CFT/PF Concept, added one more employee to its staff list.

196. In accordance with the revised FMD Regulations, this department is responsible for operational and strategic analysis. The examples of strategic analysis conducted in the framework of participation in the activities of international organizations have highlighted the quality of strategic analysis and its findings. However, the FMD has failed to demonstrate an independent study of strategic analysis and the findings of such work. In this regard, the assessors have concluded that the FMD is taking steps to conduct strategic analysis, but further steps are needed to improve this work.

#### *Cooperation and information/finance intelligence sharing*

197. The FMD frequently shares ML/TF operational intelligence with law enforcement authorities, with SCNS and the Interior Ministry's Directorate for Combating Organized Crime receiving the bulk of TF-related intelligence.

198. No technical or legal obstacles limit the exchange of intelligence between the authorities. No factors limiting the FMD's operational independence in discharging its direct functions related to the analysis and provision of material to criminal prosecution bodies have been detected, nor are there any problems with maintaining data confidentially.

199. Cooperation between the FMD and law enforcement agencies is subject to the interagency guidance and several interagency agreements entered into by the parties in order to boost its effectiveness. These agreements expand the opportunities of information exchange and help overcome the existing legislative restrictions.

200. Where there are reasonable grounds to suspect that transactions are linked to ML/TF, the FMD may, either independently or at the request of law enforcement, suspend such transactions for the period of up to seven days. For example, the FMD suspended transactions as part of six AML/CFT operations conducted in 2017 on 1630 bank accounts totalling 1751 somoni, USD 951,000 and EUR 4,000. After providing the relevant material to law enforcement agencies, the funds in these accounts were frozen by a court order. At the same time, it was noted that in five of those cases the amounts held in the frozen accounts were insignificant.

201. The FMD and law enforcement agencies demonstrated a good understanding of the importance of close cooperation to the successful fight against ML, predicate offences and TF.

#### *Overall conclusions on Immediate Outcome 6*

**202. Tajikistan is rated as having a moderate level of effectiveness for Immediate Outcome 6.**

## Immediate Outcome 7 (ML investigation & prosecution)

### ML identification and investigation

203. Tajikistan demonstrated in practice that its law enforcement agencies (the Interior Ministry, the Anti-Corruption Agency, the Drug Control Agency and the Prosecutor's Office) do detect and investigate ML. The above agencies regard ML as an additional element of a criminal conduct in the investigation of predicate offences and .AML is not a priority. The country's measures to prosecute ML offences are insufficient.

204. The Interior Ministry's MIAC provided statistics on the number of initiated, investigated and prosecuted ML cases in 2015-2017. A total of 24 ML cases were investigated, of which 21 were referred to court (3 of the referred cases were closed by virtue of the amnesty law).

Table 12

Year	Investigated offences	Of which		Of which	Suspended
		Referred to court	Terminated	Under amnesty	
2015	9	8	1	1	-
2016	6	4	2	2	-
2017	9	9	-	-	-

205. There was a spike in the number of investigated ML offences in 2017 caused by the extra attention paid to ML offences by law enforcement.

206. The Anti-Corruption Agency is the leading (both in practice and in accordance with the law) authority in ML investigations. Since 2014, the Anti-Corruption Agency, in investigating the embezzlement of public funds as well as tax and corruption crimes, has uncovered evidence of criminal offences falling under art. 262 "Money laundering". Criminal proceeds were laundered through the purchase of construction equipment, real estate, company shares and other assets. Over the 4-year period, the criminals targeted in the investigations laundered a total of 50.9 million somoni (USD 8.3 million). Almost the same amount was subsequently confiscated from the criminals (Table 13).

Table 13

Agency name	Year	Total investigations	Participants	Laundered funds (somon)	Seized property	Terminated under art. 27, par. 1, subpar. 4	Referred to court	Confiscated amount
Agency for State Financial Control and Combating Corruption	2014	2	2	27369856 (USD5.4m)	27369856 (USD5.4m)	-	2	27369856 (USD5.4m)
	2015	2	2	326000 (USD32600)	326000 (USD32600)	1	1	196000 (USD19600)
	2016	3	3	7305642 (USD1m)	7305642 (USD1m)	1	2	7000000 (USD900000)
	2017	2	2	15911155 (USD1.9m)	15,911,155 (USD1.9m)	-	2	15911155 (USD1.9m)

207. The Anti-Corruption Agency identifies and investigates a small number of ML offences each

year (Table 13). At the same time, these are high-profile cases that involve the laundering of large amounts of criminal proceeds.

#### Case study 2

An official of company 'C', through abuse of office, embezzled public funds, engaged in illegal business activities, evaded taxes and committed other serious crimes, generating criminal income totalling 37.9 million somoni (USD 6.3 million). Part of the criminal proceeds in the amount of USD 2.6 million were subsequently laundered through the purchase of 47 items of construction and manufacturing equipment and 12 real estate properties.

The offender was found guilty, including of ML, and sentenced to 21 years of imprisonment, with forfeiture of property.

#### Case study 3

Due to the sensitive nature of the case, only general information related to its investigation is available. Official 'B' provided assistance in illegal privatization of state property, generating criminal revenue totalling 1.8 million somoni, which was subsequently laundered through the purchase of company shares.

In a separate episode, official 'B' laundered criminal proceeds totalling 14.2 million somoni, registering the acquired property to his relatives.

Following the completion of the investigation, the official was charged with ML and predicate offences and sentenced to 26 years of imprisonment with forfeiture of property valued at 41.2 million somoni.

208. All ML cases were investigated in conjunction with predicate offences, with ML indicators being identified as an additional offence in the course of the study of the financial circumstances of the case. The majority of criminal cases were referred to court, resulting in the prosecution of the perpetrators. However, not all investigations result in the conviction of the persons who committed ML. One of the reasons for the termination of investigations is amnesty (a copy of the decision to drop criminal charges due to amnesty was provided to the assessors).

209. In 2015-2017, the Prosecutor's Office conducted one investigation under art. 32, par. 1 and art. 264, par. 2, subpar. "b" and "c" (preparation to commit ML). The investigation was conducted in parallel with investigations into other predicate offences (embezzlement or misappropriation, forgery). In 2017, the investigation was completed and the perpetrator was convicted. The amount of damage was estimated at over 82 000 somoni (approx. USD 9000), part of which was recovered during the investigation and another part during the judicial review in response to a petition filed by the prosecutor. According to the summary data of the Prosecutor's Office for 2014-2017, the public prosecutors supported charges in 27 criminal cases related to ML (6 in 2014, 8 in 2015, 4 in 2016 and 9 in 2017). Particularly notable is the effectiveness of the prosecutors' work in this area: almost all the defendants charged with ML are convicted, according to the data provided.

210. Combined, law enforcement agencies have registered a total of 2591 drug trafficking cases since 2015, including 469 cases registered by the Drug Control Agency (Table 14). However, despite the large number of drug trafficking cases, ML is almost never investigated. Neither the Drug Control Agency nor other law enforcement bodies have a clear understanding of the need for parallel financial investigations in cases involving drug trafficking.

211. One of the positive aspects was the creation, within the Interior Ministry's structure, of the department for combating drug-related money laundering in 2017, whose employees were involved in uncovering the financial component of crime. No mention of ML investigations is made in the

provided example of a successful investigation (Case study 4) against a criminal gang resulting in the seizure of large quantities of drugs and criminals' property. Assessors were provided with a copy of one court verdict issued in respect of individuals involved in drug trafficking and convicted, among others, under art. 262, par. 2, of the Criminal Code of the Republic of Tajikistan. As stated in this court verdict, the proceeds were laundered through the purchase of a car, which, according to the assessors, may be classified as money laundering only when there is an intent to conceal the source of funds. This information is absent from the trial contents. Notably, the investigation against the ringleader of the group engaged in drug trafficking and money laundering did not reach court. His accomplices, meanwhile, were convicted after the completion of the on-site visit (Case study 5).

Table 14

Year	Detected offences	Total value of seized and confiscated property in connection with DCA investigations
2015	153	785 344 somoni (approx. USD 100 000)
2016	152	802 075 somoni (approx. USD 110 000)
2017	164	1 201 190 somoni (approx. 150 000)

Case study 4

A joint Russian Interior Ministry/Drug Control Agency investigation led to the arrest of members of a criminal gang specializing in the trafficking and wholesale of narcotic drugs in the territory of the Russian Federation, as well to the seizure of 1,600 kg of heroin. It was established that the drugs for sale in Russia were supplied by Tajik national 'X', who also acted as a ring leader. The DCA's investigation department opened criminal proceeding into drug trafficking committed by Mr 'X' and other members of the gang.

Investigators seized the property (including a car valued at 70,000 somoni, an apartment worth 196,000 somoni, etc.) and a large amount of cash (USD 30,000) belonging to the gang, all of which were subsequently confiscated by the court. The court also sentenced the defendants to different terms of imprisonment ranging from 6 to 18 years.

The activities of the criminal gang were not examined for any indicators of ML.

Case study 5

2017 saw an investigation against the leader of an organized group, Mr G, who was suspected of abuse of power, large-scale drug trafficking and money laundering. Mr G used criminal proceeds to purchase real estate and other property valued at USD4.6 million. All identified property was seized, while the case was referred to court. One of the persons involved in money laundering was sentenced on April 19, 2018 (after the completion of the on-site mission).

212. Law enforcement authorities noted the good quality of the material provided by the FMD and its effectiveness in international information sharing and use of information constituting bank secrecy. In conducting criminal investigations, law enforcement authorities use the intelligence provided by the FMD either on request or as part of spontaneous information exchange (Table 10). The information provided by the FMD as part of spontaneous exchanges serves as grounds for launching inquiries or as a 'red flag' in investigations into predicate offences or ML with an underlying a predicate offence. Notably, there is a low level of results of cooperation between the Drug Control

Agency, the Anti-Corruption Agency and the Prosecutor's Office (Table 10), which may ultimately affect the effectiveness of their AML efforts.

213. Analysis of the provided data has revealed that combating ML is not among the priorities of the country's law enforcement agencies. Although the opportunities for detecting and investigating these types of crimes by law enforcement agencies within the framework of predicate offences do exist, they are not fully utilized. Parallel financial investigations tend to be sporadic in their nature, while law enforcement agencies responsible for the detection and investigation of ML lack a clear understanding of the need and the procedure for conducting them (this, among others, is confirmed by the information on the work carried out by courts in IO.8, which contains isolated examples of criminal proceedings where law enforcement officials filed petitions with the court to seize the funds of the accused). According to the assessors, the adoption of a guidance on the conduct of parallel financial investigations by law enforcement agencies may have a positively effect on the identification, investigation and, ultimately, conviction of persons directly for ML.

214. In addition, assessors concluded that investigations into the financial dealings of drug traffickers are carried out without due account for modern payment methods and ML schemes used by criminals, and are not always aimed at depriving criminals of the proceeds of crime. It is only in 2018 that investigators began to investigate the role of international remittance systems in drug-related money laundering. There is only one example of a parallel financial investigation. Criminal proceedings into drug trafficking and ML were initiated in 2018, with the FMD listed among the contributors. However, due to the on-going status of this investigation, it is difficult to assess its outcomes yet (see Case study 1 in IO.6).

215. The practice of joint investigations of high-profile criminal cases, or the inclusion of FMD personnel in working groups conducting ML investigations, is still being established. Tajikistan cited examples of involvement of FMD personnel as experts in an investigation not related to ML, as well as their inclusion in a working group of the Prosecutor's Office.

216. Law enforcement agencies other than the Prosecutor's Office involved in investigations are unable to independently access information constituting bank secrecy at the pre-investigation stage due to some legal constraints. As a result, they rely, when necessary, on the FMD to identify accounts, transactions and counterparties.

#### *Consistency of ML-related investigations and prosecutions with the nature of national security risks and threats and national AML policies*

217. ML-related investigations and prosecutions are not fully commensurate with the risks and threats identified in the national risk assessment. Representatives of law enforcement agencies only have a general understanding of ML risks, which is not enough to implement effective AML measures.

218. AML matters are given extra emphasis in the government policies. Tajikistan's Strategy for Combating Corruption 2013-2020 calls for the adoption of effective AML measures both within the country and abroad. Among measures in support of the National Strategy for Combating Drug Trafficking 2013-2020 is the establishment of an effective system for combating drug-related money laundering. The adoption and implementation of these strategies determined further steps to be taken by the country in combating ML/TF/PF. Presidential Decree No. 1033 dated March 5, 2018 approved the National Concept, which sets out the strategic goals and directions for the development of the national AML/CFT system. It should be noted that at the time of the on-site visit, the National Concept had just been approved and its implementation was at an early stage.

219. According to law enforcement agencies, the main sources of criminal proceeds are corruption, tax crimes, drug trafficking and fraud. Proceeds from these criminal activities often end up invested in legitimate businesses. At the same time, the number of ML offences related to these activities identified each year is very small.

220. According to the NRA findings and opinion of the assessors (their conclusions are based on the outcomes of meetings and analysis of the provided material), the funds derived from corruption are significant. The growth in the number of detected and investigated corruption offences may be due both to the increased attention to this type of crimes from law enforcement authorities and the rise in the level of corruption activities. In addition, Tajikistan shares a common border with countries known for high corruption risks, which may also have an impact on the situation within the country. Still, the number of identified corruption-related ML offences remains very low.

221. Drug offences remain a major source of criminal proceeds, which may also have a major impact on the situation within the country. The outcomes of criminal investigations highlight Tajikistan's status as a transit country for the cross-border flows of drugs to other countries. At the same time, not enough attention is paid to the probing of financial dealings of persons involved in drug trafficking. The adopted measures to combat money laundering, drug trafficking and identify and seize financial proceeds are not commensurate with the level of risk.

222. Tax evasion is very common in Tajikistan. According to statistics, fiscal crimes also generate significant amounts of criminal proceeds, which, with high probability, may be used not only for personal enrichment of criminals, but also invested in legal businesses. Tajikistan does not conduct ML investigations involving proceeds from tax crimes due to the challenges linked to evidence gathering, hence the offenders are charged with predicate offences.

223. A significant fraud-related ML risk is not reflected in the practice of detecting and investigating ML offences. According to the assessors, this may be due to the inadequate assessment of the ML risks linked to fraud.

224. Assessors have come to the conclusion that despite the adoption of such important policy documents, the effectiveness of law enforcement efforts and their understanding of ML risks require further improvement.

#### *Types of ML cases pursued*

225. According to the MIAC's statistics, the number of ML cases referred to courts stands at 21. According to the judicial authorities, 21 ML cases have been heard by courts since 2015, with charges brought against 25 persons. According to Tajikistan, all defendants have been convicted of predicate offences and ML. Analysis of ML convictions has shown that money laundering is effected through the purchase of company shares (Case study 3), real estate property (Case study 4) and vehicles (Cases study 6). Among the predicate offences were fraud (5 cases), misconduct (10), drug trafficking (1), etc.

#### Case study 6

Mr 'M' committed, in July 2014, fraud and money laundering by gaining trust of Mr 'Ch' and illegally allocating to him 0.18 hectares with a pledge to build a house on it. In return, he received from Mr 'Ch' a motor vehicle, Lexus RX, worth USD 13,589. Then, in order to conceal his actions, he sold the car for the specified amount (money laundering).

Mr M was found guilty, including of ML, fined 12,000 somoni and deprived of the right to hold certain positions or engage in certain activities for a period of two years. The Lexus RX vehicle was converted into state revenue as physical evidence.

226. Tajikistan lacks experience in detecting and investigating ML committed by third parties; when a predicate offence is committed in a third country; or when ML is committed without a predicate offence. Since such cases were not investigated, there are no convictions.

#### *Effectiveness, proportionality and dissuasiveness of sanctions*

227. When dealing with ML cases, the courts tend to first focus on predicate offences, and only then, if the criminal nature of the proceedings has been established, they may issue a guilty verdict for ML. This, as well as the difficulties in proving ML, results in a small number of ML convictions.

228. When handing down convictions for predicate offences, the size and effectiveness of sanctions against individuals for ML can be judged primarily on the basis of legal provisions or sanctions for predicate offences, which appear to be commensurate and effective. Tajikistan provided information on sentencing in relation to 11 ML convictions. Most of the penalties include imprisonment, and confiscation was applied for some of them. Sanctions for ML seem to be proportionate, effective and dissuasive when both imprisonment and confiscation are applied to the convicted persons. Non application of confiscation decreases the effectiveness of such measures.

#### *Alternative Measures*

229. During the on-site visit, representatives of the Supreme Court informed the assessors that there are no alternative criminal justice response measures in the country to criminal convictions for ML. As a rule, when ML cannot be proven, the defendant is convicted of a predicate offence with the confiscation of property.

#### *Overall conclusions on Immediate Outcome 7*

**230. Tajikistan is rated as having a low level of effectiveness for Immediate Outcome 7.**

## ***Immediate outcome 8 (Confiscation)***

### *Confiscation of proceeds, instrumentalities & property of equivalent value as a policy objective*

231. Tajikistan's law enforcement, judicial and other authorities are vested with sufficient powers that are used in practice to confiscate proceeds, funds, instrumentalities and property of equivalent value. Although detection and seizure of property obtained by criminal means for subsequent forfeiture are listed among the responsibilities of law enforcement and judicial authorities, the extent of their use in practice is limited.

232. Confiscation issues are reflected in certain strategic documents. The National Concept, as a way of depriving criminals of illegal revenues, calls for the creation of a centre for the repatriation of criminal assets and strengthening of international cooperation in tracing and confiscating proceeds laundered abroad. At the same time, during their meetings with the assessors, representatives of the country's various ministries and departments noted the atypical nature of the practice involving the funnelling of illicit proceeds overseas for Tajikistan, where proceeds from crime are typically laundered through the purchase of movable and immovable property in the country. However, the National Concept does not provide for any other measures aimed at ensuring the confiscation of criminal proceeds. Meanwhile, the action plan for its implementation lacks any specific provisions relating to the development and implementation of measures to identify and seize criminal proceeds.

233. The Prosecutor's Office has adopted and is implementing regulations governing different aspects of confiscation, and requiring prosecutors to take appropriate measures<sup>14</sup>. The Interior Minister, in its protocol dated January 19, 2018, issued instructions for preserving the property seized in the course of preliminary investigations. According to the Anti-Corruption Agency and the DCA, they are encouraged by their leadership to freeze the suspect property in the course of the investigation. According to the assessors, law enforcement agencies are guided by these regulations in their work.

234. However, deprivation of criminals of ill-gotten gains is not listed among the goals and objectives in other strategic documents<sup>15</sup> or interagency regulations on AML/CFT provided to the assessors. Meanwhile, the regulations governing cooperation between government agencies<sup>16</sup> contain no specific provisions related to the development and implementation of measures aimed at the identification and seizure of criminal proceeds.

235. As part of investigative proceeding, law enforcement agencies generally search for and freeze the property of the accused, as well as the property that became the subject of a criminal offence. In view of the examples provided by the country, progress is being made in this area and there are some practical results, including on ML (Case studies 3 and 4). At the same time, a record of the progress made by the country's law enforcement agencies in recovering damages and achieving possible confiscation is maintained by each agency separately in the manner and volume specified by the agency. According to the assessors, this circumstance hampers the conduct of a generalized analysis of the completeness and effectiveness of the relevant activities, as well as the development of domestic measures for its improvement.

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<sup>14</sup> RT Prosecutor General's Order dated February 18, 2016 "On strengthening prosecutorial supervision over damage recovery and implementation of the laws related to the protection of property"; RT Prosecutor General's Order No. 5-34 dated April 10, 2013 "Concerning the procedure for seizing the property, funds and bank accounts in the course of criminal proceedings", etc.

<sup>15</sup> For example, the National Strategy of the Republic of Tajikistan on Combating Extremism and Terrorism for 2016-2020, and the National Strategy for Combating Illicit Trafficking in Drugs in the Republic of Tajikistan for 2013-2020.

<sup>16</sup> For example, the Guidance on AML/CFT/PF Cooperation and Information Sharing between the FMD and law enforcement agencies, and the Regulation on Coordination of the Activities of Law Enforcement Agencies in Combating Corruption.

236. Under the Tajik Law, confiscation of property occurs after satisfaction of the property claims of its rightful owner (i.e. after recovery of damages caused by the crime). At the same time, the damage recovery procedure, similarly to compensation, contributes to the deprivation of criminals of ill-gotten gains. In this regard, Tajikistan, during the evaluation, compiled its damage recovery statistics (Tables 16 and 17), whose analysis underscored difficulties in recovering damages experienced by all Tajik law enforcement agencies (see the next section for more details).

237. When adjudicating the case, the judge decides what to do with the seized property to secure a civil claim or possible confiscation, which is reflected in the verdict. At the same time, there is no clear procedure for enforcing the court decision. The enforcement of a confiscation order is carried out by a court executor, who, pursuant to article 202 of the Code of Criminal Penalties of the Republic of Tajikistan, transfers the confiscation property to financial authorities upon satisfaction, in accordance with the law, of all claims against the convicted person. The work on this procedure is still on-going. In view of the foregoing, we can conclude that there is no clear procedure for the disposal of property subject to confiscation.

238. Fiscal authorities responsible for the sale of property confiscated by courts and (or) transfer of the sale proceeds to the state budget (State Committee for Investment and Management of State Property of the Republic of Tajikistan, the Treasury, etc.) use different approaches to maintaining records of the outcomes of these activities, with the accumulated data being limited by the scope of each agency's purview.

239. The Justice Ministry, which oversaw the activities of bailiffs until mid-2018, kept records of enforced confiscation decisions. These data were generated based on the enforcement statistics with no breakdown by category of offences or regard for the amounts subject to confiscation and actually confiscated.

240. It should be noted that the country understands the existing problems and takes steps to address them. After the on-site visit, with a view to ensuring successful implementation of the regulations governing the recovery of damages and compensation of property pursuant to Presidential Decree No. 1043 dated April 5, 2018, the RT Government, by its Resolution No. 332 dated June 21, 2018, set up an Enforcement Service under the RT Government. The RT Supreme Court voted to revise the procedure for recording confiscation-related data. Due to the recency of these changes, it is difficult to assess the impact of this decision on the situation.

241. Therefore, Tajikistan's approach to depriving criminals of illegally obtained property points to the existence and application of at least some measures aimed at the confiscation of criminal proceeds, instrumentalities and property of equivalent volume. Although such issues are considered at the government AML/CFT policy level, it is necessary to elaborate the measures to identify and seize criminal proceeds.

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

242. Analysis carried out by the assessment team shows that at the pre-trial stage, law enforcement agencies take steps to enable the recovery of criminal damages, as well as to ensure that any future court verdict authorizing confiscation can be enforced at the expense of the property seized or frozen in the course of the investigation. There are practical examples involving the detection and seizure of the property owned by persons charged with committing ML, TF and predicate offences. However, law enforcement and judicial authorities are not sufficiently focused on depriving criminals of illegal proceeds.

243. The Supreme Court provided statistics on the number of property seizure petitions filed by law enforcement agencies with the judiciary (Table 15). All petitions shown in the table were satisfied by the courts, underscoring the authorities' desire to facilitate the recovery of damages and create conditions for subsequent confiscation.

Table 15

Year	Number of criminal investigations where law enforcement agencies filed petitions with the court for the seizure of the accused person's property (in respect of how many persons)	Number of criminal investigations where law enforcement agencies filed petitions with the court for the seizure of the accused person's funds
2015	125 (138)	1
2016	38 (38)	1
2017	84 (84)	7

244. The specified data refer to all types of offences (without separation of ML and TF). At the same time, according to the Report on the Socio-Economic Situation in the Republic of Tajikistan for January-December 2017<sup>17</sup>, more than 22,000 offences were recorded in the country in 2017 (21,756 in 2016), of which 3,521 are economic crimes (2,797 in 2016), that is, those that tend to generate criminal proceeds. In addition, according to Tajikistan, a total of 1559 corruption offences and 770 drug trafficking offences, which also generate considerable criminal proceeds, were recorded in this period. In this regard, the filing of fewer than 100 petitions for the seizure of property as a means of enforcing the court's order for the recovery of damages or possible confiscation cannot be seen as sufficient or proportionate.

245. The effectiveness of the efforts of all law enforcement agencies in recovering, in the course of the preliminary investigation, damages caused by all types of offences is shown in the table below.

Table 16

Year	Total amount of awarded damages	Total amount of recovered damages	% of recovered damages of total awarded
2015	536335188 somoni (approx. USD53.6m)	259417710 somoni (approx. USD25.9m)	48.4 %
2016	561201791 somoni (approx. USD74.8m)	224964237 somoni (approx. USD30m)	40 %
2017	508220750 (approx. USD59.8m)	208991548 somoni (approx. USD24.6m)	41.1 %

246. Tajikistan has prepared statistics reflecting the effectiveness of various law enforcement agencies with regard to all types of offences (Table 17). SCNS and DCA statistics are absent.

Table 17

Name of law enforcement body	Percentage of recovered damages in completed criminal investigations			Percentage of recovered damages caused to the state in completed criminal investigations		
	2015	2016	2017	2015	2016	2017
General Prosecutor's Office	13.5%	30.0%	22.3%	15.4%	13.6%	21.6%
MIA	30.7%	35.1%	45.3%	16.8%	18.4%	42.8%
Anti-Corruption Agency	53.6%	43.8%	51.5%	55%	56.7%	64.7%

<sup>1717</sup> Accessible via the website of the Statistics Agency under the President of the Republic of Tajikistan.

247. As can be seen from these data, the average recovery rate in the past 3 years has been less than 50% of the damage amount, with the only exception being the Anti-Corruption Agency. On the positive side, the Interior Ministry's recovery rate has been increasing. In the context of corruption and fiscal offences (classified as high-risk in Tajikistan), 2016 saw the intensification of damage recovery efforts, with the share of recovered damages in relation to corruption offences rising from 20.5% in 2015 to 54% in 2016, and fiscal offences from 30.1% to 61.2%. In 2017, however, these figures declined again to 23.4% and 10.7%, respectively. In general, the information provided points to the lack of law enforcement agencies' focus on the restoration of property rights of the victims and, hence, deprivation of the perpetrators of the illegally acquired assets.

248. This allowed the assessors to conclude that the measures undertaken at the pre-trial stage are not very effective in ensuring the recovery of damages and achieving possible confiscation.

249. According to statistics provided by the RT Supreme Court, Tajik courts issue confiscation orders. The relevant information (for all categories of offences) is given in Table 18.

Table 18

Year	2015	2016	2017
Number of the convicted persons in respect of whom compensation was used as an additional form of punishment.	10	112	35

250. According to the RT Supreme Court, out of 2290 persons convicted in 2015-2017 for corruption crimes classified as high-risk with respect to ML (659 in 2015, 810 in 2016 and 821 in 2017), confiscation was applied in respect to only 20 persons (2 in 2015 and 2016, and 16 in 2017).

251. Based on the analysis of the list of convicts received from the Supreme Court, confiscation was also used as punishment for ML offences (3 persons charged with ML received sentences involving confiscation). According to this list, no confiscation was used from 2015 to 2017 in respect of persons involved in TF.

252. Although bailiffs do enforce reparation and confiscation measures ordered by courts, their enforcement tends to be hampered by the absence of property registered to the convicts. At the same time, the bailiffs informed the assessors that they did not receive a single writ of execution in 2015 and 2016 for confiscation of property in cases falling under articles 179.2 and 262 of the Criminal Code of the Republic of Tajikistan. In 2017, 1 verdict was issued against 10 persons convicted of ML that included confiscation. In relation to that case, bailiffs received 116 writs of executions.

253. Bailiffs do not maintain records of the value of property subject to confiscation by a court decision and actually confiscated in relation to all criminal cases, which makes it difficult to assess the effectiveness of this activity.

254. In addition, Tajikistan, at the request of the assessors, has compiled information on the total value of property actually forfeited to the state by a court decision (Table 19).

Table 19

Year	Value of forfeited property transferred to ministries and departments (in somoni)	Including real estate (in somoni)	Vehicles (in somoni)	Other (in somoni)	Proceeds generated from sale of forfeited property (in somoni)
2015	7610190 (approx. USD 760000)	7015000 (approx. USD 700000)	595190 (approx. USD 59000)		21562 (approx. USD 2000)
2016	6225650 (approx. USD 830000)	5251000 (approx. USD 700000)	974650 (approx. USD 130000)		11247 (approx. USD 1500)
2017	30862323 (approx. USD 3.6m)	26689463 (approx. USD 3.1m)	3744240 (approx. USD 440000)	428620 (approx. USD 50000)	291135 (approx. USD 34000)

255. On the positive side, based on the analysis of the above data, a significant increase in the value of property forfeited in 2017 should be noted. The Committee on Investment and Management of State Property (Investment Committee) provided detailed information on the composition of confiscated property and its value. Among the confiscated items are vehicles, real estate, assets, jewellery, etc. These circumstances point to the desire of state authorities to enforce court decisions for the recovery of damages and confiscation using any available assets.

256. The Department of Accounting and Reporting of the Finance Ministry's Central Treasury General Department also provided statistics on the amounts of funds seized and forfeited (Table 20).

Table 20

Year	Agency name	Amount in somoni	Amount in US dollars	Amount in euros
2015	Anti-Corruption Agency	1200968 (approx. USD 120097)	598800	400
2016	-	-	-	-
2017	Drug Control Agency	12370610 (approx. USD 1455365)	10000	
	Prosecutor's Office	6000000 (approx. USD 705882)		

257. At the same time, it is not possible to assess the extent of enforcement of confiscation orders due to the absence of information on the total value of property subject to forfeiture. In addition, it is not clear which offences were most often punished by confiscation and how this relates to the ML risks.

258. According to the Prosecutor's Office, no requests for mutual legal assistance (MLA) in identifying and investigating ML and TF were submitted to other countries by the Tajik law enforcement agencies in 2015-2017 (see IO.2 for more details). Nor were there any requests for assistance in confiscation, seizure and freezing of criminal assets.

259. No examples of sharing of the confiscated property with other countries under agreements on the sharing of confiscated assets have been provided to the assessors. No seizure or confiscation of

property of legal entities was used in Tajikistan due to the absence of criminal liability of legal entities.

260. The assessors were not provided with objective information on how the management of seized property is carried out at the pre-trial stage. Nor were they informed about the operation of the mechanisms for the preservation and management of the value of the seized/confiscated assets.

*Confiscation of falsely or undeclared cross-border transaction of currency/BNI*

261. There are both administrative and criminal penalties for false declarations and non-declarations.

262. Administrative sanctions do not include confiscation of undeclared property. Outside the penal framework, however, customs authorities may suspend and restrict the movement of currency values, including in the event of suspected money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction, or predicate offences; false declaration; and non-reporting of imported/exported currency values. These powers are enshrined in Guidance No. 234 "On import in the Republic of Tajikistan and export of currency valuables from the Republic of Tajikistan".

263. Law enforcement agencies provided examples of investigations and confiscations of cash as part of criminal proceedings related to smuggling. Smuggling is punishable in Tajikistan by imprisonment for up to 12 years and confiscation. The country's law enforcement agencies detected 6 cases of cash smuggling in 2015-2017. The perpetrators of these offences were charged under article 289 of the Criminal Code of the Republic of Tajikistan (Smuggling) and convicted, with their property confiscated (Table No. 21).

Table 21

Year	Total investigated	Participants	Value of smuggled goods	Referred to court	Value confiscated of property
2015	2	2	USD 117000 IRR 350000	2	
2016	3	3	USD 30000 USD 26800	3	USD 30000 and USD 26800
2017	1	1	RUR 2500000	2	RUR 2500000

264. Therefore, law enforcement agencies exercise their powers to prosecute smuggling. Penalties for the criminal offense are proportionate and, subject to the use of confiscation, can be dissuasive. At the same time, there are no examples of application by customs authorities of the provisions of Instruction No. 234, or suspension or restriction of cash flows in connection with suspicions of ML and FT. In addition, confiscation is not provided for by article 578 "Non-declaration or false declaration of goods or a vehicle" of the Code of Administrative Offences, which provides for liability for non-declaration or false declaration of foreign currency or the currency of the Republic of Tajikistan by individuals or legal entities. These circumstances may hamper law enforcement efforts to combat the illegal movement of cash.

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

265. Confiscation results are broadly consistent with the level of ML/TF risks identified by a country (see Section 1 for a description of the risks). In this regard, it should be noted that there are a

small number of ML convictions in Tajikistan featuring confiscation, and none where confiscation was used as punishment for TF offences. The recovery of damages occurs at the investigation stage (Table 21). Court-ordered confiscation was also used in criminal cases classified as high-risk, such as those involving corruption, tax and drug-related crimes, and fraud (Table 21). In addition, Tajikistan provided information on a TF investigation conducted in 2017 involving forfeiture and compensation of damages totalling more than USD1800.

*Overall conclusions on Immediate Outcome 8*

**266. Tajikistan is rated as having a moderate level of effectiveness for Immediate Outcome 8.**

## CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

### *Key Findings and Recommended Action*

#### **Key Findings**

##### ***Immediate Outcome 9***

1. Tajikistan demonstrated in practice the ability of its law enforcement agencies (SCNS, the Interior Ministry and the Prosecutor's Office) to detect and investigate TF. TF risks are defined and understood by representatives of these authorities.
2. There are example of criminal investigations into and prosecutions for TF. At the same time, law enforcement agencies utilize the entire range of intelligence gathering and investigative activities provided by the legislation.
3. Criminal investigation and judicial practices are still being established. Due to the absence of suspects and defendants at the prosecution stage and the need to request information from foreign counterparts, proving TF remains a challenge.
4. Law enforcement authorities have sufficient data and financial intelligence to investigate TF cases, relying on the FMD for interstate information sharing capabilities and to obtain information constituting bank secrecy only when necessary. At the same time, international cooperation with the countries used by terrorists for TF purposes is not well established, while confiscation is not used in respect of convicted persons.
5. CFT efforts are assigned a priority status in the national policies, with the TF identification and investigation procedures detailed in appropriate guidelines.

##### ***Immediate Outcome 10***

1. Tajikistan has put in place legal and institutional mechanisms needed to implement targeted financial sanctions in accordance with UN Security Council Resolutions 1267 and 1373. Overall, the country compiles and uses the lists of designated individuals and entities, including on the basis of international requests, or, in the case of the list established pursuant to UNSCR 1373, largely on the basis of criminal cases.
2. There are no procedures or body for proactive identification of designated persons/entities as well as forming proposals to the UNSC Committees 1267/1989 and 1988.
3. Financial institutions, DNFBPs and the Tajik competent authorities are aware of the need to use the list of designated individuals and entities and apply targeted financial sanctions against them. The country also has experience in taking immediate freezing measures pursuant to UNSCR 1373. At the same time, there are shortcomings that impact the effectiveness of the application of targeted financial sanctions.
4. Tajikistan has taken steps to identify types of NPOs that are vulnerable to risks of abuse for TF purposes. The NRA included an assessment of the activities of public organizations (POs). The country's competent authorities take steps to monitor the activities of NPOs, including POs, and prevent TF. Overall, NPO representatives are aware of their vulnerability and take steps to protect against the threat of their abuse for TF. There were no cases of NPO abuse for TF in Tajikistan. At the same time, no thorough assessment of the TF risks faced by all types of NPOs falling under the FATF definition was conducted. It is also unclear how the country conducts a targeted risk-based supervision or monitoring of NPO activities.
5. Sanctions in the form of confiscation have not been applied to the convicted persons, which negatively affects deprivation of criminals of the finances.

6. The Tajik law enforcement agencies view the use of intelligence-gathering, investigative and prosecution measures as necessary and effective tools for identifying, tracing and seizing the instrumentalities and tools used by terrorists, terrorist organizations and their financiers.

#### ***Immediate Outcome 11***

1. Tajikistan has taken steps to ensure the immediate application of TFS relating to proliferation financing, which are not sufficient.

2. The country has adopted the basic measures to monitor the export of dual-use goods. At the same time, not enough attention is paid to promoting cooperation between the competent authorities in identifying and freezing funds and other assets owned, directly or indirectly, by individuals and entities designated for proliferation financing.

3. Financial institutions and DNFBPs do not apply TFC relating to proliferation financing. The degree of their awareness of these issues is not high.

4. Due to the lack of requirements for the application of TFS related to proliferation financing, the competent authorities did not monitor the activities of financial institutions and DNFBP, nor did they apply sanctions for non-compliance with these requirements.

5. The competent authorities did not provide financial institutions and DNFBP with guidance documents or feedback on the application of TFS for proliferation financing.

#### **Recommended Actions**

##### **Immediate Outcome 9**

1. Implement the practical measures set out in the national CFT policy. Coordinate the activities of the competent authorities.

2. Tajik law enforcement agencies should strengthen international cooperation and initiate joint investigations with countries used for TF.

3. Tajikistan should consolidate criminal investigation and judicial practices and develop guidelines for conducting TF investigations (for law enforcement) and legal proceedings (for judiciary authorities), as well as provide appropriate training.

##### **Immediate Outcome 10**

1. The country's competent authorities should put in place procedures for identifying designated individuals and entities and submitting designation to the 1267/1989 and 1988 Committees, as well as designate an authority in charge of this issue.

2. Revise the procedure for the application of TFS, in particular the compiling of the lists of individuals and entities designated pursuant to UNSCR 1373.

3. Consider removing the unnecessary barriers to the execution of international requests concerning the application of TFS, including the recognition, on the basis of the principle of reciprocity, of the court verdicts issued in respect of a terrorist, a terrorist organization or persons involved in TF.

4. The supervisors should monitor compliance with the requirements for the application of TFS. Develop guidance documents on the application of TFS, and continue to provide specialized training on the use of TFS to all financial institutions and DNFBPs.

5. Continue the work to identify the types of NPOs exposed to TF risks through the use of effective assessment criteria. Conduct an ongoing monitoring of the NPO sector for TF violations.

6. Tajikistan should consider the use of confiscation in TF proceedings.

### **Immediate Outcome 11**

1. Tajikistan should develop and implement appropriate mechanisms to ensure the application, without delay, of TFS relating to proliferation financing.
2. Promote cooperation between the Tajik competent authorities in identifying and freezing the funds and other assets owned, directly or indirectly, by individuals and entities designated for proliferation financing.
3. Conduct regular training for financial institutions and DNFBPs on the application of TFS relating to proliferation financing. Provide financial institutions and DNFBP with guidance documents or feedback on the use of TFS relating to proliferation financing.
4. The Tajik competent authorities should take measures to monitor compliance of financial institutions and DNFBPs with the requirements for the application of TFS relating to proliferation financing.

267. The relevant Immediate Outcomes considered and assessed in this section are IO.9-11. This Section includes an assessment of effectiveness in the context of Recommendations 5-8.

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

#### ***Prosecution/conviction of types of TF activity consistent with the country's risk-profile***

268. Tajikistan demonstrated in practice the ability of its law enforcement agencies (SCNS, the Interior Ministry and the Prosecutor's Office) to detect and investigate TF. TF risks are defined and understood by representatives of these authorities.

269. During the national risk assessment, it was determined that the financing of terrorism, taking into account regional and national aspects (the proximity of Tajikistan to the regions where terrorists and terrorist organizations are located, recruitment of Tajik national to participate in hostilities on the territory of Syria and Afghanistan, providing financial support to those involved in hostilities, etc.), is considered to pose a high level of risk.

270. SCNS and the Interior Ministry are key government agencies involved in the detection and investigation of crimes related to terrorism and TF. In the course of their meetings with the assessors, representatives of the said authorities demonstrated a good understanding of the respective ML/TF risks.

271. According to law enforcement authorities, about 1,600 Tajik nationals (including their family members) are in the territories-controlled territories (ISIL, Al-Qaida, etc.), taking part in active combat as foreign terrorist fighters. There were 1,372 individuals, 17 terrorist and extremist organizations (including Al-Qaeda, Taliban Movement, ISIL, etc.) on the domestic list of individuals and entities involved in terrorist and extremist activities (List). Given the current situation in Syria, there is a high probability of FTFs' return to the country and their financial support by relatives and associates. The socio-economic problems facing the country, coupled with the low level of religious literacy, also impact the situation in Tajikistan.

272. These factors are responsible for the high level of terrorist and TF risks. It should be noted that law enforcement agencies take into account the existing risks in planning their CFT measures.

273. Since 2014, the country's courts have handed down 37 sentences under article 179.2 of the Criminal Code "Terrorist Financing" and convicted 46 individuals for this crime. Tajikistan presented for analysis a copy of a sentence given 2017 to Tajik national 'A' for providing financial assistance (USD 1,800) to ISIL. There are other examples of TF convictions in Tajikistan, including where support for terrorist organizations was provided in the form of wire transfers (one of the TF risks, see IO. 1). Transfers of funds to terrorists and terrorist organizations is among the most popular TF methods, as confirmed by court verdicts.

In 2017, as part of intelligence gathering, Russian law enforcement officials detained and repatriated to Tajikistan Tajik national 'D', who attempted to travel to Syria. In 2016, while working in Russia, 'D' learned about the goals pursued by the terrorist-extremist organization Islamic State on social media and became its member. On the orders of his brother, 'D' sent money in the amount of USD 1,500 and 15,000 Russian roubles to foreign nationals in Turkey and Kazakhstan in support of Islamic State.

'D' was charged under art. 187, par. 2, art. 179.2, and art. 401-1 of the Criminal Code. The investigation was conducted in collaboration with the FMD. 'D' was sentenced to 11 years in prison under article 179.2 of the Criminal Code.

### *TF identification and investigation*

274. Tajikistan has a legal framework in place to detect and investigate offences committed by persons who collect, transfer and raise funds for terrorist purposes. At the same time, law enforcement agencies utilize the entire range of intelligence gathering and investigative activities provided by law to prove TF.

275. Assessors received examples of criminal proceedings against persons involved in TF. Among the most common TF methods are the purchase of air tickets, wire transfers, charity fundraising and some others.

276. The Supreme Court provided statistics on recorded TF offences (art. 179.2 of the Criminal Code), court referrals and suspended investigations.

Table 22

Year	Investigated offences	Referred to court	Terminated	Due to amnesty	Suspended
2015					
2016	8	8			
2017	29	29			1

277. Tajikistan conducts financial investigations in the course of criminal proceedings into terrorism, including where TF is considered a separate type of criminal conduct. More than half of criminal cases falling under article 179.2 of the Criminal Code were investigated as separate offences. The past few years have seen a rise in the number registered and investigated offences falling under article 179.2 of the Criminal Code (Table 23), which is due to the proactive position adopted by law enforcement agencies and the increase in the number of TF offences. Approximately USD200 was forfeited to the state and USD1700 paid to the victims of these offences in 2017.

278. Representatives of law enforcement agencies provided examples of TF investigations.

Case study 8

In 2017, Tajik national 'A' transferred part of the compensation awarded to him by the European Human Rights Court, in the amount of EUR 30,000, to terrorist suspects 'D' and 'B' in support of the terrorist organization Islamic Movement of Uzbekistan.

Mr 'A' was charged in 2017 under art. 179.2, par. 2, art. 187 and art. 307.3 of the Criminal Code. The investigation was conducted on the basis of the material provided by the FMD as part of spontaneous exchange. Mr 'A' was sentenced to 8 year in prison under article 179.2 of the Criminal

Code. A list of forfeited property included 8 religious book, one Acer computer, one Toshiba-branded piece of equipment and 200 somoni.

#### Case study 9

Tajik national 'R', while in Russia, used social media to contact members of the extremist and terrorist organization Islamic State. In 2016, with the support from Islamic State, Mr 'R' travelled to Syria via Turkey, where he took part in combat on the side of ISIL. Tajikistan has placed Mr 'D' on the wanted list on suspicion of committing offences falling under art. 401.1 of the Criminal Code.

Mr 'D' transferred 49,000 and 10,000 Russian roubles in support of active members of ISIL preparing to travel to Syria. Criminal charges were filed under art. 2 of the Criminal Code. The investigation was conducted on the basis of the material provided by the FMD as part of spontaneous exchange.

#### Case study 10

Criminal charges were filed under art. 179.2 of the Criminal Code against Mr 'Sh', an ISIL member, who sent in 2014-2016 via Mr 'F' large amounts of money to Mr 'A', another ISIL member.

The investigation was conducted on the basis of the material provided by the FMD as part of spontaneous exchange. Mr 'Sh' was sentenced to 12 years in prison under article 179.2 of the Criminal Code.

279. In the period from 2015 to 2017 and 5 months of 2018, investigators of the prosecutor's office initiated and investigated 13 TF cases, of which 11 were referred to court and 2 suspended due to the defendants' flight from justice (placed on the international wanted list). In 5 criminal cases, TF investigations were conducted in parallel with the investigations of other cases related to terrorism or extremism, with the rest investigated as a separate offence. The defendants in all cases referred to court were convicted of TF. None of the TF investigations pursued by the prosecutor's office, were suspended or relaunched as a separate investigation. According to the assessors, this fact is a testament to the high quality of investigations and personnel training.

280. According to law enforcement and judicial agencies, there are difficulties in bringing suspects and accused persons to justice, since some of them are outside the country and are involved in the activities of terrorist organizations. It is difficult to prove TF due to investigators' dependence on evidence to be provided by foreign authorities and the lack of experience in investigating such offences. In respect of criminal cases heard in courts, there were difficulties in proving the intent to collect or provide funds for a terrorist (terrorist organization). In addition, due to the fact that article 179.2 of the Criminal Code was adopted only recently, the practice of using is still being established.

Table 23

Year	Number of convictions	Number of convicted persons
2014		
2015	-	-
2016	8	12
2017	29	34

281. In identifying the indicators of TF and conducting criminal investigations, law enforcement authorities use the intelligence provided by the FMD (analysis of such intelligence is included in IO.6). The FMD engages in spontaneous information exchanges and cooperates with law enforcement authorities in investigating criminal offences by providing intelligence on request. The Interior Ministry and SCNC work closely with the FMD, noting the good quality of provided TF intelligence.

The classified nature of CFT activities conducted by law enforcement agencies imposes certain restrictions on the sharing of such intelligence.

282. The FMD's capabilities are widely used for international information sharing, obtaining information constituting bank secrecy and criminal asset tracing (a large number of terrorism- and TF-related requests submitted by SCNC and the Interior Ministry in the past two years is particularly notable). At the same time, international cooperation with the countries used by terrorists for TF purposes and cross-border financing (see IO.2) is not well established.

283. Representatives of the country's law enforcement authorities gave examples of successful cooperation with the FMD, including where provided intelligence led to the initiation of criminal proceedings under art. 179.2 of the Criminal Code (Case studies 7-10).

#### *TF investigation integrated with - and supportive of - national strategies*

284. Assessors concluded that CFT efforts are assigned a priority status in the national policies.

285. Besides the strategic goals and key priorities of the national AML/CFT system development, the National Concept sets out the factors impacting the effectiveness of the national AML/CFT system. Among the most significant of them are the low level of TF identifications and the lack of judicial experience in reviewing such cases. As a solution to these problems, the NC Action Plan calls for improved effectiveness in TF detection, prevention and investigation, achieved through the provision of training for representatives of law enforcement agencies and judges. The work on the implementation of the National Concept is carried out by all concerned government agencies.

286. The Guidance on the Initial Steps to Promote the Prevention, Detection, Registration, Verification and Investigation of TF Offences, approved by General Prosecutor's Order No. 5-17 dated March 5, 2018, covers such important aspects of CFT as the use of various TF detection, verification and investigation techniques; recording keeping; international cooperation and cooperation between different FIUs, etc.

287. Due to the recency of these regulations, it is impossible to assess the effect achieved from their implementation. It is also important to know how CFT issues will be addressed in practice by each law enforcement agency and individual judges.

#### *Effectiveness, proportionality and dissuasiveness of sanctions*

288. Pursuant to article 179.2 of the Criminal Code, terrorist financing is punishable by imprisonment for a term of five to 10 years. In addition, if committed in aggravating circumstances (such as by a person through the abuse of his official position, by a group of persons acting in collusion, etc.), it may carry a sentence of 15 to 20 years of imprisonment.

289. Law enforcement and judicial authorities provided examples of TF convictions with sentences ranging from 5 to 20 years of imprisonment. According to the assessors, punishment in the form of deprivation of liberty for a period longer than 5 years is proportionate. Meanwhile, the absence of confiscation as a form of punishment may adversely affect the efforts to deprive criminals of funding.

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

290. No examples of alternative measures used where TF conviction is not possible (e.g. non-conviction based confiscation) were provided to the assessors.

#### *Overall conclusions on Immediate Outcome 9*

**291. Tajikistan is rated as having a substantial level of effectiveness for Immediate Outcome 9.**

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

### *Implementation of targeted financial sanctions for TF*

292. Tajikistan has put in place legal and institutional mechanisms for prompt application of TFS against designated individuals and entities. The shortcomings, described in the technical compliance section (R.6), in Tajikistan's legislation affect the practical implementation of TFS.

293. With a view to ensuring the application of TFS pursuant to UNSCR 1267 and its successor resolutions, Tajikistan had established a Combined List, i.e. a list of individuals and entities who had links to Usama bin Laden, including members of Al-Qaeda and Taliban; individuals, groups of people, entities and organizations connected, directly or indirectly, to Al-Qaeda, Taliban, ISIL (Islamic State of Iraq and the Levant) and INF (An-Nusra Front); as well as other persons involved, directly or indirectly, in terrorist activities, pursuant to Resolutions No. 1267 (1999) , No. 1333 (2000), No. 1373 (2001), No. 1988 (2011), No. 1989 (2011), No. 2161 (2014), No. 2170 (2014), No. 2178 (2014), No. 2199 (2015.) and other resolutions.

294. The Consolidated List is posted on the FMD official website. It is updated by the FMD, which monitors the online resources of the UNSC Committees throughout the business day and publishes a news report on any changes on its website no later than the next day. The FMD receives instant electronic notifications (push notifications) regarding the updates to the lists of the relevant UNSC Committees.

295. The assessors verified the timely publication of updates to the Consolidated List. For example, the FMD published a notice of the changes made to the Combined List on its website on March 7, 2018 after the publication of the UN Security Council ISIL (Da'esh) and Al-Qaida Sanctions Committee on March 6, 2018, meaning that it took only 24 hours to publish the updates. The assessors noted that Tajikistan, starting August 18, 2017, intensified the work on the publication on the FMD website of updates to the Lists of individuals and entities designated by the UN Security Council Committees.

296. There are no procedures for identification of individuals and entities for designation, or for the submission of designations to the Committees 1267/1989 and 1988. Tajikistan is yet to designate an authority responsible for this. The country lacks experience in spontaneous identifications of individuals linked to terrorist organizations, such as Al-Qaida, the Taliban, ISIL (the Islamic State of Iraq and the Levant) and INF (An-Nusra Front), etc., as well as in the submission of designations to the UN Security Council Committees 1267/1989 and 1988.

297. With a view to ensuring the implementation of TFS pursuant to UNSCR 1373, Tajikistan has created a Domestic List, i.e. a list of individuals and/or entities involved in terrorism, or who commit, or attempt to commit, terrorist acts, or participate in or facilitate their commission, or are involved in extremism, in the territory of the Republic of Tajikistan, or overseas, but directed against the Republic of Tajikistan, or prepare to commit a terrorist act against another State; entities owned or controlled, directly or indirectly, by such persons; as well as persons and entities acting on behalf of, or at the direction of such persons and entities owned or controlled, directly or indirectly, by such persons and associated persons and entities. The domestic list is compiled and updated by Tajikistan's SCNS.

298. At the time of the on-site visit, the Domestic List contained 1372 individuals wanted for terrorism and extremism. It should be noted that all 1372 individuals were added to the Domestic List on the basis of the decisions to initiate criminal proceedings issued by the country's law enforcement agencies.

299. The Domestic List was established in 2013, with the last update dated August 29, 2017. In addition, Tajikistan, on October 9, 2017, created a terror list containing 17 terrorist and extremist organizations, including 9 terrorist organizations whose activities are prohibited in accordance with

the decision of the Supreme Court of Tajikistan.

300. SCNS, following the updating of the Domestic List, shall, within one business day, notify the FMD, which, not later than the next business day after such notification, publishes the list on its website. Another approach involves the provision of access to the FMD website (through the use of the login and password) to a designated SCNS official, who, in this case, can immediately post the updated Domestic List on the FMD website.

301. According to the assessors, there are technical inconsistencies related to the grounds for compiling and maintaining the Domestic List provided in the AML/CFT/PF Law (paragraphs 7 and 8 of article 6), the Law "On Combating Terrorism" (article 17.1) and Procedure No. 646 (paragraph 35). Thus, pursuant to article 17.1 of the Law "On Combating Terrorism", individuals are designated as terrorists by a court decision in the manner prescribed by applicable law. As a rule, this is made on the basis of criminal proceedings. Copies of such decisions are sent to SCNS for designation of individuals and entities for terrorism. This procedure can take up to a month, as it requires a sequence of decisions to be taken by SCNC, the Prosecutor's Office and then the court. Following its adoption, the court decision is immediately sent to the competent authorities of Tajikistan (Justice Ministry, Prosecutor's Office and SCNC). The above circumstances impact the timeliness of application of TFS.

302. To ensure the implementation of TFS pursuant to UNSCR 1373 (on request of third parties), Tajikistan uses an International List, i.e. a list of individuals and/or entities involved in terrorism, or who commit, or attempt to commit, terrorist acts, or participate in or facilitate their commission, in the territory of foreign countries; entities owned or controlled, directly or indirectly, by such persons; as well as persons and entities acting on behalf of, or at the direction of such persons and entities owned or controlled, directly or indirectly, by such persons and associated persons and entities, compiled and approved by the designated authority (FMD) or officials of foreign countries.

303. The International List is compiled and maintained by the FMD.

304. Paragraph 36 of Procedure No. 646 sets out the grounds for inclusion of a natural and / or legal person on the International List. The International List is also compiled on the basis of third-party listing requests received through diplomatic channels of Tajikistan's Ministry of Foreign Affairs.

305. Tajikistan uses the OFAC list, compiled by the US Treasury, in place of its International List. According to the Tajik authorities, the OFAC list is used on the basis of the letter from the US Embassy in Tajikistan regarding the application of sanctions against Iran and the instruction of the Head of the Presidential Executive Office No. 152519 dated August 18, 2012.

306. In 2017, as part of the efforts to freeze the funds of known terrorists, the FIUs of Tajikistan and Russia exchanged their terror lists. On August 25, 2017, the Russian FIU sent to Tajikistan a list of 419 persons with a request to freeze their funds for a period until December 31, 2018. In turn, the FIU of Tajikistan issued an order dated November 15, 2017 to freeze the funds of 419 persons and sent it to all reporting entities. However, no assets belonging to the listed persons and subject to freezing were identified in Tajikistan. Notably, the persons (419) in respect of whom freezing action was requested by Russia have not been added to the International List of Tajikistan due to the fact that this request was not submitted through the diplomatic channels of Tajikistan's Ministry of Foreign Affairs, as required by law.

307. On February 12, 2018, the FIU of Tajikistan, in coordination with the State Committee for National Security, sent to the FIU of Russia a list of 1,372 persons involved in terrorism and extremism. As a result, the Russian FIU initiated on August 17, 2018 a freezing action in respect of 991 persons.

308. Tajikistan recognizes and enforces decisions of foreign courts issued in respect of a terrorist

or a terrorist organization, including those involved in TF, only on the basis of an appropriate international treaty. As a rule, the country applies the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (Chisinau, October 7, 2002). This restriction may affect the effectiveness of international cooperation in the application of TFS.

309. Tajikistan has not provided information on international requests for the application of TFS sent through the diplomatic channels of the Foreign Ministry.

310. All the above lists (Consolidated, Domestic and International), as well as any notifications of updates thereto, are accessible via the DFM website at [http://nbt.tj/ru/financial\\_monitoring/perechni.php](http://nbt.tj/ru/financial_monitoring/perechni.php). At the same time, the assessors believe that the existing system of notification of reporting entities of the updates to the Consolidated List is “passive”, since the FMD publishes on its website notices of the updates to the sanctions lists maintained by the UN Security Council Committees with links to the relevant websites.

311. In general, it takes approximately 24 hours from the time of emergence of the grounds for listing to apply TFS pursuant to UNSCR 1267 and its successor resolutions.

312. The duration of TFS pursuant to UNSCR 1373 (National and International Lists) depends on the grounds for listing or adoption of the freezing action (see the example of the execution of the Russian FIU's request). That said, no notices of updates to either the Domestic or International List were published on the FMD website as of the time of the on-site visit.

313. During their meetings with representatives of the private sector, assessors were informed that SCNS did not comply with the legal requirements for the submission of updates to the Domestic List by e-mail. In general, no specific listing or de-listing decisions are communicated to financial institutions, DNFBP or the public, nor are they provided with access to identity details of such persons.

314. As regards de-listing and unfreezing actions, the Tajik authorities claimed to have received no de-listing or unfreezing requests, or requests to provide access to the frozen funds. In this regard, it was not possible for the assessors to evaluate the effectiveness of the country's de-listing and unfreezing mechanism, nor the mechanism for the provision of access to the frozen funds pursuant to UNSCR 1452 and its successor resolutions.

315. Financial institutions and DNFBPs are generally aware of their responsibilities regarding the use of the terrorist and terrorist lists posted on the FMD website, suspension of transactions, and prompt freezing of funds of terrorists and terrorist organizations. Designated officials of financial institutions and DNFBPs check on a daily basis the FMD website for updates, which are then communicated to the employees dealing with customers for use in their work. During their meetings with representatives of the private sector, the assessors were informed that the lists of designated persons were communicated within financial institutions and DNFBP within one business day. Upon establishment of a relationship with a customer or execution of a transaction, designated officials of financial institutions and DNFBPs must match the names of their customers, including existing ones, against the lists of terrorists and terrorist organizations.

316. A majority of financial institutions match their customers against the lists of terrorists and terrorist organizations automatically. Meanwhile, major financial institutions use dedicated IT systems to monitor, on a daily basis, transactions and match the names of their customers against the lists of terrorists and terrorist organizations. In the event of a partial match, reporting entities must, without delay, fill out and submit an STR (Form 101) to the FMD.

317. At the same time, DNFBPs check their customers manually, which affects the quality and effectiveness of TFS application.

318. Due to the absence of complete or partial matches with the Consolidated List, Tajikistan has

yet to apply targeted financial sanctions pursuant to UNSC Resolutions 1267/1989/2253. As a result, it was not possible to assess the extent of use of the tools provided by UNSC Resolution 1267/1989/2253 for freezing and blocking terrorist funding.

319. Nor were the assessors informed about any full or partial matches with the International List, or the suspension of transactions of individuals or entities known for their involvement in terrorism.

320. From 2015 to 2018, financial institutions recorded 4 partial matches of customer identification details with the Domestic List, all of which were reported to the FMD and SCNS. Financial institutions and DNFBPs are aware of their responsibility to promptly report full and partial matches to SCNS and the FMD.

321. In 2015-2016, there were no cases of freezing of funds associated with FT in Tajikistan. At the same time, in 2017, credit institutions froze 76 bank accounts with a total of 19610.78 somoni and USD 12730.90 (131897.32 somoni in total) owned by 66 individuals from the Domestic List. These funds remain frozen as the investigation is still ongoing.

322. Tajikistan provided examples of a freezing action taken by a credit institution in respect of two remittances totalling 4,000 roubles (approx. USD 60) sent on April 17 and 18, 2018. In this case, the identified persons (S.B.R. 3 and Kh.R.Kh 131) were added to the Domestic List on April 13, 2014 and reported to SCNS and the FMD.

323. No refusals to carry out a transaction have been recorded.

324. Tajikistan's supervisory and licensing authorities match all founders and applicants against the terrorist/extremist lists posted on the FMD website, although no partial or full matches have been recorded. The country's supervisory and licensing authorities are aware of their obligation to promptly report to the FMD and SCNS all partial and complete matches to SCNS and the FMD.

325. Financial institutions that are found in the course of inspections (desk-top and scheduled) to be lacking automated systems for matching their customers with the terrorist/extremist lists are recommended by the country's supervisors to automate the matching process.

326. According to the information provided, the Tajik authorities conducted 4 AML/CFT/PF trainings for credit institutions, insurance companies and other reporting entities, including on the use of TFS, in 2017 and 2018. No other information on TFS-related trainings organized by the country's supervisors for reporting entities was provided.

327. During their meetings with the country's supervisory and regulatory authorities, the assessors were not informed about any guidelines for reporting entities on the application of targeted financial sanctions, except for Procedure No. 646 and the Guidance for reporting entities on compliance with the UNSCRs, approved by RT National Bank Chairman Order No. 33/ff dated February 6, 2014.

328. Still, the legal status of the Guidance for reporting entities on compliance with the UNSCRs, approved by RT National Bank Chairman Order No. 33/ff dated February 6, 2014, remains unclear to the assessors. Under the RT Law on Regulatory Legal Acts, orders issued by the Chairman of Tajikistan's National Bank do not fall within the category of regulatory legal act of the Republic of Tajikistan and, hence, are not binding.

#### *Targeted approach, outreach and oversight of at-risk non-profit organizations*

329. Tajikistan is taking some steps to assess the abuse of NPOs for TF purposes, including analysis of the current legislation on public organizations for their vulnerability to terrorist activities and the identification of NPOs falling under the FATF definition. Tajikistan has not determined the nature of the threats that terrorist organizations pose to NPOs at risk, or how terrorists can abuse such NPOs. Supervisors do not apply a risk-based approach to supervision over NPOs.

330. The Ministry of Justice of Tajikistan is an authority responsible for monitoring compliance of

NPOs with their statutory goals.

331. An interagency meeting to identify NPOs operating in Tajikistan that fall under the FATF definition was held in February 2018. Following the meeting, Tajikistan identified the NPOs that fall under the FATF definition: public associations (a public organization or public movement), religious organizations, public foundations and institutions.

332. Therefore, Tajikistan has taken some steps to ensure more targeted and risk-based supervision over the NPO sector. Still, as of the time of the on-site visit, Tajikistan was unable to demonstrate the effectiveness of the measures taken.

333. According to the documents provided, when evaluating NPOs for compliance with the FATF definition, such criteria as legislation, registration process, reporting procedure (financial, statutory, tax, etc.), and the frequency of inspections were used.

334. According to the assessors, the criteria used are fairly general. In addition, as noted in IO.1, Tajikistan did not determine the nature of the threats posed by terrorist organizations to NPOs at risk, or how terrorists use these NPOs. The absence of such information, according to the assessors, makes it impossible to fully determine the NPOs that are at risk. In addition, the current legislation was probed for vulnerabilities only with regard to public organizations. No identification of TF risks faced by other types of NPOs (public movements, religious organizations, public foundations and institutions) was carried out.

335. Thus, the assessors concluded that Tajikistan had taken are not adequate to having conducted a full assessment of the NPO sector against abuse for TF purposes.

336. As it was mentioned earlier, Tajikistan conducted in the framework of the NRA analysis of the current legislation on public associations (PO) on their vulnerability to terrorist activity. The main vulnerabilities in the legislation are non-inclusion of POs into the AML/CFT requirements and supervision.

337. As for the registration of NPOs, POs obtain the rights of legal person from the time of state registration in the justice bodies of the country. Justice bodies perform legal check of the submitted by PO documents during registration. The state registration of a PO is performed within one month after presentation of all the documents and a certificate on state registration is issued. In addition, the justice bodies check during the registration their founders, participants and shareholders against the lists of designated terrorists and terrorist organizations posted on the FMD website. In addition, they may request SCNS to provide additional information. At registration, public associations sign a statement pledging not to participate in terrorist and extremist activities. Thus, the state bodies thoroughly check the founders, members and participants for any links to terrorist activity.

338. Besides, the state bodies undertake control over the financial activity, for example, the PO notify the Justice Ministry each year, before April 1, about all voluntary and charitable contributions, grants and property received from foreign States, foreign legal persons, businesses established with the participation of foreign entities, international organizations and international public movements.

339. The Justice Ministry uses these notifications and annual reports to conduct regular assessments of risks related to the receipt and use of financial resources. In 2017, the Justice Ministry identified 159 (30 in the first two months of 2018) public organizations which received more than 650000 somoni from international organizations.

340. The Justice Ministry conducts inspections of NPOs. Information on the inspections in 2015-2017 is placed in Table 24.

Table 24

Year	Number of inspections
2015	326
2016	260
2017	372

341. These inspections led to the identification of 9 NPOs engaged in the provision of religious services in violation of the Tajik Law "On Public Associations". As a result, these NPOs were subsequently shut down pursuant to the decision of the court.

342. 5 POs were identified that were financed by a foreign organization which meet the criteria of suspicious organizations and financing illegal formations. These organizations are under constant supervision of the relevant state bodies of Tajikistan.

343. The Justice Ministry has adequate resources for effective implementation of its functions on supervision and monitoring of PO. In this regard, the Justice Ministry takes adequate measures for constant work with POs as well as ensuring control and supervision over the activities of PO.

344. The Justice Ministry jointly with civil society partners holds often seminars and trainings on different legal issues, during which the knowledge of the NPOs of their rights and obligations is improved, including on their liability for committing crimes related to terrorism and the issues of transparency of financial transactions.

345. The Justice System Development Program for 2015-2020, approved by Government Decree No. 101 dated February 28, 2015, calls for a review of challenges associated with the state registration of public organizations and political parties. To this end, the Justice Ministry conducted a review of legislation governing the activities of NPOs aimed at improving transparency. This work helped identify gaps in the regulation of associations, institutions, funds and non-profit foundations. To resolve this issue, the Justice Ministry drafted in 2017 a bill "On Non-Profit Organizations". As state authorities informed, these measures do not break and do not hinder the legal charitable activities of NPOs, nor do they limit the rights and freedoms of POs.

346. Religious communities and organizations register with the Tajik Religious Affairs Committee and provide monthly, quarterly and annually reports. Law enforcement authorities (SCNS, the Interior Ministry and the Prosecutor's Office) conduct annual scheduled and unscheduled inspections of NPOs.

347. The Tajik authorities informed the assessors that religious organizations are also vulnerable to TF because the majority of terrorist acts in the world are committed with direct participation of religious organizations or with their support. Besides, the enlistment of potential terrorists is the most widespread method. This means that analysis of NPO vulnerabilities in the NRA could have been insufficient.

348. The Tajik law enforcement agencies view financial intelligence, along with criminal investigations and prosecutions, as the most effective means to prevent the abuse of NPOs for TF purposes. To this end, law enforcement agencies carry out preventive work in the NPO sector, including clarifying the need for using the terror list.

349. The law enforcement agencies declared that up to now there were no facts revealed of NPOs' breaking the law and participating in the TF. So no examples exist of using the FMD intelligence to prevent the abuse of NPOs for TF, or examples of investigation of abuse of NPOs by terrorists. In this regard, it was impossible to assess the effectiveness of cooperation and coordination of measures

(investigation and collection of information), or mechanisms of international cooperation in regard to NPOs suspected in TF.

350. NPOs claimed that in their work, including when providing funding, they reference the terror list accessible via the FMD website. NPOs are aware of their vulnerabilities and take steps to counter the threat of abuse by terrorists. They said that these measures do not interfere in or hinder their activities.

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

351. According to the information provided, there were no TF-related asset freezes in Tajikistan in 2015-2016.

352. In 2017, the country's competent authorities (SCNS and the FMD) froze 76 bank accounts with 19,610.78 somoni and USD 12,730.90 (131,897.32 somoni in total) held by several individuals from the Domestic List.

353. The banning of 7 terrorist and extremist organizations in Tajikistan in 2014-2015 allowed it to reduce the flow of terrorist financing and mitigate one of the key terrorism-related risks facing the country.

354. Tajikistan has yet to freeze any funds in accordance with UNSC Resolutions 1267/1989/2253. In addition, there have been no suspensions of transactions carried out by individuals or organizations known to be involved in terrorism.

355. The Tajik law enforcement agencies view intelligence gathering activities, investigations and prosecutions as necessary and effective tools for preventing terrorists or extremist organizations from raising, moving and using funds.

356. In practice, the designation of individuals, entities and groups involved in TF is made on the basis of findings of criminal investigations. In this the law enforcement insufficiently uses instruments set in the UNSCR 1373 for freezing and stopping the terrorist financial flows.

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

357. According to the NRA, TF threats may emanate from all types of illegal activities listed in the Criminal Code, irrespective of the amount or legal or illegal source of funds. In addition, the likelihood of TF will depend on the level of vulnerabilities or weaknesses in Tajikistan's systems.

358. Law enforcement agencies tend to link most TF risks to ISIL, i.e. self-funded ISIL affiliates who use payment instruments, social media and the public to raise funds. In this regard, the threat from ISIL is currently high and risks of TF are considered high. Based on this, the law enforcement agencies and the FMD put as their priority and goal detecting activity related to the financing of ISIL activity.

359. Information on the experience of cooperation of law enforcement and the FMD in identifying and investigating TF is presented in the analysis on IO.6 and IO.9.

360. According to the NRA the investigative authorities focus their efforts to stopping financial flows of terrorist character. There are difficulties in this related to the detection of funds which are used in these crimes because in the majority of cases very small amounts are used for TF.

361. It should be noted that the NRA recently adopted and the National Concept on its basis provide for measures aimed at mitigating the TF risks.

362. At the same time, in the assessors' opinion, the adopted measures on freezing funds of terrorists and terrorist organizations are not commensurate to the general structure of TF risk defined in the NRA. This conclusion is based on the fact that the NRA and National Concept do not envisage any strategy to apply the TFS with regard to TF risk profile, as well as there is no evidence that arrest

and confiscation of funds of terrorists and terrorist organizations is a priority for law enforcement.

*Overall conclusions on Immediate Outcome 10*

**363. Tajikistan is rated as having a moderate level of effectiveness for Immediate Outcome 10.**

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

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

364. Tajikistan has not fully implemented the requirements of R.7 or the relevant UNSC resolutions, which affects the practical implementation of such measures.

365. Tajikistan's Framework Law provides the legal basis for the freezing of funds or other property of individuals or legal persons in respect of whom there are sufficient grounds to suspect their involvement in proliferation financing; this means that it is possible to suspend a suspicious transaction for a certain period of time if there are reasonable grounds or suspicions that the transaction is carried out for proliferation financing purposes.

366. However, the mechanisms for the prompt application of TFS against individuals and entities designated in accordance with the UNSC resolutions on non-proliferation are absent from the country's regulations or practice.

367. The combined list, accessible via the FMD website, covers only the lists of individuals and entities associated with terrorist organizations: Al Qaeda, Taliban, ISIL (Da'esh) and An-Nusra Front. In addition, order No. 646 does not regulate the application of the TFS in relation to the identified individuals and legal persons in accordance with UNSC resolutions on PF.

368. The DFM website does not post lists of established individuals and legal persons associated with proliferation financing; therefore, the funds or other assets which belong to the established individuals and legal persons involved in proliferation financing are not identified. At the same time, the DFM web page contains news reports about updates in the lists of individuals and institutions formed by UNSC Committees 1533, 1591, 1718, 1970, 2127, 2048.

369. At the same time, Tajikistan has not implemented the following key measures to counter proliferation financing: legislative requirements have not been established for all individuals and legal entities to freeze funds of identified persons and organizations connected with proliferation financing without delay; procedures for establishing/listing and delisting from the list of persons associated with proliferation financing have not been defined; there are no procedures for communicating designations on proliferation financing to the financial institutions, DNFBPs and other persons or entities; the order of freezing / unfreezing of funds associated with proliferation financing have not been defined.

370. Tajikistan has yet to suspend any transactions or freeze funds in accordance with UNSC resolutions on proliferation financing. The assessors taking part in the on-site visit were not informed about how Tajikistan addressed the issue of accidental or mistaken matching of the names of law-abiding persons with the names of persons designated by the UNSC. Therefore it was not possible to assess the effectiveness of implementation of the TFS (the time needed for identification of persons and entities or to freeze funds).

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

371. The Ministry of economic development and trade of Tajikistan is the responsible authority for issuing licenses and exercising export control over dual-use materials.

372. The Nuclear and Radiation Safety Agency of the Academy of Sciences of Tajikistan (NRSA) has approved the procedure for the registration, filing and review of applications and documents submitted by those applying for a license to engage in activities related to the sources of ionizing radiation and radioactive substances (No. 12-1 dated April 17, 2009).

373. The NRSA reviews applications for authorizations to engage in the sale of goods and services and carry out transactions.

374. The NRSA has put in place an integrated system that allows it to apply a global approach to any type of declared activity. When reviewing applications for authorizations to engage in the sale of goods and services, the NRSA conducts a search for information on the related financial transactions, including via the IAEA website, thereby ensuring that its decisions regarding the declared activities are taken on the basis of complete information. The NRSA works closely with the DFM after the approval of the National Action Plan on implementation of UNSCR 1540. In this regard, when considering applications for authorisations to engage in activities related to the use of nuclear and radioactive materials, the NRSA uses the lists of terrorists and terrorist organizations published on the DFM website. Any decision to grant or refuse an authorization needs to be approved by the government in advance. Export and import of dual-use materials without a license is prohibited. The NRSA works closely with Tajikistan's Customs Service. There have been no violations of regulations governing the use of dual-use materials in the past 8 years.

375. Measures taken to disrupt any attempts to circumvent sanctions indicate a high level of the NRSA's knowledge and experience.

376. Tajikistan was not engaged in export and import economic relations with Iran and the North Korea on trading dual-use materials.

377. Tajikistan did not suspend transactions (dealings) or freeze funds pursuant to the UNSCR on proliferation financing as there were no cases of matches with the identities of designated persons and entities. There are also no examples of investigations and operational measures on proliferation financing (for instance, investigations on violations of the sanctions regime, significant cases, in which country took measures on freezing or arrest, or provided assistance).

378. Therefore, assessors were not able to assess the effectiveness of relevant cooperation of competent authorities on exchange of operational data and other information, including information on beneficial owners of legal entities, and in criminal investigations or the violations of the UNSCR on proliferation financing.

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

379. The AML/CFT/CPF Law of Tajikistan sets out obligations of reporting entities to freeze and unfreeze the funds of individuals and legal persons involved in proliferation financing, as well as to draft internal regulations governing these issues.

380. Reporting entities have general understanding of their obligations on implementation of TFS according to the AML/CFT/CPF Law. In the meantime, due to the existing deficiencies in legislation, described above, financial institutions and DNFBPs cannot fully implement their obligations on freezing without delay of funds of the designated persons and entities related to the proliferation financing and on submitting reports to the DFM.

381. During 2017-2018, 4 trainings on AML/CFT/CPF issues were conducted to representatives of credit and insurance companies, as well as reporting entities of the Ministry of finance. The Russian International training centre provided 2 trainings on CPF measures to representatives of relevant competent authorities of Tajikistan.

#### *Competent authorities ensuring and monitoring compliance by financial institutions and DNFBPs with their obligations*

382. Authorities of Tajikistan do not monitor compliance of financial institutions and DNFBPs due to the lack of legal regulations governing the application of TFS, nor do they apply sanctions for non-compliance.

383. Competent authorities of Tajikistan did not provide guidance and feedback on implementation of the TFS on CPF to financial institutions and DNFBPs.

*Overall conclusions on Immediate Outcome 11*

**384. Tajikistan is rated as having a low level of effectiveness for Immediate Outcome 11.**

## CHAPTER 5. PREVENTIVE MEASURES

### Key Findings and Recommended Actions

#### **Key Findings**

##### Financial institutions

1. Financial institutions understand their AML/CFT obligations provided by the law. The most complete understanding of such obligations was demonstrated by banks and non-bank lenders.
2. Almost all financial institutions demonstrated a general understanding of ML/TF risks based on the NRA report and trainings organized by the FMD in response to its findings.
3. Credit institutions adopt ML/TF risk mitigation measures by implementing of enhanced CDD measures and monitoring of transactions. Other financial institutions, meanwhile, focus on the management of their operational risks.
4. All FIs demonstrated good understanding of CDD measures and record keeping and their implementation in practice. The identification of BO of clients is mostly carried out by FIS, which use information provided by the clients themselves or carry out analysis of business relations using publicly available sources. Cases of refusal to establish business relationship related to non-compliance with CDD are minimised.
5. Credit institutions apply enhanced CDD measures against both foreign<sup>18</sup> and domestic PEPs. However, the requirements do not apply to all categories of domestic PEPs, their families and affiliated persons. Special attention is paid to transactions with high-risk countries during CDD.
6. TFS are applied by all financial institutions based on the lists published on the FMD website. There have been instances of transaction freezing in the banking sector in response to national list (see IO10) and also false positives triggered by the partial match of the customer with the information from the lists.
7. The majority of threshold and suspicious transaction reports are submitted by banks and some of non-bank credit institutions. Other FIs have not submitted any reports for the past three years. The submission of these reports is based on pre-determined criteria established by legislation. Reports based on reasonable doubts account for a small number of reports submitted to the FMD.
8. AML/CFT internal control procedures, including ongoing training and internal control audit programmes, are applied fairly extensively by FIs. At the same time, FI branches do not carry out internal controls.

##### DNFBPs

1. DNFBPs lack of good understanding of ML/TF risks and their AML/CFT obligations.
2. DNFBPs do not take steps to mitigate ML/TF risks.
3. DNFBPs do not apply measures to mitigate ML/TF risks. DNFBPs lack of good understanding of their CDD obligations, including experiencing problems in identifying BO. In addition, DNFBPs carry out transactions without CDD.
4. DNFBPs do not apply enhanced CDD against PEPs, new technologies and high-risk countries. At the same time, DNFBPs are well aware of, and comply with, the requirements for freezing terrorist assets.

<sup>18</sup> The term 'foreign PEPs' as used in Tajikistan also refers to persons entrusted with important management functions by an international organization.

5. DNFBPs are aware of their reporting obligations, however no report has been sent to the FMD. In addition, their awareness of reporting obligations is restricted by such factors as a weak understanding of ML/TF risks and the predetermined criteria of suspicious transactions.

### **Recommended Actions**

1. The country is recommended to introduce amendments to the legislation and make the definition of national PEPs compliant with the FATF Recommendations. Applying enhanced measures to family members of national PEPs and their associates should be introduced, as well as the permission from senior leadership of an FI and DNFBP should be requested for continuation of relations with the clients when they or their beneficial owners have become PEPs.

#### Financial institutions

1. Supervisory authorities should do more actively involve the private sector in identifying the existing ML/TF risks, inherent in their activity, at the subsequent stages.

2. Competent authorities should provide effective feedback to the private sector both on the identified risks at the domestic level and on the findings of STRs analysis and ML/TF investigations.

3. Tajikistan should improve the procedures for collecting, maintaining and providing access to beneficial ownership information.

4. FIs should examine the possibility of providing more resources for to internal controls at the branch level.

#### DNFBPs

1. Supervisors should take steps to improve DNFBPs' understanding of ML/TF risk and legislative obligations.

2. Supervisors should ensure the application by DNFBPs of measures to mitigate the risks inherent in their activities.

3. Supervisors should improve DNFBPs' understanding of their CDD obligations.

4. Supervisors should ensure the application by DNFBPs of enhanced CDD measures in respect of PEPs, new technologies and high-risk countries.

5. Supervisors and the FMD should promote awareness among DNFBPs of ways to detect suspicious transactions, as well as continue their efforts to improve the quality of STRs in general. DNFBPs should review the current suspicious transaction criteria (indicators) in the sectors, evaluate the effectiveness of the applied thresholds and, if necessary, update them. Tajikistan should encourage DNFBPs to develop their own criteria that would enable them to identify suspicious transactions.

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

385. The relevant Immediate Outcome considered and assessed in this section is IO.4. This Section includes an assessment of effectiveness in the context of Recommendations 9-23.

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

##### *Financial institutions*

386. On the whole, financial institutions have a limited understanding of ML/TF risks, which is based solely on the NRA findings, high-risk customer-related legislation requirements and trainings provided by the FMD in response to NRA findings.

387. Banks and non-bank credit institutions demonstrated a good understanding of ML/TF risks due

to their active participation in risk assessment activities, including workshops organised in the aftermath of the NRA, and provision of information and responses to questionnaires. Other financial institutions understand ML/TF risks to a lesser extent, often confusing them with operational risks.

388. At the same time, the extent of FIs' understanding of their own ML/TF risks is also limited due to the fact that FIs do not conduct their own ML/TF risk assessments, relying instead solely on such factors as legal requirements for customer risk assessment, geographical location, transactions and delivery channels. In addition, FIs lack of documented ML/TF risk assessments.

389. In general, the interviewed FIs demonstrated a good level of theoretical understanding of their AML/CFT responsibilities established by law. At the same time, the reporting statistics (see IO.6) provided by the FMD highlight the high level of engagement in these activities of banks and micro-credit custodial institutions only, with other financial institutions remaining largely passive, which indirectly points to an inadequate level of understanding of their AML/CFT roles and risks.

390. In addition, according to the representatives of the private sector, the FMD conducts regular (at least once a quarter) training activities. It was specifically noted that national risk assessment training have been held almost every month in the past six months. The table below contains statistics from several FIs who took part in the interviews.

Table 25

<b>Trainings</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<i>Entity A</i>			
internal:	6	3	7
FMD trainings:	6	5	4
<i>Entity B</i>			
internal:	12	10	4
FMD trainings:	2	5	4
<i>Entity C</i>			
internal:	2	5	4
FMD trainings:	2	7	11

Note: this table does not reflect the full picture of trainings in the field of AML/CFT, as it is based solely on information received from interviews held with the private sector.

391. The information in table 25 shows that FIs both conduct their own trainings and receive support from the FMD. In addition, the FMD facilitates better understanding of AML/CFT requirements among FIs, by publishing guidance and guidelines and clarifying the requirements of the AML/CFT Law (see also R.34).

### *DNFBPs*

392. As noted in R.22, casinos, including online casinos, are illegal in Tajikistan. According to representatives of state authorities, they are actively taking steps to block the websites providing casino services.

393. DNFBPs demonstrated a poor understanding of ML/TF risks inherent both in the country in general and in the DNFBP sector in particular. DNFBPs interviewed during the on-site visit believe that, in general, their activities are not vulnerable to ML/TF, which is not fully in line with the NRA findings. All DNFBPs explained that their clients do not carry out threshold or suspicious transactions, hence the absence of ML/TF risks in their activities. In addition, DNFBPs do not understand how to identify the ML/TF risks encountered by them in their activities. Nor could DNFBP representatives explain how they plan to use NRA findings for AML/CFT purposes. At the same time, DNFBPs participated in the NRA, while the FMD organized trainings in the aftermath of the NRA.

394. DNFBPs (apart from auditors and real estate agents) demonstrated a low level of understanding

of their AML/CFT obligations. For example, DNFBPs have a poor understanding of their obligations regarding CDD; PEPs identification; obtaining information about the purpose and intended nature of the business relationship; conducting an ongoing monitoring of business relationships and a scrutiny of transactions with funds or other property; updating of records; new technologies and high-risk countries; and identification of beneficial owners.

395. Notably, due to the absence in Tajikistan of private accountants and trust and company service providers, no meetings with them were held during the on-site visit.

#### *Application of ML/TF risk mitigation measures*

##### *Financial institutions*

396. As noted in R.10, the country's law does not envisage the application of simplified CDD measures in case of low ML/TF risks. As a result, FIs apply general or, in the case of higher risks, enhanced CDD requirements.

397. FIs demonstrated ML/TF risk mitigation measures based solely on internal control procedures, which include requirements for the application of enhanced CDD measures, including the requirement for clients to provide additional documents. At the same time, the updated risk management policies based on NRA findings had not yet been approved by any private sector entity as of the time of the on-site visit. According to FIs, they plan to integrate NRA findings into their ICR measures in the future.

398. According to the existing requirements, FIs carry out an assessment of the risks relating to customers, geographical location, transactions and delivery channels. The management of the identified risks is carried out by applying internal controls to transactions and/or clients.

399. The FMD regularly checks the system for identifying and assessing the risks faced by FIs with the help of special questionnaires. According to private sector representatives, the FMD focuses on internal risk detection systems, by confining itself to the monitoring of compliance with the legal requirements for classifying clients/transactions either as high or low risk. Based on the outcomes of its inspections, the FMD either issues recommendations to FIs or highlights shortcomings related to transactions with higher risk countries or clients.

400. Interviewed FIs also pointed to their compliance with the AML/CFT requirements that set the criteria for high-risk transactions/clients. The assessment of the level of risk is carried out by internal control or audit departments, or by dedicated units within the FI structure (risk management departments or directorates). Assessment outcomes are used to apply appropriate enhanced measures in dealing with such transactions/clients. Notably, none of the private sector representatives mentioned the practice of identifying risks that are not related to the established criteria. At the same time, the majority of respondents cited the planned speedy approval of the updated internal risk management guidelines drafted on the basis of NRA findings.

##### *DNFBPs*

401. DNFBPs (except for auditors) fail to take any steps to mitigate ML/TF risks. Nor do they conduct their own ML/TF risk assessments, including those focusing on different types of clients and modes of service provision (transaction execution), a fact evidencing their poor understanding of ML/TF risks. In addition, DNFBPs do not apply the risk-based approach to their clients, relying instead solely on the general CDD requirements. At the same time, as previously noted, DNFBPs' understanding of their AML/CFT obligations is also limited.

#### *Compliance with CDD and record keeping requirements*

402. There are no legal persons with a complex ownership structures among FI clients. In addition, after discussing this issue with representatives of state authorities, assessors were informed that there

are no legal persons with a complex ownership structure in Tajikistan. The assessment team discussed with FI representatives possible steps to be taken when conducting CDD measures in respect of clients with a complex ownership structure. According to FIs, if they cannot identify the beneficial owners of such clients, they do not establish a business relationship with them.

403. However, according to the assessors, in the absence of an assessment of legal persons' vulnerabilities to ML/TF, Tajikistan is not sufficiently effective in assisting FIs in identifying beneficial owners of legal persons with a complex ownership structure.

#### *Financial institutions*

404. All FIs demonstrated a good understanding of CDD and record-keeping procedures and their practical application.

405. FIs undertake CDD on the basis of originals or notarized copies of client identification documents, as well as using a standard questionnaire. Typically, copies of legal documents requested by banks prior to the establishment of a business relationship or carrying out transactions are notarized. In addition, the powers of individuals representing legal persons are verified by cross-referencing the data held by tax authorities and statutory documents. Tax authorities maintain a unified state register of founders and directors of legal persons. Such cross-references are made where there are doubts as to the authenticity of the submitted documents.

406. Customer files of legal persons include identification documents, notarial copies of statutory and other internal documents, extracts from the unified register of legal persons, copies of foreign trade contracts, if available, and copies of customs documents. In addition, customer files contain identification documents, taxpayer details, customer questionnaires, etc.

407. In order to understand the nature and objectives of the business relationship with the client, FIs collect information about the client, the nature of its activities and its owners, including beneficial owners. If necessary, FIs make visits to the place of the client's business for a more in-depth study (typical for lending operations).

408. FIs identify beneficial owners by studying the client's business relationships in publicly accessible data sources (media, the Internet and other sources), up to the identification of the natural person holding a 25 percent or higher share in the client's business.

409. With respect to beneficial ownership, assessors were provided with contradictory information. Some FIs claimed that they used the FMD to identify the beneficial owner up to the first level of ownership<sup>19</sup>, on the basis of an extract from the Unified Register of Legal Persons, which is maintained by tax authorities; others, meanwhile, said that they used the Internet and publicly accessible databases to study the actual owners, up to the individual with the ultimate ownership interest. In addition, according to the respondents, legal persons with a complex ownership structure are uncommon in Tajikistan. Thus, one example of a complex ownership structure provided to the assessors involved the establishment of one LLC by another LLC whose founders are linked by kinship ties to the management of the first LLC.

410. The interviewed representatives of the banking sector informed on refusals to establish relationships with clients, without providing statistics. At the same time, it was pointed out that existing clients tend to fulfil all bank requirements related to the provision of documents, while banks, in turn, seek to support their clients, meaning that the cases of refusal to establish a business relationship linked to the non-implementation of CDD are rare. According to the representatives of the private sector, there have been no cases of refusal to establish a business relationship or execute customer transactions linked to the impossibility of conducting CDD in the last three years.

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<sup>19</sup> The first level of ownership refers to the direct ownership of a legal entity; that is, its founders (participants/shareholders).

411. Life insurance services account for a small share of the insurance market. The Tajik law makes it mandatory for civil servants to have a life insurance coverage, provided by the state insurance company TochekSugurta. The identification of the beneficial owner in this type of insurance is carried out based on the general rules of inheritance by will or by virtue of the law, that is, by a notary or a court. With regard to other types of insurance services, CDD is conducted by insurance companies in accordance with their internal regulations.

412. Given that Tajikistan's securities market is chiefly represented by registry holders and depositories, CDD procedures in the sector are limited by the nature of its participants' activities. Given the immature state of this market in Tajikistan, this circumstance does not significantly affect the overall effectiveness rating.

Tajikistan permits trading in bearer securities, which are sold and purchased on the secondary market. They are issued to encourage investments of available capital in the construction of the Rogun HPP (*for a total of about 800 mln. somoni, with the market size estimated at about 21 bln. somoni*).

Thus, shares of Rogun HPP with par value of 100 somoni and certificates of share with par value of 500 somoni, 1000 somoni and 5,000 somoni were issued to the bearer. Certificates of shares with par value of over 5,000 somoni were issued in nominal. Nevertheless, according to the information provided by the country, the register of all owners of shares of the Rogun HPP, which only residents of RT are entitled to, is maintained by the authorised state body for regulating the securities market on the basis of paragraph 4 of article 42 of the RT Law "On the Securities Market".

413. According to the representatives of Tajikistan's only postal operator, the computer system used by it does not allow the sending of postal orders without entering the identification data of both the originator and beneficiary.

414. The Tajik law does not allow reliance on third parties to conduct CDD (see R.17).

415. Record keeping by FIs is carried out in accordance with the established internal regulations in volumes sufficient to permit the reconstruction of individual transactions and customer data.

#### *DNFBPs*

416. DNFBPs (except for auditors) are aware of their CDD obligations. In practice, however, DNFBPs experience problems with understanding and identifying beneficial owners.

417. At the same time, DNFBPs are allowed to carry out transactions and establish relationships with clients without CDD.

418. Record keeping functions are discharged by DNFBPs in accordance with applicable law: for more than five years from the date of termination of the business relationship or completion of the transaction. However, DNFBPs do not keep records of every transactions not less than 5 years.

#### *Application of enhanced and special CDD*

##### *Financial institutions*

419. FIs demonstrated the use of enhanced and special CDD in dealing with PEPs, higher risk countries and remittances. At the same time, the approach applied by FIs is based on the requirements of the law rather than the risk profile. In other cases, no examples of effective application of enhanced measures were provided.

##### PEPs

420. FIs use data posted on the official websites of the President and the Government of the Tajikistan to identify PEPs among their clients and in the course of establishment of relationships.

There is no consolidated database or list of domestic PEPs. Domestic PEPs include senior officials of ministries, departments, state committees. Therefore, the technical shortcomings highlighted in criterion 12.2 impact compliance with PEP-related requirements, which was confirmed during meetings with FIs. In particular, prominent politicians, senior military and judicial officials, heads of state-owned corporations and prominent political party figures are not listed among PEPs.

421. According to the representatives of the private sector, they serve domestic PEPs whose transactions are subject to enhanced monitoring. In addition, the establishment of relationships with PEPs must be sanctioned by the FI management. However, no approval from the FI management is required to continue the relationship with a client who has become a PEP.

422. No identification of PEPs' family members or associates and monitoring of their transactions is carried out.

423. As stated above, given the specifics of compulsory life insurance for civil servants and the fact that such services are provided exclusively by the state insurer, no enhanced measures are taken in respect of PEPs.

424. There are no foreign PEPs among the clients of the surveyed FIs. FIs use the World-Check databases (Thompson Reuters) to identify PEPs. In addition, banks classify all non-residents as high risk and conduct enhanced monitoring of their transactions.

#### Correspondent banking

425. In practice, correspondent relationships are established exclusively with financial institutions that are licensed to provide banking services. The reputation of correspondent banks is studied with the help of open online sources. At the same time, no requests to foreign competent authorities to clarify the AML/CFT supervision details or the business reputation of the correspondent bank were submitted.

426. The use of "payable-through accounts" directly by FI clients is not allowed under the Tajik law.

#### New technologies

427. FIs in Tajikistan are not required by law to identify and assess ML/TF risks that may arise in connection with the development of new products and services.

428. The assessors' attempts to study the procedure for the introduction of new technologies by FIs were hampered by the paucity of new (digital or remote) financial services introduced by the surveyed FIs. Still, those FIs that introduced new types of services claimed, without providing any evidence, to have conducted an assessment of ML/TF risks prior to their introductions.

#### Wire transfers

429. Wire transfers can only be sent via credit institutions in Tajikistan, which are required to conduct CDD on both the originator and beneficiary of the wire transfer. In this case, when receiving remittances, credit institutions assume that the originator has already been identified by the sending party and take no steps to verify this information, nor do they refuse to make a pay-out in the absence of full originator details. Wire transfers are accompanied by originator and beneficiary identification data. At the same time, according to the representatives of the private sector, FIs create a separate file on those clients who send or receive two or more wire transfers.

430. Wire transfers can be sent via one of 64 Pochtai Tojik post offices located throughout the country. No payment can be made without the full originator/beneficiary identification details. All wire transfers are sent through the Pochtai Tojik head office, where each transfer is checked for compliance with internal controls. Wire transfers in Tajikistan can be sent exclusively to, or received from, 12 countries with which Tajikistan has concluded appropriate agreements (*CIS countries*,

Georgia, Moldova and Turkey).

### Targeted financial sanctions

431. A list of persons designated for terrorism in accordance with UNSCRs is published on the FMD official website. As it gets updated, this list is downloaded by FIs and used to identify individuals involved in terrorist activities among their clients. In addition, when conducting occasional transactions or establishing business relationships, the name of the client is matched against the terror lists. Almost all FIs integrate the terror lists into their own automated systems, while those without one match customer data against the lists manually.

432. The interviewed entities had no experience of freezing funds or property of designated persons, although there were cases of transaction suspension due to false positive. It should be noted that in general, in the sector of credit institutions, there were cases of suspension of operations and freezing of property of persons included in the national lists of persons involved in the implementation of terrorist activities (See IO10).

### Higher risk countries

433. The level of FIs' accounting and understanding of higher risk countries not involved in AML/CFT cooperation, whose list is published on the FMD website, is sufficient to ensure a close monitoring of transactions involving clients or contractors that are residents of such countries. For example, the close linguistic and cultural ties between Tajikistan and Iran means that Tajik nationals visit this country for tourist, business and personal purposes. Moreover, any connection with Iran, including in situations where the contractor has ties to individuals in this country, warrants enhanced monitoring of financial transactions.

### *DNFBPs*

434. As noted previously, DNFBPs (except for auditors) have a poor understanding of their AML/CFT obligations. Following their meetings with representatives of the DNFBP sector, the assessors concluded that DNFBPs do not comply, or comply insufficiently, with AML/CFT requirements relating to PEPs, new technologies and higher risk countries.

435. At the same time, it is worthwhile to note that all DNFBPs are well aware of and fulfil the requirements to freeze terrorist assets. For example, DNFBPs check the names of their clients against the lists of persons designated for terrorism and extremism, which is largely due to the greater focus placed on CFT by all AML/CFT system participants.

### *Reporting obligations and tipping off*

#### *Financial institutions*

436. There are two types of reports submitted to the FMD: threshold and STRs. Threshold reports are filed when the transaction amount exceeds the designated threshold.

437. In general, FIs are well aware of their reporting obligations in respect of the FMD. In addition, with a view to facilitating a better understanding by FIs of their obligation to file STRs, the FMD has established a register of suspicious transaction indicators (see IO. 6).

Table 26

FIs and DNFBPs	2015		2016		2017	
	STRs	Threshold	STRs	Threshold	STRs	Threshold
<b>Banks</b>	522	106372	15262	179374	69281	209157
<b>Other non-bank credit institutions</b>	47	5245	3948	19044	73998	37058

<b>Notaries</b>	0	224	0	175	0	210
<b>Insurance companies</b>	0	6	0	0	0	0
<b>Other</b>	0	0	0	0	0	0

438. Notably, given the lack of suspicion in threshold transactions, assessors placed a greater emphasis on STRs. According to the information provided, only credit institutions submit STRs, with no STRs submitted to the FMD by other financial institutions recorded in the past three years. Despite not detecting any suspicious transactions, FIs, in their meetings with the assessors, claimed that they are well aware of their reporting obligations with respect to STR and regularly attend trainings organized by the FMD.

439. Overall, the risks identified in the sectors do not fully reflect the nature of STRs submitted by FIs.

440. In addition, according to the assessors, FIs tend to be overly reliant on the pre-established suspicious transaction criteria at the expense of analysis of transactions that may actually be related to criminal assets.

441. For example, according to the information provided by FIs, the overwhelming majority of reports sent to the FMD are related to the established criteria, with the number of STRs sent in response to FIs' suspicion accounting only for about 1-5% of the total number of reports (the table below contains data provided by three representatives of the private sector, and is used to indicate the share of STRs in the total number of reports submitted to the FMD).

Table 27

<b>Year</b>	<b>STRs</b>	<b>Threshold transactions</b>
<b>Entity A</b>		
<b>2015</b>	230	5.28%
<b>2016</b>	327	6.16%
<b>2017</b>	344	11.90%
<b>Entity B</b>		
<b>2015</b>	61	3.83%
<b>2016</b>	874	24.23%
<b>2017</b>	4827	60.10%
<b>Entity C</b>		
<b>2015</b>	4	0.33%
<b>2016</b>	18	0.40%
<b>2017</b>	29	0.45%

442. FIs are aware of AML/CFT requirements with respect to the nondisclosure of information about the submission of STR and liability for tipping off. There have been no instances of disclosure or tipping off.

*DNFBPs*

443. Despite the fact that DNFBPs are largely aware of their reporting obligations, no reports have been submitted by them in the past three years (see Table 26.) According to DNFBPs, their failure to submit STRs is due to the absence of suspicious transactions carried out by clients and low ML/TF risks facing their sectors. However, DNFBPs' opinion does not fully reflect the level of ML/TF risks inherent to various categories of DNFBPs.

444. In their activities, DNFBPs rely on the legally established criteria of suspicious transactions. According to the assessment team, the lack of understanding of the risks facing the DNFBP sectors, the use of only pre-established criteria of suspicious transactions and failure to submit STRs all point

to the poor understanding by DNFBPs of their reporting obligations.

445. DNFBPs) are aware of the obligation not to disclose information about the STR submission. There were no cases of tipping-off.

### *Internal controls and legal/regulatory requirements for their implementation*

#### *Financial institutions*

446. AML/CFT internal control procedures, including ongoing training and internal control audit programmes, are applied fairly extensively by FIs. Internal controls are effectively implemented in all Tajik financial institutions, with all relevant procedures in place and no regulations impeding their implementation.

447. FIs approve their own internal controls, which set out CDD procedures. According to the representatives of the private sector, the updated internal regulations came into effect in 2017. At the same time, internal regulations are typically revised once a year or whenever there are changes to the law.

448. In some cases, supervisors approve consolidated internal controls that are binding for all representatives of the sector, while in others the supervisor drafts and approves model internal regulations for all FIs (e.g. the securities and postal services sectors). Model internal regulations for professional securities market participants are prepared by the Finance Ministry's Securities Market Agency in collaboration with the FMD, and then sent to the market participants for approval. The current version of the model regulations was approved in 2014.

449. The difficulties associated with the transitional state of the country's insurance supervision, the responsibility for which passed from the Finance Ministry to the NB in May 2017, explains the absence of internal regulations drafted by the FMD for insurers. Nevertheless, the monitoring of their compliance with the AML/CFT requirements is carried out in accordance with the Framework Law and NB guidelines.

450. Compliance with internal regulations in banking institutions is automated and centralised. Being reliant on the effectiveness of the transaction monitoring system created at their head office, banks do not set up internal control units at their branches. For example, one bank with 75 branches throughout the country has no more than 5 personnel working in its internal control unit; while another bank with 12 branches, no more than 3. At the same time, separate internal control functions are allocated between risk management units, security departments, managers and chief accountants of branches, which combine them with core functions.

451. Other FIs do not create an internal control unit at all, assigning the relevant functions to the employees of adjacent departments (executives, chief accountants, settlement/customer relations/security departments, etc.).

452. Assessors were provided with an example of one FI which, following its inspection by the FMD, was provided with guidance on how to improve the application of CDD in respect of non-resident clients.

#### *DNFBPs*

453. DNFBPs have developed internal regulations, while regulatory requirements impeding their implementation are absent.

454. In addition, according to the information provided, AML/CFT internal control guidance has been approved only for the state notary office (Instruction approved by the RT Justice Ministry Decree dated September 26, 2017).

### *Overall conclusions on Immediate Outcome 4*

455. **Tajikistan is rated as having a moderate level of effectiveness for Immediate Outcome 4.**

## CHAPTER 6. SUPERVISION

### Key Findings and Recommended Actions

#### **Key Findings**

##### Financial institutions

1. Tajikistan's supervisory regime, which applies to all types of financial institutions, is largely commensurate with the scale and scope of the country's financial sector. The licensing procedure applies to banks, non-bank credit and insurance institutions, professional securities market participants, payment service providers and postal operators. Credit institutions providing money or value transfer, currency exchange and leasing services do not require a separate license.
2. AML/CFT risk-based approach in supervision over the FIs as a whole is not applied, Tajikistan plans to implement the risk-based approach based on the findings of the national risk assessment and approved National AML/CFT/PF Concept 2018-2025. Not all financial sector supervisors are involved in this work.
3. The country's licensing and supervisory measures for credit institutions, operators of payment systems and postal money transfer largely do a good job of preventing persons convicted of economic crimes from holding a controlling interest or management function in such entities. However, there are shortcomings in the insurance and securities sectors. In addition, supervisors failed to demonstrate the practice of monitoring the beneficial owners of persons gaining controlling influence in reporting entities.
4. Among the key components of on-site and off-site inspections of financial institutions that are conducted by supervisors are compliance with AML/CFT requirements, identification and evaluation of sector-specific risks, timeliness and correctness of STR submission, fulfilment of FMD's requests and reporting. Whenever necessary, FMD personnel are enlisted to conduct inspections of financial institutions outside the control the National Bank.
5. Sanctions for non-compliance with AML/CFT requirements are regularly applied against credit institutions, which is due to the broad sanctioning powers of Tajikistan's National Bank. No sanctions have been applied against other FIs due to the lack of appropriate authority and attention from other supervisors to the enforcement of compliance with AML/CFT requirements in their sector.
6. The 2015-2017 shift in the type of sanctions applied in the banking sector from monetary fines to written warnings points to the decline in the number and severity of the identified violations and, consequently, to the increase in the level of compliance by credit institutions with AML/CFT requirements. It is not possible to evaluate the effectiveness of sanctions in other sectors due to their absence.
7. The FMD, supervisors and enlisted international experts and organizations organize regular AML/CFT trainings for the employees of the FMD, the National Bank, supervisory and competent authorities, as well as for internal control and other departments of financial institutions.

##### DNFBPs

1. The mechanisms in place in Tajikistan allow to prevent criminals from gaining access to the market. The mechanisms demonstrated their effectiveness. But the mechanisms do not prevent persons associated to criminals to gain access to the market.
2. The FMD understands well the ML/TF risks inherent to the supervised sectors. At the same time, understanding in the ministries of justice and finance of the ML/TF risks is limited. Supervisors did not conduct a ML/TF risk assessment related to individual DNFBPs.

3. The supervisors do not apply a risk-based approach in the supervisory activity. Besides, the Ministry of finance has no powers to conduct on-site and off-site inspections on AML/CFT. No inspections on compliance with AML/CFT legislation of lawyers, independent legal professionals, and real estate dealers were conducted.

4. No sanctions were applied by supervisors to DNFBPs for non-compliance with AML/CFT legislation, due to a formal approach to inspections.

5. Supervisors conduct seminars for DNFBPs on compliance with AML/CFT measures, but according to the presented information, and taking into account the DNFBPs sectors with a high risk the number of the seminars is not sufficient.

### **Recommended Actions**

#### Financial institutions

1. Supervisors should intensify their work with ML/TF risks, including by raising reporting entities' awareness of their risks and applying a risk-based approach to supervision over their activities.

2. Tajikistan should continue to improve AML/CFT supervision over insurance companies, payment systems and professional securities market participants.

3. Tajikistan should introduce licensing or other type of regulation for financial leasing services provided by non-lenders.

4. Supervisors should establish mechanisms for monitoring beneficial owners seeking controlling influence over reporting entities for any ties to criminals.

5. Supervisors should use the full potential of the feedback channels and provide guidance on compliance with AML/CFT requirements, including, but not limited to, desktop conferences, on-site workshops, publication of brochures and teaching aids, thematic publications in the media, etc.

6. Supervisors should expand the range of sanctions and correcting measures for breaches in the AML/CFT sphere applied to the FIs not supervised by the National Bank of Tajikistan.

#### DNFBPs

1. Tajikistan should harmonize requirements on registration and licencing in order to block access of criminals and their associates to the market.

2. Supervisors should use the NRA results in their work in order to improve the understanding of ML/TF risks and to introduce the RBA. Besides, risk assessments of sectors and individual DNFBPs should be conducted.

3. Supervisors should change their approach to inspections to avoid a formal approach.

4. Tajikistan should do more to conduct training for higher-risk DNFBPs.

### ***Immediate outcome 3 (Supervision)***

456. The relevant Immediate Outcome considered and assessed in this section is IO.3. It includes the assessment of effectiveness in the context of Recommendations 14, 26-28, 34 and 35, and a part of R. 1 and 40.

#### *Overview of supervisory arrangements*

##### *Financial institutions*

457. In February 2016, the IMF published the Financial Stability Assessment Report (FSAP) on Tajikistan, highlighting both the country's overall progress in strengthening the regulatory framework

in line with its 2017 recommendations and delays in improving supervision and regulatory compliance. Despite the Memoranda of Understanding concluded with some countries, supervision was still lacking in Tajikistan. Furthermore, non-financial entities of corporate groups remained outside the NB's supervisory net. The FSAP report also noted the embryonic state of macro prudential supervision in Tajikistan at the time.

458. The NB – which is responsible for registration, licensing, regulation and supervision of banks, non-bank credit institutions, microfinance organizations, insurance firms and payment service providers – is the main supervisory authority in the financial sector. Under the law on the National Bank, the NB is completely independent in its activities

As of December 31, 2017, there were a total of 84 credit institutions operating in Tajikistan, including:

- 17 banks;
- 27 micro-credit custodial institutions;
- 7 micro-credit institutions;
- 33 micro-credit funds.

Total assets of credit institutions were valued at 20932.2 mln. somoni (~ USD 2.4 billion), down 254.8 million, or 1.2%, compared with the end of 2016 mainly due to the decrease in the size of liquidity assets and loan portfolio.

459. The President of the Republic of Tajikistan, by its decree dated December 12, 2017, designated an authority responsible for AML/CFT. Pursuant to the Board of the National Bank decision of the same date, the Financial Monitoring Department is responsible for AML/CFT regulation and supervision, the functions for which the FMD has the necessary human, financial and technical resources.

460. General supervisory functions are exercised by the Department for Banking Supervision (DBS) (credit institutions), the Department for Insurance Supervision (insurance companies) and the NB's Payment Systems Department (money or value transfer service providers).

461. The FMD employs a total of 22 persons, each of which can be involved in audit activities. According to FMD representatives, they regularly participate in bank inspections, thematic unscheduled inspections and, on request of the relevant supervisory bodies and coordination with their authorized representatives, inspections of other financial institutions. It should be noted that during the on-site visit, the Board of the National Bank of Tajikistan voted (Order No. 26 dated March 12, 2014) to establish a special inspection department within the FMD structure staffed by 3 employees. According to the country's supervisors, they regularly enlist the support of the FMD.

462. Remote AML/CFT supervision over credit institutions is carried out separately from desk-top prudential supervision. Field inspections of credit institutions are combined with general scheduled inspections, or take the form of AML/CFT audits. Among the reasons for conducting a field inspection is the receipt by the regulator of intelligence concerning the identified violations of the AML/CFT legislation.

463. Supervision over the activities of professional securities market participants is carried out by the Finance Ministry's Securities Market Agency; and over the postal service providers, by the Communications Agency under the Government of the Republic of Tajikistan.

There are 22 insurance companies operating in Tajikistan's insurance market, including 2 state-owned and 18 private insurance firms, 1 insurance broker and 1 mutual insurance support centre.

The number of concluded insurance contracts is 1802471 with a total value of 235844700 somoni (~USD 26.8 million). Life insurance accounts for 4.8 percent of the market.

A list of professional securities participants includes brokers, dealers, registry holders and depositories (12 participants in total).

State unitary enterprise Pochtai Tojik is the only company in Tajikistan licensed to provide postal services.

464. No separate license is required to provide leasing services in Tajikistan. There are 19 leasing organizations acting in Tajikistan whose activity is not regulated by any supervisor. At this, the Law "On Banking" lists leasing as one of the types of activities of credit institutions provided under their license.

#### *DNFBPs*

465. Presidential Decree No. 328 dated July 20, 2000 prohibits casino operations, including internet-casino, in Tajikistan. During the on-site visit, representatives of Tajikistan informed the assessors that this prohibition also applied to online casinos. In practice, the relevant competent authorities block access to websites providing online casino services.

466. At the same time, there are entities that own sweepstakes, betting offices and lotteries in Tajikistan, which are subject to AML/CFT requirements.

467. Supervision over the activities of real estate agents, lawyers, independent legal professionals and trust service providers is exercised by the National Bank's Financial Monitoring Department.

468. Supervision over the activities of dealers in precious metals and precious stones, private accountants, audit firms and individual auditors, pawnshops, and entities owning sweepstakes and betting offices and holding lotteries and other games in which participants compete for prize money, including in electronic form, is exercised by the Finance Ministry of the Republic of Tajikistan.

469. The Finance Ministry is not authorized to conduct on-site and off-site inspections, including monitor compliance with AML/CFT requirements.

470. Supervision over the activities of notaries is exercised by the Justice Ministry of the Republic of Tajikistan.

#### **Number of DNFBPs**

1. 755 dealers in the precious metals and precious stones;
2. 25 pawnshops;
3. 73 audit firms and individual auditors, including:
  - 38 audit firms;
  - 35 individual auditors.
4. 163 entities owning sweepstakes and betting offices, including:
  - 112 entities owning sweepstakes and betting offices;
  - 51 lotteries and other games.
5. 179 private legal practices and 17 bar associations, 23 legal consultants;
6. 132 notaries, 68 notary offices;
7. 360 independent legal professionals;

**Number of employees exercising supervisory functions**

Over the activities of:

notaries (4);

pawnshops (4), including AML/CFT (2);

dealers in precious metals and precious stones (18), including AML/CFT (4);

audit firms and individual auditors (4), including AML/CFT (2);

entities owning sweepstakes and betting offices (4), including AML/CFT (2);

real estate agents, lawyers, independent legal professionals and trust service providers (4);

real estate agents, lawyers, independent legal professionals and trust service providers (3) (Note: the FMD's Inspections Section was established in March 2018 at the time of the on-site visit).

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

*Financial institutions*

471. The licensing procedure applies to banks, non-bank credit and insurance institutions, professional securities market participants, payment service providers and postal operators. The FI licensing procedure tends to include minimum qualification requirements for candidates for senior positions. Supervisors ensure that applicants have all required qualifications, including by studying their reputation.

472. Tajikistan has set up a reasonably effective system for preventing criminals from holding a controlling interest or management function in legal persons. At the same time, the experience in identifying individuals associated with criminals, as well as the beneficial owners of persons seeking a controlling interest in credit institutions, is lacking. In other financial sectors, measures to identify criminals or their associates either have significant shortcomings or are not applied at all.

473. As part of the licensing process, the NB approves the candidates for senior positions in credit institutions, including branch managers. In addition, the NB coordinates investments in the authorized capital of newly established credit institutions as well as acquisitions of large (more than 10%) stakes in the authorized capital of existing credit institutions, including by ensuring that applicants have no criminal record. With respect to credit institution executives, the NB also screens the relatives of potential candidates.

474. According to the representatives of the NB's DBS, appointment of candidates for senior positions (chairman of the board, chief accountant and their deputies, and branch managers) in credit institutions must always be coordinated with the NB, which, among others, checks that the candidates have no criminal record by requesting the relevant information from the Interior Ministry's Information Centre. As regards changes in major shareholders (over 10%), the NB also studies the reputation of the prospective shareholders prior to deciding whether to allow or block such moves. The NB publishes the details of major shareholders of commercial banks on its official website.

475. However, the NB does not scrutinize their possible ties to criminals or other forms of involvement in criminal activity. Nor does it study the potential involvement of the commercial property (enterprises) of the aforementioned individuals in criminal schemes or criminal activity. According to the supervisors, the NB may also initiate other checks, which points to the absence of on-going monitoring.

476. When vetting candidates for senior positions in branches of foreign banks operating in the country, the NB requests information about their business reputation from its foreign counterparts. Such requests are sent directly to DBS or via the FMD or with its assistance. For example, the details

of the candidate are matched against the FMD's own and foreign lists. Similar information is prepared in response to requests from foreign supervisors.

International oversight requests received/sent by the NB's DBS

In 2015 – 1 request received by the DBS from the Iranian Central Bank; and 1 request sent by the DBS to Malaysia's financial supervision authority for information on financial statements submitted by commercial banks.

In 2016 – 1 request received by the DBS from the Kyrgyz National Bank regarding the business reputation of a candidate for a senior position.

In 2017 – 1 request received by the BS from the Kazakh National Bank regarding the business reputation of a candidate for a senior position.

477. There were cases in the past when the NB refused to issue a license to credit institutions, or issued a negative provisional conclusion due to the candidate's criminal record or failed competency test.

Refusal statistics related to the candidate's criminal record

In 2015 – 1 refusal to issue a license.

In 2016 – 1 refusal to endorse the appointment of a candidate to a senior position.

In 2017 – 4 refusals to endorse the appointment of a candidate to a senior position.

Refusal statistics related to failed competency test: 11 in 2015, 18 in 2016, and 57 in 2017.

478. No information concerning supervision over insurance companies has been provided by the NB to international organizations, nor have there been any refusals. The Department for Insurance Supervision has issued insurance licenses to insurance companies, renewed licenses of four insurance companies and re-registered the license of one insurance company.

479. Due to the fact that the Law "On Payment Services and Payment Systems" came into effect at the time of the on-site visit, payment system operators only had time to submit documents required for a license (one operator was issued a license, with other applications still pending). According to the representatives of the NB's Payment Systems Department, the vetting of license applications also involves the identification among candidates for senior positions of persons with a criminal record.

480. Only the NB and credit institutions are licensed to provide payment services in Tajikistan. As a supervisory authority, the NB, in conjunction with law enforcement agencies, take steps to identify entities engaged in the provision of money or value transfer services without a license. In this case, the activities of such entities are detected with the help of credit institutions servicing them rather than through inspections of the offenders.

481. According to SCNS, during the economic crisis of 2014-2015 the Prosecutor's Office set up teams to combat currency crimes, which identified individuals that used informal remittance services. After it became clear that there was not enough evidence to prosecute these individuals for TF, they were charged with illegal banking activities.

482. The licensing of professional securities market participants follows the general procedure established in accordance with the law on the licensing of certain types of activities. At the same time, the requirement to screen employees in senior positions for criminal record is absent. As a result, the supervisor (the Financial Ministry's Securities Market Agency) does not perform criminal record checks on the founders, employees of the securities market participants or their beneficial owners. The qualification requirements for the employees of securities market participants referred to in the Law "On the Securities Market" were still at the development stage at the time of the on-site visit.

483. Legal requirements for the screening of postal operator employees for criminal record are also absent. One of the types of documents required from applicants for a postal service license is a list of the applicant's employees and their qualification requirements. At the time of the on-site visit, Pochtai Tojik was the only company in Tajikistan licensed to provide postal services. Prior to 2017, Pochtai Tojik was subordinate to the Communication Agency before becoming independent. When reviewing license applications, the licensing authority did not screen applicants' employees for criminal record, although it did match them against the FMD's list.

484. As noted in the report on technical compliance with R.13, shell banks are illegal in Tajikistan, while Tajik banks do not have correspondent relations with foreign shell banks.

#### *DNFBPs*

485. The activities of dealers in precious metals and precious stones, pawnshops, and entities owning sweepstakes and betting offices are subject to licensing. The qualification requirements applicable to the applicants for these licenses lack mechanisms designed to prevent criminals and their accomplices from gaining access to the market.

486. All DNFBPs in Tajikistan (apart from lawyers and notaries) have to be registered as legal entities or individual entrepreneurs. As noted in IO.5, the relevant information at registration is presented to the Tax Committee. During the registration the Tax Committee checks the information against the data on convictions, as well as court bans to hold certain positions. The relevant statistics on refusals in registration demonstrating effectiveness of the system is in IO.5.

487. In addition to registration some types of DNFBPs are subject to licencing. For example, the activity of dealers in precious metals and precious stones, auditing, pawnshops, entities owning sweepstakes and betting offices have to obtain a licence in addition to being registered. But the qualifying requirements applied during the licencing process do not contain mechanisms preventing access of criminals and their associates to the market.

488. During the meetings with dealers in real estate and independent legal professionals the assessors were informed that there are no specific requirements applied to them, for example absence of a previous conviction, and to be able to perform those duties it is enough just to register as a subject of entrepreneurship.

489. Notaries and lawyers do not have to register. Notary services in Tajikistan are provided by state notaries integrated into the structure of a state agency. Positions of notaries are occupied by civil servants who are subject to appropriate qualification requirements. According to the Law "On State Notaries", individuals convicted of a wilful offence cannot be appointed to the position of a notary public. It should be noted that there are no individual (private) notaries in Tajikistan.

490. The register of lawyers is maintained by Tajikistan's Bar Association (the Justice Ministry's Qualification Commission is the licensing authority for lawyers). Lawyers are subject to qualification requirements, including membership of the Bar Association. A person cannot apply for a lawyer status and performance of legal services if he has been convicted for a wilful crime. From 2015 till 2018 The Bar Association issued 14 refusals to accept documents of a candidate to obtain a status of a lawyer due to a previous conviction, and 11 decisions to withdraw the lawyer status due to entrance into force of a court conviction for a crime committed by a lawyer, which demonstrate the effectiveness of the system.

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

##### *Financial institutions*

491. The NB and the FMD demonstrated a relatively good understanding of ML/TF risks primarily based on the NRA findings. Other supervisors regulating the activities of financial institutions tended to confuse ML/TF risks with the operational risks faced by their reporting entities.

492. In 2017-2018, the FMD, with support from international experts, conducted awareness-raising activities for supervisors and the private sector using NRA interim and final findings, which, however, had no significant impact on the quality of supervision and internal controls exercised by them at the time of the on-site visit. For example, despite claiming familiarity with the full version of the NRA report, the majority of respondents failed to name the strategies for managing and mitigating the risks and threats inherent in their activities outlined in the report, with some citing a busy schedule as the reason for their failure to formulate a full raft of risk management and mitigation measures set out in the NRA report.

493. Assessments of sector-specific risks in the financial sector are typically carried out as part of the overall strategy to reduce operational risk exposures. No examples of a stand-alone ML/TF risk assessment technique were provided. The findings of the operational risks assessment are used to maintain the reputation and ensure the stable operation of the institution.

494. The identification of ML/TF risks is carried out by the Interagency Working Group on the Preparation and Conduct of the NRA, made up of representatives of supervisory authorities. Reporting entities are informed about the existing risks by the FMD, with the extent of supervisor/reporting entity engagement on ML/TF risks being limited.

#### *DNFBPs*

495. The FMD understands well the ML/TF risks in their supervised sector and actively uses the knowledge in supervision. Besides, as was noted in IO.1 in order to improve the supervisory activity the FMD increased the number of staff to conduct supervision. Nevertheless, the ML/TF risk assessments in relation to individual DNFBPs were not conducted.

496. At the same time the Justice and Finance Ministries have a limited understanding of ML/TF risks. Representatives of the supervisory authorities overseeing the DNFBP sector noted during the meetings that they do not see ML/TF risks in the activities of reporting entities. It is not exactly clear what was the basis for such a decision. In addition these ministries do not use the NRA results in their activity.

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

497. As a general rule, fiscal and other types of inspections are conducted in Tajikistan based on the level of risk posed by a business, i.e. the risk of damage caused as a result of such business's activities to the life and health of members of the public, property interests, public safety and environment, taking into account the severity of its consequences. ML/TF risks are not taken into account.

#### *Financial institutions*

498. Supervisors do not apply the risk-based approach to supervision.

499. The extended NRA report sets out strategies for managing and mitigating risks, threats and vulnerabilities. Supervisors are considering making these strategies part of their engagement with reporting entities, although no specific measures were taken at the time of the on-site mission.

500. Representatives of the NB's DBS claimed during the interview to have implemented the RBA. For example, the choice of a credit institution to be inspected depends on the results of studying its financial situation and any risks in its activity, including ML/TF risks. In reality, however, the regulator audits each credit institution at least 1 or 2 times a year, depending on its type. A similar situation exists in other financial sectors, where audits are planned and conducted irrespective of the ML/TF risks.

501. The NB has used the NRA findings to prepare a draft Guidance on the Management of Operational Risks, scheduled for approval in late March 2018.

502. At the same time the statistics submitted by the country shows that the NB does not conduct

regular on-site inspection of all credit institutions as required by law. Besides, considering the high risk level of MCIs the actual supervision is not fully commensurate to the risk.

Table 28

Inspected entity	Planned inspections together with banking supervision	Thematic inspections by FMD	Together with law enforcement
2015			
Bank	11	11	0
MCI	3	4	0
Total	14	15	0
2016			
Bank	10	7	1
MCI	2	2	0
Total	12	9	1
2017			
Bank	7	6	2
MCI	8	7	0
Total	15	13	2

### DNFBPs

503. Supervisors do not apply a risk-based approach to supervision. Supervisors are planning the implementation of RBA into their work with supervised entities but no specific measures were taken by the end of the on-site visit.

504. In addition, at the time of the field mission, the Ministry of Finance has not been empowered to conduct field or distant AML / CFT inspections against auditors and audit companies; pawn shops; organizations owning sweepstakes and bookmakers and lotto. According to the information submitted until 2017, the Ministry of Finance inspected these supervised organizations in accordance with the Law “On Inspections of Activities of Business Entities”. However, after 2017, inspections of supervised organizations have not been carried out, because of changes in legislation which led to the deprivation of the authority to conduct inspections. According to the information of Tajikistan, this is connected with the restructuring of the entire system of supervision in Tajikistan, including the results of the NRA findings and the introduction of the RBA. At the same time, it is not possible to evaluate the effectiveness of the measures taken.

505. The following statistics on inspections were submitted by the Ministry of Finance.

Table 29

№	Subject	Number of inspections			Field			Distant		
		2015	2016	2017	2015	2016	2017	2015	2016	2017
1.	Auditors and audit companies	1	1	1	-	-	-	1	1	1
2.	Dealers in precious metals and precious stones Including legal entities and individual entrepreneurs	65	42	183	65	42	183	-	-	-
3.	Pawnshops	3	10	9	3	10	9	-	-	-
4.	Organizations owning sweepstakes and	12	22	21	12	22	21	-	-	-

	bookmakers and lotto									
	<b>Total:</b>	<b>81</b>	<b>75</b>	<b>214</b>	<b>80</b>	<b>74</b>	<b>213</b>	<b>1</b>	<b>1</b>	<b>1</b>

506. As was noted in IO1. lawyers, legal professional, pawnshops, lotteries, sweepstakes, bookmakers and realtors have a high level of ML vulnerability. In this connection, supervisors should pay more attention to these organizations.

507. However, as can be seen from table 29, the Ministry of Finance focuses its attention on the dealers in precious stones and metals, although this sector is not highly risky. At the same time, the intensity of inspections in 2017 increased almost 4 times. The Ministry's AML / CFT inspections are conducted by 4 people with a total number of dealers in 755. Thus, even taking into account that the sector is not high-risk, the Ministry of Finance does not have the resources to check all supervised organizations in 5 years.

508. In terms of pawnshops and organizations owning sweepstakes and bookmakers and lotto, these sectors are highly risky. The total number of pawnshops is 25, organizations owning sweepstakes and bookmakers and lotto, 163. As can be seen from the number of inspections of pawnshops it can be seen that approximately 50% of pawnshops are checked annually, which generally corresponds to the risk level of the sector. Regarding the organizations owning sweepstakes and bookmakers and lotto, the number of inspections does not correspond to the risk of this sector.

509. The situation regarding inspections of auditors and audit firms also requires further improvement. As can be seen from table 29, only one audit is conducted annually, while the total number of auditors and audit companies in the Republic of Tajikistan is 73, which does not correspond to the risk level.

510. The supervisory authority for notaries is the Ministry of Justice. This sector is not high-risk. The total number of notaries is 132, and there are 68 notarial houses. According to the statistics provided, the assessors came to the conclusion that in general the number of inspections corresponds to the risk level of the sector.

Table 30

#	Territorial division name	Field inspections conducted		
		2015	2016	2017
1.	Dushanbe and Regions of Republican Subordination	21	10	9
2.	Sughd Region	8	-	9
3.	Khatlon Region	6	-	17
4.	Kuhistani Badakhshan Autonomous Region	-	7	-
	Overall	35	17	35

511. According to the results of inspections by supervisory authorities, no violations in the area of AML/CFT have been identified. As the statistics shows, remote inspections are practically not carried out, and a small number of subjects are also covered by the control. When conducting inspections, the supervisory bodies mainly focus only on sending messages to the FMD, and there are no checks on compliance with other requirements of the AML/CFT legislation (CDD, internal control rules, etc.) Based on the information and statistics provided, it can be concluded that supervisors do not properly monitor supervised entities.

512. In addition, it should be noted that no AML / CFT compliance inspections were carried out in relation to lawyers, independent lawyers and real estate agents. At the same time, according to the information provided, these entities have been supervised by the FMD since 2017, who created the inspection department and builds the RBA for its supervised organizations.

*Remedial action and effective, proportionate and dissuasive sanctions*

*Financial sector*

513. The statistics provided by the country indicate that corrective measures and sanctions for AML/CFT violations are only applied against credit institutions. The adopted measures and sanctions tend to be dissuasive and proportionate. The change in the types of sanctions applied to credit institutions over the past three years, from monetary fines to written prescriptions, indicates an increase in the level of compliance with AML / CFT standards in the sector. It is impossible to assess the effectiveness of sanctions in other financial sectors because of their absence.

514. AML/CFT checks are typically conducted as part of a bigger inspection of the reporting entity. According to the respondents, unscheduled inspections may be conducted in response to complaints, or at the request of the FMD or law enforcement agencies. At the same time, the FMD conducts topic-specific audits of credit institutions independent of general inspections. For example, there were 37 inspections of compliance with AML/CFT requirements conducted in 2015-2017. According to the private sector, FMD-led inspections are conducted annually, while unscheduled inspections are conducted in response to requests from the FMD and law enforcement agencies.

515. The use of fines, remedial instructions and administrative penalties, as well as disciplinary sanctions, including reprimands, warnings and dismissals of employees of credit institutions' internal control units, by the NB has intensified in recent years. For example, the NB issued 27 reprimands/warnings and dismissed 11 employees in 2016-2017.

516. A review of the provided sanctions statistics showed that, among non-bank credit institutions, only micro-deposit institutions were sanctioned. The absence of violations and corresponding fines is due in this case to the limited range and market share of banking services provided/held by other micro-finance organizations. For example, micro-credit institutions are only authorized to issue loans in the amount not exceeding 50,000 somoni (~USD 5700) and perform currency swaps for their own needs.

517. Sanctions were applied for ML/TF violations, including for non-compliance with the procedure for implementing the FMD's and law enforcement agencies' requests and for late submission of STRs and reporting statements. Out of 30 remedial instructions issued in 2016, 17 were issued in response to the findings of remote supervision, 12 general field inspections and 1 topic-specific audit. In 2017, banks received a total of 8 prescriptions. The main types of violations of an MCI are also non-fulfilment or untimely execution of requests by the FMD, law enforcement agencies, as well as incorrect or late submission of STR and reporting. So, if in 2016 the MCI received 10 prescriptions based on the results of remote supervision, then in 2017 - only 7, of which 5 were issued based on the results of on-site inspections.

518. Given that the powers to supervise the insurance sector have recently been transferred to the National Bank, there had been no instances of application of sanctions by the NB against insurance companies in the period before the on-site visit. Meanwhile, no sanctions statistics for the period during the visit were provided by the Finance Ministry. Similarly, no sanctions were used against professional securities market participants. According to the Financial Ministry's Securities Market Agency, sanctions in the securities market were used against issuers. As regards the postal service, sanctions in this sector were not used due to the absence of AML/CFT violations identified during the audit of Pochtai Tojik, the sole provider of postal services in Tajikistan.

519. Supervision over the activities of payment system operators takes the form of both on-site and off-site audits. At the same time, despite being scheduled, no topic-specific audits were conducted by the NB's Payment System Department during the on-site visit. As noted by the representatives of this department, the upcoming inspections, to be conducted in collaboration with the FMD, will focus on operational risks faced by suppliers and operators, including ML/TF risks.

520. The NB also intends to exercise indirect control over bank agents' and sub-agents' compliance with AML/CFT requirements. To this end, the NB has drafted regulations on bank agents and sub-agents, expected to be approved by the NB Board before the end of March 2018, which govern the

issues of AML/CFT compliance monitoring.

#### *DNFBPs*

521. DNFBPs were not sanctioned by supervisors for non-compliance with AML/CFT regulations. In addition, in view of the IO.3 findings regarding the level of understanding of ML/TF risks and AML/CFT requirements, it can be concluded that the sanctions are not applied due to the perfunctory approach to inspections.

#### *Impact of supervisory actions on compliance*

##### *Financial institutions*

522. Due to the fact that AML/CFT compliance monitoring is carried out in the framework of on-site and off-site inspections of a general nature, the impact of oversight measures is also general. Financial institutions have established stand-alone internal control units, or designated officials responsible for compliance with AML/CFT legislation. The number of penalties for detected violations has decreased slightly.

523. According to the statistics provided, the number of remedial instructions issued to credit institutions in 2017 decreased by 52.2 percent compared with 2016, with the total value of fines falling by 27.5 percent.

Table 31

Year	Sanction in general supervision		AML/CFT sanctions	
	Instruction	Fines (mln.somoni)	Instruction	Fines (mln.somoni)
2015	64	2,9	4	2,6
2016	209	5,1	42	1,6
2017	105	3,9	15	1,6

524. Sanctions against insurance companies, participants in the securities market, postal money transfer services and payment system operators were not applied.

525. Another indicator of the impact of supervisory measures is the growth in the number of STRs submitted by financial institutions. For example, the total number of STRs sent in 2017 grew 7.4-fold compared with 2016.

Table 32

Year	2015	2016	2017
Number of reports on transactions subject to mandatory control (threshold)	111617	198418	246215
STRs	569	19210	143279

#### *DNFBPs*

526. Considering that the information provided about the inspections being conducted and their quality, the level of understanding of the risks of ML / TF and the AMF / CFT requirements by DNFBP, and that over the past three years DNFBPs have not been brought to administrative responsibility, it can be concluded that supervisory measures do not affect the level of compliance of DNFBPs with AML/CFT requirements.

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

##### *Financial institutions*

527. The FMD organizes workshops, including throughout the country's regions, at least 6 times a year. At least 6 workshops dedicated predominantly to risks and mitigation strategies set out in the NRA have been held over the past six months. Such workshops are typically attended by 2 employees from each financial institution. At the same time, the FMD regularly invites representatives of the

private sector from time to time to participate in workshops, round tables and other events organized both by the FMD itself and international organizations.

528. According to the representatives of the FMD, credit institutions spend at least 2% of their total budget on employee training. Private sector representatives confirmed that AML/CFT skills-upgrading courses for their staff are financed using funding specially earmarked for this purpose.

529. The effectiveness of FIs' risk assessment systems is tested by the FMD in the course of on-site or off-site inspections. Meanwhile, the effectiveness of their ML/TF risk assessment systems is checked with the help of questionnaires.

#### *DNFBPs*

530. As noted during meetings with the private sector and supervisors, AML/CFT compliance workshops are held on a regular basis with input from the FMD. That said, the information provided only covered notaries, dealers in precious metals and precious stones, pawnshops, audit firms and individual auditors, and entities owning sweepstakes and betting offices (without any supporting documents such as meeting minutes).

Table 33

Type of reporting entity	AML/CFT workshops		
	2015	2016	2017
Notaries	21	21	22
Dealers in precious metals and stones	2	2	6
Pawnshops	2	0	0
Audit firms and individual auditors	1	1	1
Entities owning sweepstakes, betting offices and lotteries	2	0	0

531. Based on the information provided and taking into account high-risk DNFBP sectors, it can be concluded that the supervisory authorities are not paying enough attention to conducting training workshops

532. According to the private sector and supervisors, the FMD held a meeting in late 2017 for DNFBPs with the presentation of NRA findings.

#### *Overall conclusions on Immediate Outcome 3*

533. **Tajikistan is rated as having a moderate level of effectiveness for Immediate Outcome 3.**

## CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

### Key Findings and Recommended Actions

#### Key Findings

1. All types of legal persons in Tajikistan are subject to mandatory registration and inclusion in the Unified State Register. Basic information on legal persons is publicly available.
2. Information concerning the types and characteristics of legal persons and their creation is accessible via the website of the Tax Committee under the Government of the Republic of Tajikistan.
3. Tajikistan has not assessed vulnerabilities of legal persons to ML/TF. At the same time, Tajikistan has taken some steps to ensure the transparency of legal persons and prevent their abuse for ML/TF purposes.
4. Tajikistan has the mechanisms to prevent the misuse of bearer shares for ML/TF purposes.
5. The Tajik competent authorities have access to the basic information on legal persons, however there are some difficulties to keep the information contained in the Unified State Register reliable and up to data.
6. To obtain information on the beneficial owners of legal persons, law enforcement agencies rely on the current CDD regime maintained by FIs and DNFBPs. However, this approach has a number of shortcomings related to the CDD regime maintained by FIs and DNFBPs (IO.4).
7. Assessors have not assess the timeliness of access to data on legal arrangements due to the absence of them in Tajikistan.
8. The existing types of sanctions imposed for violation of state registration/re-registration requirements are not proportionate or dissuasive.

#### Recommended Actions

1. Tajikistan should conduct an assessment of vulnerabilities of legal persons to ML/TF.
2. Following the assessment of vulnerabilities of legal persons consider the possibility of reviewing the existing mechanisms for ensuring the transparency of legal persons and preventing their abuse for ML/TF purposes.
3. Tajikistan should enhance sanctions for non-compliance with the legal requirements for state registration of legal persons.

534. The relevant Immediate Outcome considered and assessed in this section is IO.5. To assess effectiveness under this Section, Recommendations 24 and 25 are used.

#### *Immediate Outcome 5 (Legal persons and arrangements)*

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

535. Information on the creation, types and characteristics of legal persons can be accessed via the website of the Tax Committee under the Government of the Republic of Tajikistan at <http://andoz.tj/ru/registration.html> by anyone without charge. It includes a list of documents required for registration, regulations governing the registration process and other data. Online services and the Unified State Register are available in Tajik and Russian.

536. The Tajik legislation does not provide for the possibility to create legal arrangements as well as no legal regulation of foreign legal arrangement. No trust service providers operating in Tajikistan were detected during the on-site visit.

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

537. Tajikistan has not conducted an assessment of vulnerability of legal persons to ML/TF, nor has it assessed the extent to which legal persons created in the country are, or may be, abused for ML/TF purposes.

538. At the same time, law enforcement officials demonstrated to some extent an understanding of the vulnerabilities of legal persons so-called “shell companies” and “front-companies”, and the potential misuse in committing economic crimes such (pseudo-entrepreneurship or fraud). Thus, the main body for identifying “front firms” is the Tax Committee, which, identifies such legal entities during tax inspections and sends materials to law enforcement agencies.

539. For 2016-2017 the tax committee sent more than 40 materials on the results of inspections to law enforcement agencies. In addition, assessors were provided with information on the liquidation of "front-firms" by a court decision. So in 2016, 160 business entities were liquidated, including 65 legal entities, in 2017, 86 entities, including 34 legal entities. Taking into account the total number of legal entities in the Republic of Tajikistan, in general, it could be said that the work carried out by law enforcement and tax authorities is effective.

540. It is also worth noting that the Tax Committee uses RBA in carrying out its inspections. The purpose of the RBA is to properly allocate human resources for conducting inspections of high-risk entities. It is noted that this approach is not used for AML/CFT purposes, however, it effectively allows to counteract tax crimes and identify “front-firms”.

541. Thus, since April 2016, the Tax Committee has developed and used new risk criteria. The capabilities of the Tax Committee's information system further allow the selection of high-risk subjects according to these criteria in an automated mode.

542. The tax authorities presented the team with several examples demonstrating the effectiveness of their information system, which is used to identify “front firms”. For example, in one case, a situation was demonstrated when a legal entity was created to conduct several large-value operations, and it was immediately identified by the system as a high-risk legal entity and, as a result, an inspection of the tax authorities was initiated. Following the inspection, violations were identified and materials were sent to law enforcement.

543. As noted in R.24, bearer shares may be issued in the Republic of Tajikistan. In the opinion of assessors, bearer shares represent a high risk, given the size of the bearer shares market, which is about \$ 90 million. At the same time, the Republic of Tajikistan assesses the ML/FT risks as low. In order to confirm its position, the Republic of Tajikistan submitted relevant legislative acts and measures to mitigate the risk associated with the issuance of bearer shares.

544. Thus, bearer shares were issued only by Rogun HPP with par values of approximately \$ 10, 50, 100, 500 in a total amount of approximately \$ 90 million. At the same time, shares with par value of more than 500 US dollars are registered.

545. In accordance with the procedure for issuing shares into circulation, approved by the Government decree, bearer shares can be acquired only by citizens and legal entities of the Republic of Tajikistan when providing relevant identification data. The requirements for identification of legal entities in this regulatory legal act are insufficient. However, operations to purchase bearer shares are carried out exclusively through banks determined by the Government of the Republic of Tajikistan, for which CDD requirements are established by the AML/CFT Law.

546. At the same time, all information on citizens and legal entities on transactions with bearer shares, as well as on the par value of the share being acquired and the number of the certificate, is entered in the register.

547. In addition, in the case of acquisition of a bearer share by another person and finding it in free

circulation, any resale requires making appropriate changes to the register.

548. Thus, the measures taken by the Republic of Tajikistan mitigate the risk of ML/FT in circulation of bearer shares.

549. In relation to NPOs, as noted in HP.1 and HP.10, an analysis was not conducted on their abuse for the purposes of TF.

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

550. Since Tajikistan has not conducted an assessment of ML/TF vulnerabilities inherent in the activities of legal persons, it is not possible to assess the relevance of measures undertaken by state authorities to minimize the vulnerability of legal persons to ML/TF.

551. At the same time, Tajikistan has taken some steps to ensure the transparency of legal persons and prevent their abuse for ML/TF purposes.

552. Under the law, all types of legal persons are subject to state registration and inclusion in the publicly accessible State Register of Legal Persons, maintained by the Tax Committee under the Government of the Republic of Tajikistan. When undergoing state registration or restructuring, applicants must provide documents containing all necessary basic information evidencing transparency of their structure.

553. In addition, to combat tax evasion by legal persons, the Tax Committee maintains a register of irresponsible taxpayers, established in 2016. Inclusion of a founder or director of a legal person in this register may warrant a refusal of state registration.

554. According to the statistics provided by the Tax Committee, the mechanism for refusing registration of legal persons is quite effective. For example, there were 7 cases of refusal in registration in the State Register of Legal Persons in 2015, 5 cases in 2016 and 12 in 2017. Among the main reasons for refusals are court decisions barring individuals from engaging in certain activities or holding certain positions and failure to provide a complete set of documents and information, including information about the foreign founders of a legal person. More detailed refusal statistics are shown in Table 34 below. It should be noted that in this case these are final refusals in the registration of legal entities.

Table 34

Refusals	2015	2016	2017
Court decisions barring individuals from engaging in certain activities or holding certain positions		3	2
Litigation between the founders of a legal person		1	1
Legal person's corporate name violates the provisions of the existing law		1	
Failure to provide a complete set of documents and information, including information about the foreign founders of a legal person	4		4
The taxpayer and (or) his authorized representative is the founder and (or) director of another legal person included in the register of irresponsible taxpayers	2		5
Non submission of data when updating information (information on founder, foreign founder, address etc.)	1		

<b>Total</b>	7	5	12
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555. In addition, Tajikistan submitted preliminary refusals to register legal entities. That is, in this case, we are talking about a situation where the applicant did not submit a full package of documents, either mistakes were made or procedural issues were violated. After finalizing the identified problems, the applicant could re-apply for registration. In 2014, there were 359 preliminary refusals of registration, in 2015 - 394, in 2016 - 391, 2017 - 420. Thus, assessors came to the conclusion that Tajikistan is taking measures to obtain reliable and relevant information on legal entities.

556. Creation of legal arrangements is not allowed under the Tajik law, but foreign legal arrangements are allowed to carry out their activities in Tajikistan. To enable their regulation in Tajikistan, legal arrangements are subject to the AML/CFT Law.

557. As previously noted, bearer shares pose a higher ML/TF risk due to the large size of the market. However, as was noted earlier, Tajikistan has taken steps to combat their misuse.

558. Overall, the measures described are effective in combating the abuse of legal persons for ML/TF purposes. Some measures will be described in more detail below.

### *Timely access to adequate, accurate and current basic/BO information on legal persons*

#### Basic information

559. As noted previously, all types of legal persons are legally required to undergo state registration and be added to the Unified State Register (<http://andoz.tj/ediniy-gosudarstvenniy-reestr.aspx>). Information contained in the register is publicly accessible and includes the employer identification number, the taxpayer identification number, the date of registration, the full name and other information on the legal person. At the same time, according to the assessors, the information available to the public can be of interest to either domestic or foreign competent authorities.

560. It is worth noting that the basic information on the legal person, its founders and managers is available to the domestic competent authorities on request to the Tax Committee, the deadline for the implementation of which is one business day. According to the competent authorities, if necessary, information from the register can be obtained within one to two hours. This means that even in the absence of direct access to the database of legal persons, competent authorities can, if necessary, obtain this information in a timely manner.

561. As noted in criterion 24.5, pursuant to article 26 of the Law "On State Registration of Legal Persons and Individual Entrepreneurs", changes to the basic information on the legal person constitute the grounds for making changes to the register. At the same time, the relevant changes should be entered into the register within 2 business days from the day of notification of the Tax Committee.

562. Meanwhile, legal persons are required to inform the Tax Committee within 5 days (par. 3 of article 27 of the Registration Law). Although the law provides for liability for non-compliance with the requirements of the state registration law, the prescribed fines are too small. As was noted at the assessors' meeting with the Tax Committee, it is difficult to ensure compliance by legal persons with the requirement for the provision of accurate and current information on legal persons.

#### Beneficial ownership information

563. Law enforcement agencies rely on the existing CDD regime maintained by FIs and DNFBPs to obtain information on beneficial owners. At the same time, law enforcement agencies may, if necessary, use the FMD's powers to obtain beneficial ownership information from FIs and DNFBPs, or petition a court for a direct access to it.

564. During their meetings with the assessors, law enforcement agencies noted the practice of requesting the information on beneficial ownership (including foreign ones) from the FMD, which

they find most effective. No statistics on submitted beneficial ownership requests are maintained by law enforcement agencies in Tajikistan (only general data on the information shared was provided). At the same time, to determine the FI in which the account of a legal entity is opened, the DFM uses access to the Tax Committee database which contains information on the accounts of legal entities. This approach provides timely access to beneficial ownership information.

565. That said, the existing CDD-based mechanism for obtaining beneficial ownership information is not without shortcomings.

566. As noted in IO.4, FIs and DNFBPs, by and large, understand and fulfil the requirements for identifying beneficial owners of legal persons. At this, FIs and DNFBPs do not experience problems in identifying beneficial owners of legal persons with a simple ownership structure.

567. During their interviews with the assessors, the assessors came to a conclusion that in case of establishing business relations with legal persons with a complex ownership structure identification of beneficial owners is difficult. Therefore, the shortcomings noted in IO.4 in identifying beneficial owners of legal persons impede the acquisition of beneficial ownership information.

#### *Timely access to adequate, accurate and current basic/BO information on legal arrangements*

568. Given the specifics of the country's legal system, legal arrangements, in the sense in which this term is used in the FATF Recommendations, cannot be established in Tajikistan, although potentially foreign trusts can function in Tajikistan.

569. Reporting entities may access the relevant information on the beneficial owners of foreign legal arrangements – when establishing business relationships and carrying out transactions involving foreign legal persons, reporting entities are required by law to comply with the established requirements for customer due diligence, including, inter alia, the obligation to verify the credentials and authenticity of individuals who have the right to dispose of funds or property (see analysis of R.25). However, competent authorities' timely access to this information will be limited for the same reasons as indicated in the previous subsection.

570. According to the FMD, Tajik financial institutions do not maintain business relationships with legal arrangements (more specifically, there are no trusts among bank customers). It also believes that it is highly unlikely that foreign legal persons will find Tajikistan's financial system appealing any time soon.

571. Assessors did not evaluate the timeliness of access to data on legal arrangements due to the latter's absence in Tajikistan.

#### *Effectiveness, proportionality and dissuasiveness of sanctions*

572. According to Tajikistan's Code of Administrative Offences (article 603.1), non-submission, late submission or submission to the Tax Committee of incorrect information on a legal person in connection with the latter's liquidation or reorganization or amendments to the Unified State Register of Legal Persons and Individual Entrepreneurs, in cases where the submission of such information is mandatory, is punishable by a fine in the amount of two to three calculation values (approx. USD 11 to 16 USD) for individuals, and twenty to thirty (approx. USD 110 to 160) for legal persons. Repeated offences committed during the same year are punishable by a fine in the amount of seven to ten calculation values for individuals (approx. USD 38 to 55 USD), fifteen to twenty for officials (approx. USD 80 to 110), thirty to thirty five for individual entrepreneurs (approx. USD 165 to 190), and fifty to one hundred for legal persons (approx. USD 275 to 550). It is obvious that the quoted size of penalties cannot be seen as proportionate or dissuasive.

573. Tajikistan presented the following statistics on administrative prosecution under Article 603.1. (Statistics presented in somoni).

Table 35

	Total		2013		2014		2015		2016		2017	
	No. admin. offences	Amount of fine										
Phys. persons officials	536	90 476			133	22 720	148	18 686	94	11 120	161	37 950
Ind. businessmen.	5 763	1660 251	241	73 690	959	279 070	1 257	317 294	1 116	300 410	2 190	689 787
Legal entities	191	90 430	87	38 580	43	24 220	44	18 200	11	5 080	6	4 350
<b>Total</b>	7 287	2621 487	439	219950	1 311	506 570	1594	491 380	1 416	489 150	2 527	914 437

574. As can be seen from the information provided, the tax authorities actively apply administrative sanctions to ensure that they receive reliable and up-to-date information on legal entities. As previously noted with regard to refusals of registration of legal entities, Tajikistan takes available measures to ensure the availability of reliable and up-to-date information in the registry.

575. According to the statistics presented, the average fine applied to legal entities varies from about USD 95 to USD 120, which is not proportionate and dissuasive. In addition, as noted by the Tax Committee during the on-site mission, it is difficult to ensure that there is reliable and up-to-date information in the registry. Thus, assessors came to the conclusion that the size of administrative sanctions established in the legislation of Tajikistan has little effect on the provision of reliable and relevant information in the registry.

576. Considering the presented statistics and data on refusals, sanctions applied, liquidated legal entities, the assessors concluded that the sanctions applied by Tajikistan are not proportionate and dissuasive.

577. The powers of supervisors allow them to apply a wide range of sanctions for failure to identify beneficial owners of FIs and DNFBPs, although they are not effective (see IO.3).

#### *Overall conclusions on Immediate Outcome 5*

**578. Tajikistan is rated as having a moderate level of effectiveness of Immediate Outcome 5.**

## CHAPTER 8. INTERNATIONAL COOPERATION

### *Key Findings and Recommended Actions*

#### **Key Findings**

1. The country's law enforcement agencies ensure full implementation of MLA requests. No difficulties or challenges related to international cooperation with Tajikistan were cited by the countries that commented on their experience.
2. The Tajik law enforcement agencies do not send many MLA requests to their foreign counterparts. According to the Prosecutor's Office, no MLA requests related to the detection and investigation of ML/TF were sent in 2015-2017. Nor were there any MLA requests related to freezing, seizure or confiscation of criminal proceeds.
3. The Tajik law enforcement agencies engage in different forms of international cooperation. Almost all Tajik agencies cited the conclusion of direct agreements with foreign law enforcement agencies, which are successfully being implemented in practice.
4. The use of FMD's capacity for international cooperation is common. The FMD maintains active engagement with its foreign counterparts both in receiving and sending requests. Based on the feedback from foreign counterparts, the assessment team concluded that the quality and speed of execution of foreign MLA requests meets the Egmont Group requirements.
5. Tajikistan's supervisors are able to exchange general intelligence and, in some cases, beneficial ownership information. However, not all agencies leverage these opportunities and create communication channels with foreign competent authorities.

#### **Recommended Actions**

1. Law enforcement authorities should more actively make use of international cooperation in investigating cases of ML/TF, as well as in transnational predicate crimes, in order to identify cases of ML in other countries, and send MLA requests in such cases.
2. It is necessary to regulate the order of prioritisation when providing MLA. Ensure the consistent maintenance of statistics on international cooperation by all competent authorities.
3. Revise the legal framework and form a mechanism for sharing confiscated assets with other countries. Make use of MLA for the purpose of confiscation, seizure of property and freezing of income

### ***Immediate Outcome 2 (International cooperation)***

#### *Providing constructive and timely mutual legal assistance and extradition*

579. Tajikistan provides mutual legal assistance (MLA) and extradites suspects in support of ML/TF investigations, prosecutions and other proceedings related to ML/TF predicate offences. The country's legal framework contains no provisions prohibiting the sharing of data with foreign competent authorities. In practice, MLA is provided in accordance with the terms of international treaties and agreements. MLA may also be provided based on the principles of reciprocity.

580. In the course of the on-site visit, various agencies provided examples of their international cooperation in conducting criminal investigations. In one case, for example, such cooperation resulted in the initiation of criminal proceedings, including under article 179.2 of the Criminal Code.

581. Among Tajikistan's main cooperation partners are its neighbours (Russia, Kazakhstan, Uzbekistan and Kyrgyzstan), particularly when it comes to MLA and extraditions. This situation is due to various factors, including the country's geographical locations, significant flows of labour migrants to the Russian Federation, etc.

582. Tajikistan's Prosecutor General's Office, by its order No. 5-83 dated May 24, 2016, approved the Guidance on the Provision of Legal Assistance in Criminal Proceedings, Extradition and Transfers of Convicted Persons , which sets out the deadlines for the implementation of international requests.

583. The deadline for the implementation of requests is 30 days, the time which, depending on complexity, can be extended to a maximum of two months. When dealing with particularly important international requests, the Prosecutor General's Office may assign the responsibility for their implementation to the staff of the International Relations Department and other relevant agencies. Tajikistan provided examples of prompt execution of incoming requests. According to the information provided, the priority status of the submitted requests is determined by the Prosecutor's Office based on the nature of the requested assistance.

Case study 11

On August 15, 2017, the Prosecutor's Office received a request from the Russian Investigative Committee in connection with criminal proceedings initiated under par. 3 of art. 290 (bribery) of the Criminal Code. Given the priority status of the issues listed in the request, it was executed by the employees of the International Relations Department in full, with the requested material sent to the requesting party on August 24, 2017. As part of the MLA request execution process, investigators conducted interviews with suspects, inquiries, document seizures and other investigative actions.

Case study 12

On March 14, 2017, the Prosecutor's Office received an extradition request from the General Prosecutor's Office of the Republic of Uzbekistan for Uzbek national Mr. S, who was wanted internationally on charges falling under art. 216 (illegal activities related to the establishment of public associations or religious organizations) of the Criminal Code. On April 19, 2017, following a review of supporting material, the Prosecutor General's Office sanctioned the extradition of Mr S to Uzbekistan for criminal prosecution.

584. The country's Prosecutor's Office is the central designated authority responsible for the provision of all types of mutual legal assistance. The said agency uses an electronic registration and accounting system to maintain statistics on incoming and outgoing international investigative requests for legal assistance and extradition of persons from the international wanted list. The system records and monitors the timeliness of execution of all international incoming and outgoing requests in real time. The information about the incoming extradition and transfer requests is entered into a dedicated statistical reporting Form P, filled in semi-annually.

585. The Prosecutor's Office provided the following statistics on the implementation of international investigative requests for legal assistance in criminal matters for 2015-2017. (Table 36).

Table 36

Indicator	2015	2016	2017	Total
Received MLA requests	183	174	92	449
Of which implemented	157	150	74	381

586. According to the country's comments, all MLA requests were executed. The majority of incoming requests related to investigations into the illegal acquisition, storage and sale of narcotic drugs, fraud, theft and bodily harm. Among the requested information were predominantly documents describing the personalities of the accused or suspects, particularly the residence certificate, family composition statement, criminal record, proof of border crossings made at a particular time, copies of the passport, certificate of character – as well as requests to take witness

statements.

Table 37

Indicator	2015	2016	2017	Total
Received extradition requests	10	4	5	19
Of which implemented	3	2	5	10

587. According to Tajikistan, none of the requests shown in Tables 36 to 41 was linked to the detection or investigation of ML/TF.

588. A total of 12 persons from the international wanted list have been extradited by Tajikistan in response to extradition requests, with the remaining 7 international fugitives having dual nationality, including of the Republic of Tajikistan. In response to these requests, the Tajik authorities sent counter requests for case material needed to pursue investigations in the territory of the Republic of Tajikistan.

589. According to SCNS, deportation may be used as an alternative to extradition, although no examples or relevant statistics confirming the use of this practice were provided (nevertheless, the country provided many examples of Tajik nationals committing TF crimes overseas).

590. The countries that commented on their experience of international cooperation with Tajikistan did not report any problems or challenges in this field.

591. The Tajik authorities observe the confidentiality of MLA requests, as well as taking all steps provided by the Criminal Procedure Code to protect information. In particular, investigations, inspections, searches, seizures, examinations and other procedural actions provided for in the CPC are carried out in accordance with its international treaties, and in the manner stipulated by these treaties and the Criminal Procedure Code.

#### *Providing timely MLA*

592. When it comes to the provision of MLA, Tajikistan is not an active participant in international cooperation (Table 38). Despite the increase in the number of MLA requests, their total number remains relatively small.

Table 38

Indicator	2015	2016	2017	Total
Sent MLA requests	20	21	24	65
Of which implemented	12	12	8	32

593. The largest number of such requests were sent by Tajikistan to Russia, Kazakhstan, Uzbekistan and Kyrgyzstan.

594. Since ML/TF investigations and prosecutions are rare in Tajikistan, the main focus of MLA requests tends to be on predicate offences. Among the requested information were predominantly documents describing the personalities of the accused or suspects – in particular, the residence certificate, criminal record, and history of drug abuse or psychological disorders – as well as requests to take witness statements or provide copies of identify documents.

595. According to the Prosecutor's Office, no MLA requests related to the detection and investigation of ML/TF were sent in 2015-2017. Nor were there any MLA requests related to freezing, seizure or confiscation of criminal proceeds. According to law enforcement officials, ML is carried out in Tajikistan through the acquisition of movable and immovable property, which partly explains the lack of the relevant MLA requests. No cases of refusal by foreign countries to implement international investigative requests sent by Tajikistan have been recorded. At the same time, according to the assessors, in view of the situation with the detection and investigation of ML and TF (see IO.7 and IO.9), it makes sense to pay more attention to MLA requests related to TF, as well

as to the detection and seizure of property obtained by criminal means.

596. Among the problems cited by law enforcement agencies was the time it takes for some foreign agencies to execute Tajikistan's requests. No information on measures designed to speed up the request execution process, e.g., submission of repeat requests, has been provided by Tajikistan.

597. Tajikistan's extradition request statistics are given in Table 39.

Table 39

Indicator	2015	2016	2017	Total
Sent extradition requests	103	163	166	432
Of which implemented	54	66	102	222

598. The majority of extradition requests have been sent to Russia, Belarus, Kazakhstan, Uzbekistan, Ukraine, Moldova, Kyrgyzstan and Turkmenistan, with some going to the United Arab Emirates, Austria, Poland, Saudi Arabia and other countries.

599. No international requests for extradition of persons wanted for the commission of ML/TF offences were sent by the Prosecutor General's Office in 2015-2017.

600. There were cases in the period under review when other countries refused Tajikistan's extradition requests. Among the reasons for refusals were the absence of the offence for which extradition was requested from the requested country's list of indictable offences, as well as the acquisition by such person of citizenship, refugee status or temporary asylum.

*Seeking other forms of international cooperation for AML/CFT purposes*

601. The Tajik law enforcement agencies engage in other forms of international cooperation, with most agencies pointing to the conclusion of direct agreements with their foreign counterparts, a practice whose existence has been confirmed by the assessors.

602. The country's law enforcement bodies lack the experience of engaging in international cooperation in matters related to ML and TF. At the same time, law enforcement agencies utilize the opportunities of information sharing with foreign competent authorities to investigate predicate offences.

603. In particular, the DCA concluded more than 20 protocols, agreements and memoranda on combating illicit drug trafficking with foreign law enforcement agencies from such countries as Russia, Kazakhstan, Ukraine, China, Kyrgyzstan, Afghanistan and the USA. The DCA has provided the following cooperation statistics (Table 40).

Table 40

Description	2015	2016	2017
Number of MLA requests implemented in accordance with the Agreement between Tajikistan's DCA and Russia's Interior Ministry on Combating Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors dated October 16, 2004 (Drug trafficking requests vs. total number of received requests)	92	121	200

604. The Interior Ministry entered into agreements with the law enforcement agencies of Afghanistan, Kyrgyzstan, Russia and other countries. At a meeting with the assessors, representatives of the ministry said that cooperation is mainly carried out in three areas: The CIS Council of Ministers of Internal Affairs, the CIS Bureau for Coordinating the Fight against Organized Crime and the Joint Collegium of the Interior Ministry.

605. The outcomes of cooperation between Tajikistan's Interior Ministry and its CIS counterparts are given in the table below (Table 41). The robust interagency cooperation within the CIS is due to the common problems related to the movement of criminals within the specified region and other

circumstances.

Table 41

	2015	2016	2017
Total criminals detained in the CIS that are wanted by Tajikistan	79	143	148
Extradition requests granted	58	65	98
Deported under guard to the Justice Ministry's pre-trial detention facility No. 1	58	65	98
Investigation teams travelled to CIS countries	25	27	47
Total criminals detained in Tajikistan that are wanted by CIS countries	134	206	207
Deported under guard to CIS countries	-	-	-
Investigation teams arrived from CIS countries	3	-	4

606. SCNS has concluded 10 interagency agreements with foreign intelligence agencies. In addition, cooperation in combating crime, terrorism, extremism and their financing is carried out between SCNS and the CIS Council of Heads of Security and Special Task Forces (CSF), CIS ATC and RATS SCO.

607. According to the representatives of SCNS, the Interior Ministry, the DCA and other law enforcement agencies, they use liaison officers to speed up the delivery of important messages. Tajikistan provided examples of effective work carried out by liaison officers in cooperation with customs authorities.

608. As part of its operations, the DCA maintains a team of its representatives at several foreign anti-drug trafficking agencies, including in Russia (Interior Ministry), Uzbekistan, Kazakhstan, Kyrgyzstan and Afghanistan. As part of their responsibilities, DCA representatives facilitate operational interagency cooperation between the DCA and foreign government agencies, including in promoting information sharing.

609. All Tajik agencies cited the use of the FMD's resources to promote international cooperation.

610. The FMD is a member of the Egmont Group since July 2012. The FMD has concluded 14 memoranda on cooperation in combating money laundering and terrorist financing with foreign financial intelligence units. In addition, two similar agreements (with the Finance Ministry of Turkmenistan and Kazakhstan) were concluded by Tajikistan's National Bank. The Tajik law does not require countries to enter into a bilateral agreement to engage in information sharing, hence the absence of a memorandum on cooperation between the parties does not impede the sharing of information between them.

611. The FMD actively uses its authority in the area of international cooperation to collect operational intelligence needed for a full picture of the identified suspicious transactions. According to Tajikistan, information sharing is conducted in relation to both ML/TF and predicate offences.

612. The FMD's statistics on the exchange of information with foreign FIUs are given in Table 42. The sizable increase in the intensity of information sharing recorded in 2017 was due to the AML/CFT efforts undertaken by the FMD and law enforcement agencies. However, these statistics alone are not enough to evaluate the effectiveness of international cooperation.

Table 42

	2015			2016			2017		
	Total requests	Total replies	Total refusals	Total requests	Total replies	Total refusals	Total requests	Total replies	Total refusals
Outgoing	21	21	0	37	37	0	124	122	2

requests									
Incoming requests	12	12	0	27	27	0	54	54	0

613. Since 2016, the FMD has sent 5 spontaneous requests to foreign FIUs (2 in 2016 and 3 in 2017), all of which generated feedback.

614. The average time needed for the FMD to prepare and receive a reply to/from a foreign FIU is one month.

615. As shown above, Tajikistan maintains active engagement with its foreign counterparts both in receiving and sending requests. Based on the feedback from foreign counterparts, the assessment team concluded that the quality and speed of execution of foreign MLA requests meets the Egmont Group requirements.

616. To strengthen security of information sharing, the FMD maintains close contact with the FIUs of countries that are members of the Egmont Group, using the Egmont's secure network. Information sharing with the FIUs outside the Egmont Group is carried out using other communication channels.

617. The AML/CFT Law guarantees the confidentiality of information received from foreign competent authorities. Tajikistan's designated authorities take all steps necessary, including security measures, to preclude other agencies and authorities from accessing the intelligence shared with them by a foreign competent authority without its prior consent. The shared intelligence can be passed on to the relevant law enforcement agencies for financial intelligence purposes, subject to the prior written consent of the foreign FIU that provided it. The use by law enforcement agencies of intelligence and documents provided within the framework international cooperation in preliminary investigations, as well as in criminal, administrative and civil proceedings, must be sanctioned by the FMD. This procedure is set out in the guidance governing cooperation between the FMD and law enforcement agencies.

618. Tajikistan's supervisors are able to exchange supervisory intelligence, basic information and, in some cases, beneficial ownership information. However, not all agencies leverage these opportunities and create communication channels with foreign competent authorities. At the same time, Tajikistan's supervisors do not engage, or seek to engage, in other forms of international cooperation for the purpose of intelligence sharing.

619. For example, the NB has entered into 7 agreements and memoranda with the central banks of Russia, Kazakhstan, Turkey, Afghanistan, Iran, China Banking Supervisory Commission and Labuan's Financial Services Authority.

620. Nevertheless, the statistics on the exchange of supervisory information between the NB and the relevant oversight bodies of other countries indicate a low level of international cooperation. According to Tajikistan, the intensity of international cooperation corresponds to the needs of supervisory authorities, and is due to the small number of foreign nationals in the structure of governing bodies of reporting entities.

According to the NB's Department for Banking Supervision:

In 2015 – 1 request received from the Iranian Central Bank; and 1 request sent to Malaysia's financial supervision authority for information on financial statements submitted by commercial banks;

In 2016 – 1 request received from the Kyrgyz National Bank regarding the business reputation of a candidate for a senior position;

In 2017 – 1 request received from the Kazakh National Bank regarding the business reputation of a candidate for a senior position.

621. According to the information provided by other Tajik supervisors, they did not share intelligence with their foreign counterparts.

*Exchange of basic information and information on beneficial owners of legal persons and arrangements*

622. Statistics on BO information sharing with foreign FIUs are given in Table 43. Due to the fact that most of the work in this area has been carried out in the last two years, it is difficult to evaluate its effectiveness without additional data. The insignificant number of requests may be due to the fact that, according to the majority of Tajikistan's law enforcement agencies, predicate offences and related money laundering tend to take place inside the country, hence there is very little need for local authorities to request such information from their foreign counterparts.

Table 43

Quantity per year	2015	2016	2017
Outgoing	0	0	8
Incoming	1	9	1

623. **Tajikistan is rated as having a substantial level of effectiveness for Immediate Outcome 2.**

## ***TECHNICAL COMPLIANCE ANNEX***

1. This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations 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. It should be read in conjunction with the Mutual Evaluation Report.

2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous EAG Mutual Evaluation in 2008 available at the following link: <https://eurasiangroup.org/news/tajikistan.pdf>.

### ***Recommendation 1 – Assessing risks and applying a Risk-Based Approach***

3. Recommendation 1 was added to the FATF Recommendations in 2012, hence it was not assessed during the 1st round of EAG mutual evaluations.

4. **Criterion 1.1** Tajikistan identified and assessed its ML/TF risks by conducting a national ML/TF risk assessment. The NRA, conducted from April 2015 to September 2017, was approved by the IC on September, 18, 2017.

5. Tajikistan started the process of conducting the National ML/TF risk assessment in April 2015 and finished in September 2017. The Interagency Committee was defined as the responsible body in coordinating the work on risk assessment. The Committee consists of all law enforcement, supervisory and other state authorities engaged in the AML/CFT system. Besides, the NRA process involved representatives of the private sector and the NPOs whose role was to submit responses to questionnaires and participate in seminars during the process.

6. To conduct the work itself on the ML/TF risk assessment the IC established the Working Group on preparing for and conducting the NRA which included representatives of all ministries and agencies participating in the IC. The role of each ministry and agency in the process was to submit information and fill-in the questionnaire. Sectoral assessments were not conducted by ministries and agencies.

7. The public version of the NRA is placed on the website of the Financial Monitoring Department in the website of the National Bank of Tajikistan ([http://nbt.tj/files/monitoring/otchet/krat\\_otchet.pdf](http://nbt.tj/files/monitoring/otchet/krat_otchet.pdf)). The full version of the report is for internal use only by state authorities, which received it through secure communication channels.

8. The purpose of the NRA was to identify high ML/TF risks by revealing the key threats, vulnerabilities and consequences necessitating the adoption of urgent ML/TF risk mitigation and management measures.

9. **Criterion 1.2** Resolution No. 443 dated October 4, 2013, designated the permanent Interagency as an authority responsible for coordinating actions to assess risks. See Chapter 1 of this report for more information about the IC's objectives and participants. The IC has established the Working Group on the Preparation and Conduct of the NRA.

10. **Criterion 1.3** The NRA of the Republic of Tajikistan will be updated every 5 years.

11. **Criterion 1.4** The NRA is conducted by a working group made up of the representatives of all

Tajikistan's ministries and departments involved in AML/CFT efforts. Therefore, all relevant competent authorities are aware of the NRA and its outcomes.

12. Pursuant to IC decision dated September 18, 2017, the full version of the NRA report will be made available only for internal use by state authorities, which will receive it through secure communication channels. The NRA summary is accessible via Tajikistan's National Bank website ([http://nbt.tj/files/monitoring/otchet/krat\\_otchet.pdf](http://nbt.tj/files/monitoring/otchet/krat_otchet.pdf)).

13. NRA findings have been communicated to financial institutions and DNFBPs at workshops dedicated to NRA outcomes and findings.

14. **Criterion 1.5** The National AML/CFT/PF Concept, approved by Presidential Decree dated March 5, 2018, was drafted by the FMD based on the NRA findings at the request of the IC.

15. The National Concept sets out the following strategic goals and directions for the development of the national AML/CFT system: develop and improve the legal framework; strengthen international cooperation in matters related to confiscation; establish an assets recovery centre; provide harsher punishment for terrorist financing, corruption, fraud, and trafficking in weapons, nuclear and chemical materials; improve the methods of studying and identifying FI and DNFBP customers based on the level of risk; improve the effectiveness of supervisory activities, in particular by applying a risk-based approach; improve the approaches to detecting, disclosing and investigating crimes; strengthen cooperation between the FMD and law enforcement agencies, etc.

16. The Concept does not call for the allocation of additional human resource to meet the set objectives, in practice, however, the authorities are provided with additional resources.

17. **Criterion 1.6** Tajikistan monitors compliance of FIs and DNFBPs with all FATF Recommendations.

18. **Criterion 1.7** The Tajik law requires FIs and DNFBPs to apply enhanced CDD measures against PEPs (article 10 of the AML/CFT Law) and when carrying non-face-to-face transactions for their clients (article 7, sub-para 8 of par. 1). In addition, pursuant to sub-para 3 of par. 14 of NB's Guidance No. 200, FIs and DNFBPs shall apply enhanced CDD measures in the event of a higher ML/TF risk.

19. At the same time, there is no requirement for FIs and DNFBPs to apply enhanced CDD measures to manage and mitigate ML/TF risks identified in the NRA, or to incorporate the risk information into their risk assessments.

20. **Criterion 1.8** The Tajik law does not allow the application of simplified CDD measures. However, where a low risk has been identified, the NB's Guidance No. 200, par. 36, allows the application of a special identification procedure for clients and beneficial owners carrying certain types of transactions.

21. For example, pursuant to paragraph 40 of the NB's Guidance No. 200, when carrying out cash transactions with the help of special software, electronic cashiers, ATMs and other software and hardware equipment (except for payment card transactions), the identification of the client and beneficial owner is carried out if the amount of the transaction is equal to or exceeds 5,000 (five thousand) somoni (approx. USD 570), or if the funds are transferred to the account opened with a non-resident bank.

22. In addition, pursuant to paragraph 42 of the NB's Guidance No. 200, no identification of the client or beneficial owner is required in the cases related to the following:
- (a) settlement transactions with funds from the state budget (including budgets of local authorities and various components thereof) or other payments made in accordance with applicable law that constitute part of the proceeds of the state budget;
  - (b) alimony payments.
23. At the same time, pursuant to paragraph 43 of the NB's Guidance No. 200, no due diligence shall be carried out in respect of government authorities.
24. The described simplified CDD measures are not fully consistent with the NRA findings. For example, despite the high corruption risk faced by Tajikistan, CDD is not conducted in respect of government authorities.
25. **Criterion 1.9** Supervisors in Tajikistan have the necessary powers to monitor compliance of FIs and DNFBPs with AML/CFT requirements, including the application by them of ML/TF risk management and mitigation measures (article 7, sub-para 8 of par. 1, of the AML/CFT Law).
26. **Criterion 1.10** FIs and DNFBPs, pursuant to article 7, sub-para 6 of par. 1, of the AML/CFT Law, are required to take steps to identify, assess, manage and mitigate their ML/TF risks (for customers, countries or geographic areas; and products, services, transactions or delivery channels). Therefore, FIs and DNFBPs do not identify or understand ML/TF risks for products, services, transactions or delivery channels.
27. Nor are they required to:
- (a) document their risk assessments;
  - (b) consider all the relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to be applied;
  - (c) keep these assessments up to date;
  - (d) have appropriate mechanisms to provide risk assessment information to competent authorities and SRBs
28. **Criterion 1.11** FIs and DNFBPs in Tajikistan are required to have policies, controls and procedures to enable them to manage and mitigate the risks that have been identified.
29. Thus, pursuant to par. 2 of article 7 of the AML/CFT Law, FIs and DNFBPs are required to develop internal controls with account for supervisors' recommendations and in consultation therewith. Such internal controls should include an internal audit procedure needed to evaluate the effectiveness of the country's AML/CFT system.
30. In addition, pursuant to article 7, sub-para 7 of par.2, of the AML/CFT Law, FIs and DNFBPs are required to take appropriate measures to manage and mitigate the identified ML/TF risks.
31. With respect to the application of enhanced measures where higher ML/TF risks have been identified, the Tajik law requires the application of enhanced CDD measures in respect of certain clients and types of interaction, as well as where higher ML/TF risks have been identified.
32. **Criterion 1.12** As noted in criterion 1.8, although the country's law does not envisage the

application of simplified CDD measures, it allows the application of a special identification procedure for clients and beneficial owners carrying certain types of transactions. Although this approach is not based on the risk assessment findings, its application is limited in time and can be used only in exceptional cases.

### *Weighting and conclusions*

33. Tajikistan has put in place a robust legal framework for managing and mitigating ML/TF risks both by state authorities and the private sector. That said, a number of requirements applicable to FIs and DNFBPs related to their assessment of ML/TF risks are missing. In addition, Tajikistan has yet to take steps to allocate human resources and to prevent or mitigate ML/TF risks.

34. **Recommendation 1 is rated LC**

### *Recommendation 2 - National Cooperation and Coordination*

35. In its MER of 2008, Tajikistan was rated NC with Recommendation 31. The main deficiencies related to the absence of (i) a legal requirement for state authorities to exchange information or coordinate their activities in resolving operational issues, and (ii) the mechanisms for holding consultations between the competent authorities and reporting entities.

36. **Criterion 2.1** Presidential Decree dated March 5, 2018 approval the National AML/CFT/PWMD Concept 2018-2025. According to this decree, the activities envisioned by the National Concept should be reflected in the plans of the ministries and departments. Meanwhile, the FMD is required to monitor the implementation of the National Concept once every two years. Therefore, the Presidential Decree calls not only for the integration of AML/CFT strategies into interdepartmental plans, but also for their monitoring and evaluation of the effectiveness of the measures taken.

37. **Criterion 2.2** Pursuant to article 14.1 of the AML/CFT Law, the permanent Interagency Committee (IC) is established with the goal of coordinating the implementation by the relevant government agencies of the AML/CFT standards. The IC composition and regulations were approved by Government Decree No. 443 dated October 4, 2013.

38. The IC is responsible for the submission of proposals for the development and implementation of the consolidated AML/CFT/PF state policy, as well as for the development and approval of comprehensive annual AML/CFT / PF work plans.

39. **Criterion 2.3** As noted in criterion 2.2, Tajikistan has established the IC, made up of representatives of all state ministries and departments involved in AML/CFT efforts, and the Association of Tajik Banks, to promote coordination and cooperation at the domestic level in developing and implementing AML/CFT strategies and measures.

40. With a view to strengthening cooperation and coordination between the competent authorities, the FMD has entered into a number of interagency agreements with other government agencies. In addition, the FMD, jointly with law enforcement agencies, has drafted and approved the Guidance on Promoting AML/CFT/PF Cooperation and Information Sharing between the FMD and Law Enforcement Agencies.

41. **Criterion 2.4** The mechanisms set out in criterion 2.3 are also applicable to proliferation

financing with regard to cooperation and coordination at both the domestic level in developing and implementing strategies and measures and at the operational level.

### *Weighting and conclusions*

42. **Recommendation 2 is rated C.**

### *Recommendation 3 - Money laundering offence*

43. In its MER of 2008, Tajikistan was rated non-compliant with the former Recommendation 1. The main deficiencies included the discrepancies in the definition of ML offences between the Tajik law and the Vienna and Palermo Conventions. In addition, the Amnesty Law prohibits criminal prosecution of Tajik legal persons and individuals for offences related to the laundering of funds or other property.

44. **Criterion 3.1** Article 262 of the Criminal Code criminalizes money laundering on the basis of article 3 (1) (b) and (c) of the Vienna Convention and article 6 (1) of the Palermo Convention, setting out the ML methods and indicators provided for in the conventions.

45. **Criterion 3.2** According to the Criminal Code of the Republic of Tajikistan, all offences designated by the FATF Recommendations are classified as predicate.

46. **Criterion 3.3** Predicate offences for ML include all types of offences listed in the country's Criminal Code.

47. **Criterion 3.4** Pursuant to par. 3 of the note to article 262 of the Criminal Code of the Republic of Tajikistan, the proceeds of crime refers to any property acquired or received, directly or indirectly, as a result of a crime.

48. **Criterion 3.5** Pursuant to par. 8 of the note to article 262 of the Criminal Code of the Republic of Tajikistan, criminal liability under this article is incurred regardless of whether the person had been convicted of a predicate offence as a result of which criminal proceeds were generated.

49. **Criterion 3.6** Tajikistan monitors compliance with the FATF requirements related to predicate offences committed abroad (article 15 of the Criminal Code of the Republic of Tajikistan provides for liability for offences committed abroad).

50. **Criterion 3.7** Pursuant to article 262 of the Criminal Code, the offence of money laundering may apply to persons who committed a predicate offence, since criminal liability extends to persons engaged in self-laundering (note 8 to article 262 of the Criminal Code).

51. **Criterion 3.8** Pursuant to article 85 of the Criminal Procedure Code, when conducting an inquiry into a criminal offence, a preliminary investigation or trial proceedings, the prosecution must prove the event of crime. The elements of the event of crime include the intent and purpose. In this regard, the investigator, the prosecutor or the judge must always outline these circumstances during the investigation or court hearing.

52. Tajikistan's Criminal Code defines the intent to commit a crime as preparation for a crime. Pursuant to article 32 of the Criminal Code, finding, making and adapting the means and instrumentalities, finding of accessories, collusion to commit a crime, or creation of other conditions with the intent to commit a crime, if it failed to be completed owing to circumstances beyond a person's

control, shall be deemed to be preparation for a crime. In this case, criminal liability is incurred on for the preparation to commit a serious or particularly serious crime.

53. Since money laundering is classified as a particularly serious crime, preparation to commit this crime constitutes a criminal offence, and in investigating such cases the intent can be inferred from objective factual circumstances.

54. **Criterion 3.9** Article 262 of the Criminal Code provides for proportionate and dissuasive sanctions against persons convicted of ML, ranging from a fine to 8 year of imprisonment, including the forfeiture of property.

55. **Criterion 3.10** Despite the existence of various types of liability, the Tajik law does not provide for criminal liability of legal persons. Criminal liability does not apply to legal persons, since, in accordance with the fundamental principles of the Tajik law, only individuals can be held criminally liable. Chapter 2 of the Tajik Constitution deals with the rights, freedoms and the main responsibilities of a person and a citizen. Article 20 of the said chapter states that no one shall be considered guilty of a crime before the entry into force of the court verdict.

56. Tajikistan provides for civil and administrative liability of legal persons for ML/TF. Administrative liability is provided by article 527.1. of the Code of Administrative Offences "Failure to comply with Tajikistan's Law on Combating Money Laundering and Terrorist Financing". The sanction involves imposition of fine in amount of fifty up to one hundred calculation values on executive officers, one hundred up to two hundred calculation values on individual entrepreneurs, and two hundred up to five hundred calculation values on legal entities, along with confiscation of the subject of administrative offence (fines for legal persons are from 1100 to 2800 US dollars).

57. Legal persons are also subject to civil liability (pursuant to article 62 of the Civil Code, a court, by its decision, may liquidate a legal person for gross violations of the law or engaging in activities prohibited by law). The aforementioned measures cannot be fully considered proportionate and dissuasive.

58. **Criterion 3.11** Pursuant to article 262 of the Criminal Code, ancillary offences to the offence of money laundering may include conspiracy to commit, or commission of, a crime by a criminal group, criminal organization or criminal association. An attempt (preparation) to commit an offence, including ML, is covered by article 32 of the Criminal Code. Assistance and incitement, as well as assistance and counselling and other types of complicity, are covered by articles 36, 37, 39, and 187 of the Criminal Code.

### *Weighting and conclusions*

59. Tajikistan largely complies with the requirements of recommendation with respect to ML criminalisation. At the same time sanctions for legal persons are not fully proportionate and dissuasive.

60. **Recommendation 3 is rated LC.**

#### ***Recommendation 4 - Confiscation and provisional measures***

61. In its MER of 2008, Tajikistan was rated partially compliant with the former Recommendation 4. Among the main deficiencies affecting compliance with this recommendation were: Tajikistan's law does not provide for the confiscation of the following: property that is the proceeds of, or intended for use in the commission of ML, TF and other offences; property of correspondent value, as required by the Palermo and Vienna Conventions; property acquired, directly or indirectly, with the proceeds of crime or from offences connected with ML and TF. In addition, confiscation of property could not be used as additional punishment for crimes covered by article 262, par. 1, of the Criminal Code. It could not be used in relation to crimes related to TF. Since the 2008 MER, substantial amendments and modifications pertaining to confiscation of property (assets) have been introduced into the legislation of the Republic of Tajikistan in general, and into the Criminal Code in particular, that eliminated, to a large extent, the identified deficiencies.

62. **Criterion 4.1** Since the MER of 2008, Tajikistan has made significant changes to its law as regards confiscation of property.

a) Article 57 of the Criminal Code does not include a definition of the term 'property laundered'.

However, pursuant to article 57, sub-para 'a' of par. 1, property, including money, values and other assets obtained as a result of the commission of a crime covered by article 262 of the Criminal Code (Money laundering), as well as any income therefrom, is subject to confiscation, i.e. mandatory, uncompensated appropriation by the State of the property on the basis of a conviction. According to the note to the said article, any property acquired or obtained, directly or indirectly, as a result of the commission of a crime constitutes the proceeds of crime, in relation to article 262 of the Criminal Code. Article 57(3) of the RT Criminal Code provides for confiscation of property that was transferred by a guilty person to other person (organization), if the person who accepted such property knew or should have known that it was obtained through crime.

b) According to the amendments made to article 57 of the Criminal Code after 2008, money, values and other assets obtained as a result of the commission of a ML crime, as well as any income derived therefrom (article 57, sub-para 'a' of par. 1, of the Criminal Code), are subject to confiscation.

In addition, article 57, sub-para 'b' of par. 1, of the Criminal Code, allows the confiscation of money, valuables and other assets into which the property obtained as a result of commission of at least one of the offences provided for in the articles referred to in paragraph 'a' hereof (i.e., article 262 of the Criminal Code), as well as any income derived therefrom, have been, in part or in full, transformed or converted. Pursuant to par. 7 of the Note to article 262 of the Criminal Code, money, securities and other property obtained by criminal means, as well as any income or other benefits derived therefrom, are subject to confiscation in accordance with the procedure set out in article 262 of the Criminal Code.

In addition to the above, amendments made to article 57 of the Criminal Code allow for the confiscation of the means and (or) instrumentalities of a crime belonging to the offender. The above mentioned provisions of the Criminal Code correlate with the provisions of article 78 of the Criminal Procedure Code (Material evidence). Pursuant to paragraph 3 of the said article:

- instrumentalities of the crime belonging to the accused or defendant shall be confiscated or transferred to the appropriate institution, or destroyed;
- the proceeds of crime, regardless whether laundered or not, shall, subject to a court order, be forfeited to the State.

c) Liability for terrorist financing is provided for by article 179.2 of the Criminal Code.

Article 57, sub-para 'a' of par. 1, of the Criminal Code provides for the confiscation of money, values and other assets obtained as a result of commission of a crime covered by article 179.2 of the Criminal Code, as well as any income therefrom.

Article 57, sub-para 'c' of par. 1, of the Criminal Code separately provides for the possibility of confiscating money, valuables and other assets used or intended for the financing of terrorism, an organized group, an illegal armed group or a criminal association (criminal organization).

d) Pursuant to par. 4 of article 57 of the Criminal Code, where it is not possible to confiscate a certain item included in the property referred to in paragraphs 1 through 3 of this article at the time of issuance of the court order to this effect due to its use, sale, or for any other reason, the court shall order the confiscation of a sum of money that corresponds to the value of this item.

### 63. Criterion 4.2

a) The powers of the Tajik law enforcement agencies allow them to identify, trace and evaluate property that is subject to confiscation, including before the criminal proceedings are initiated.

Pursuant to article 3 of the Law "On Investigative Activities", determining the name and location of property subject to confiscation by a court is one of the objectives of investigative activities. The said Law provides for a wide range of investigative measures that may be used by law enforcement agencies to identify the property subject to confiscation.

Notably, the procedure for undertaking investigative activities does not include a mechanism for obtaining information constituting bank secrecy. Pursuant to article 48 of the Law "On Banking", the term 'bank secrecy' applies to the information about the following: bank accounts, their holders, funds deposited therein and transactions carried out by clients on this account; money transfers made by individuals without opening an account and their originators (beneficiaries); and money and other values of the client stored in a credit institution.

This information can be provided only to the investigative authorities pursuing criminal proceedings against the clients of a credit institutions on the basis of a ruling (determination) of the court (judge) made in accordance with the Criminal Procedure Code.

These restrictions limit the ability of investigative authorities to identify the property subject to confiscation held by persons suspected of committing serious and particularly serious crimes (corruption, the creation of an organized group, a criminal association, etc.)

Investigators pursuing criminal proceeding into offences covered by articles 179.2 and 262 of the Criminal Procedure Code have access to a whole range of instruments that can be used to identify, trace and evaluate property subject to confiscation.

b) To secure a civil claim and possible confiscation in the Republic of Tajikistan, the seizure of property is applied without prior notice, to prevent the sale, transfer or alienation of property

subject to confiscation.

Pursuant to paragraph 3 of article 116 of the Criminal Procedure Code, freezing of property means the notification of the property owner or holder of the ban on the property disposal and, where necessary, use, or its confiscation and transfer for safe-keeping. Transactions with the seized funds, deposits, bank accounts and securities shall cease (par. 8 of the said article).

- c) In order to prevent the taking of any unlawful actions against the frozen property, such property may be seized or deposited with a representative of a local self-government body, a housing management organization, the owner of such property or any another person, who must be informed of the liability for the safety of the property against signature (par. 7 of article 116 of the Criminal Procedure Code).
- d) A range of measures for ensuring the subsequent confiscation of property is quite wide (search, seizure, etc.). They are provided for by the Criminal Procedure Code and the Law "On Investigative Activities".

64. **Criterion 4.3** The Tajik law includes provisions that provide protection for the rights of *bona fide* third parties in matters related to property confiscation.

65. Pursuant to par. 3 of article 57 of the Criminal Code, the property referred to in paragraphs 1 and 2 of this article that has been transferred by the offender to another person (organization) shall be subject to confiscation if the person who received the property knew, or should have known, that it was obtained as a result of the commission of a crime.

66. Chapter 14 of the Criminal Procedure Code establishes a mechanism that allows the participants in criminal proceedings and other persons whose interests are violated by actions (inaction) and decisions of the inquirer, investigator, prosecutor or judge to appeal against, *inter alia*, the decisions to freeze the property as well as the court ruling authorizing such freezing.

67. In addition, pursuant to par. 2 of article 199 of the Code of Enforcement of Criminal Punishment, when enforcing a court order which provides for the confiscation of property as an additional punishment, all disputes concerning the property subject to confiscation shall be resolved through civil proceedings.

68. In this case, the lodging of a claim does not, as a rule, suspend the enforcement of the court order (article 121 of the Criminal Procedure Code), which may affect the timing of the restoration of property rights. In addition, in the context of civil proceedings, a person whose interests have been violated is compelled to defend his rights himself.

69. **Criterion 4.4** The procedure for storing the frozen property which may subsequently be subject to confiscation at the investigation stage is determined by the investigator in charge of the criminal investigation.

70. In order to prevent the taking of any unlawful actions against the frozen property, such property may be seized or deposited, subject to the discretion of the person enforcing the freezing order, with a representative of a local self-government body, a housing management organization, the owner of such property or any another person (par. 7 of article 116 of the Criminal Procedure Code).

71. In addition, article 185 of the Criminal Procedure Code establishes the procedure governing the

storage and, if necessary, disposal of the property recognized as material evidence.

72. Pursuant to article 202 of the Code of Enforcement of Criminal Punishment, following the hearing of the criminal case by the court and entry into force of the conviction which provides for confiscation, the confiscated property shall, after satisfaction of all claims against the convicted person, be deposited by the bailiff with financial authorities in accordance with the procedure established by the Ministry of Finance of the Republic of Tajikistan and the Ministry of Justice of the Republic of Tajikistan. Subsequently, financial authorities must provide to the sentencing court evidence of enforcement of the court order with regard to confiscation of property. However, Tajikistan has yet to agree the aforementioned procedure.

73. Also missing is the mechanism for managing the frozen property.

### *Weighting and conclusions*

74. Tajikistan's legal framework allows it to confiscate property and the proceeds of crime. However, Tajikistan should establish mechanisms for managing frozen and seized property. The procedure for undertaking investigative activities does not include a mechanism for obtaining information constituting bank secrecy.

75. **Recommendation 4 is rated LC.**

### *Recommendation 5 - Terrorist financing offence*

76. In its MER of 2008, Tajikistan was rated non-compliant with SR.II Among the main deficiencies affecting compliance with this recommendation are: the financing of individual terrorists is not considered TF; the liability for TF is not incurred by persons who intentionally provide or raise funds in the knowledge that they will be used by a terrorist organization or an individual terrorist to commit a terrorist act; TF offences do not extend to 'any funds' as this term is defined in the International Convention for the Suppression of the Financing of Terrorism; and some other shortcomings.

77. **Criterion 5.1** TF is criminalized in accordance with article 2 (a) of the Convention on the Suppression of the Financing of Terrorism. Article 179.2 of the Criminal Code sets out the main indicators of terrorist financing.

78. **Criterion 5.2** Under article 179.2 of the Criminal Code of Tajikistan, the liability for TF is incurred by any person who intentionally provides or raises funds or other assets by any means, directly or indirectly, with the unlawful intention to use them, or in the knowledge that they are to be used, in full or partially: (a) to carry out a terrorist act(s); or (b) by a terrorist organisation or an individual terrorist. Tajikistan has criminalized the provision of funds or other assets without any link to a specific terrorist act.

79. **Criterion 5.2 bis** TF does not directly include financing the 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. Assessors saw at first hand that such activities were investigated under article 179.2 of the Criminal Code, although no convictions have been handed down. In this regard, this issue should be addressed through legal regulation.

80. **Criterion 5.3** Under the Tajik law, TF offences extend to any funds or other assets since the

term 'funds' includes assets of any kind (note to article 179.2 of the Criminal Code).

81. **Criterion 5.4** Pursuant to article 179.2 of the Criminal Code, TF offences also extend to funds or other assets that were actually not used to carry out a terrorist act or finance an individual terrorist or terrorist group (organization).

82. **Criterion 5.5** The intent and knowledge required to prove the offence of TF may be inferred from objective factual circumstances.

83. Pursuant to article 85 of the Criminal Procedure Code, when conducting an inquiry into a criminal offence, a preliminary investigation or trial proceedings, the prosecution must prove the event of crime. The elements of the event of crime include the intent and purpose. In this regard, the investigator, the prosecutor or the judge must always outline these circumstances during the investigation or court hearing.

84. Tajikistan's Criminal Code defines the intent to commit a crime as preparation for a crime. Pursuant to article 32 of the Criminal Code, finding, making and adapting the means and instruments, finding of accessories, collusion to commit a crime, or creation of other conditions with the intent to commit a crime, if it failed to be completed owing to circumstances beyond a person's control, shall be deemed to be preparation for a crime. In this case, criminal liability is incurred only for the preparation to commit a serious or particularly serious crime, including those covered by article 179.2 of the Criminal Code.

85. **Criterion 5.6** Pursuant to article 179.2 of the Criminal Code, terrorist financing is punishable by imprisonment for a term of five to ten years, while article 57 of the Criminal Code provides for the confiscation of property. In addition, if committed in aggravating circumstances, such as terrorist financing committed by a person through the abuse of his official position, by a group of persons acting in collusion, or by an organized criminal group, it may carry a sentence of ten to twenty years of imprisonment. The sanctions provided under this article are proportionate and dissuasive.

86. **Criterion 5.7** Despite the existence of various types of liability, the Tajik law does not provide for criminal liability of legal persons. Criminal liability does not apply to legal persons, since, in accordance with the fundamental principles of the Tajik law, only individuals can be held criminally liable (see criterion 3.10).

87. Tajikistan provides for civil and administrative liability of legal persons for ML/TF. Administrative liability is provided by article 527.1 of the Code of Administrative Offences "Failure to comply with Tajikistan's Law on Combating Money Laundering and Terrorist Financing" (fines for legal persons are from 1100 to 2800 US dollars).

88. Legal persons are also subject to civil liability (pursuant to article 62 of the Civil Code, a court, by its decision, may liquidate a legal person for gross violations of the law or engaging in activities prohibited by law). The aforementioned measures cannot be fully considered proportionate and dissuasive.

89. **Criterion 5.8**

- a) An attempt (preparation) to commit an offence, including TF, is covered by article 32 of the Criminal Code.

- b) The types of accomplices, including in TF, are defined in articles 36 and 37 of the Criminal Code and meet the applicable requirements.
- c) Conspiracy to commit, or commission of, a crime by a criminal group, criminal organization or criminal association is punishable both separately under article 179.2 and in conjunction with article 39 of the Criminal Code.
- d) Contributing to the commission of one or more TF offence(s) or attempted offence(s) by a group of persons acting with a common purpose is additionally punishable under article 187 of the Criminal Code.

90. **Criterion 5.9** Predicate offences for ML include all types of offences listed in the country's Criminal Code, including TF.

91. **Criterion 5.10** Tajikistan monitors compliance with the FATF requirements related to predicate offences committed abroad (article 15 of the Criminal Code provides for liability for offences committed abroad).

### *Weighting and conclusions*

92. Tajikistan has made major changes to criminalize TF in line with international standards. At the same time, TF offences do not include financing the travel of individuals who travel to a State other than their State 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. Sanctions for legal persons are not fully proportionate and dissuasive.

93. **Recommendation 5 is rated LC.**

### *Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing*

94. In its MER of 2008, Tajikistan was rated non-compliant with SR.III Among the main deficiencies affecting compliance with this recommendation was the absence of: laws and procedures governing the freezing of the assets of individuals referred to in UNSCR 1267 and 1373; the mechanisms for the compilation, communication and application of the List; the guidance for reporting entities on the application of freezing measures; and the mechanisms for monitoring compliance with or the application of sanctions for violation of the AML/CFT law with regard to the freezing of funds.

95. Since its last mutual assessment, Tajikistan has made significant progress in bringing its legislation in line with applicable standards.

96. **Criterion 6.1**

a) The Tajik law does not specify a competent authority liable for proposing persons or entities to the UNSC Committees 1267/1989 and 1988 for designation;

b-e) Tajikistan has not established the mechanisms for identifying targets for designation, based on the designation criteria set out in the relevant United Nations Security Council resolutions; lacks the procedures for reviewing and applying an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when deciding whether or not to make a proposal for designation; has not established the procedures for the use of standard forms for listing, as

adopted by the relevant UNSC committees; has not defined the requirements for the provision of information on the proposed name, similarly to a statement of case, or for specifying whether the status as a designating State has been made known.

97. **Criterion 6.2**

- a) Article 17.1 of the Law on Combating Terrorism contains the following provisions:
- i. The list of persons linked to terrorism is compiled by the State Committee for National Security (SCNS).
  - ii. The Supreme Court recognizes an entity (its branch and (or) representative offices) as the terrorist one based on the request submitted by the General Prosecutor's Office.
  - iii. Natural persons (individuals) are recognized as terrorists by the decision of a court in accordance with the procedure established by RT legislation.
  - iv. Copies of such court decisions are disseminated to SCNS for inclusion of individuals and organizations in the list of persons linked to terrorism.
  - v. The SCNS also includes, in the list of persons linked to terrorism, individuals and entities designated as terrorists or terrorist organization under the UNSCRs and (or) under the international instruments recognized by Tajikistan.

According to Par.3 of Procedure No.646 the domestic list is compiled by the SCNS, while the international list is compiled by the Financial Monitoring Department (FMD). The concepts of domestic and international lists, as provided for in Par.3 of Procedure No.646, meet the designation criteria set out in UNSCR 1373.

- b) The grounds for inclusion in the domestic and international lists are set forth in Par.35 and Par. 36 of Procedure No.646. However, Procedure No.646 does not provide for mechanisms for identifying targets for designation based on the designation criteria set out in UNSCR 1373.
- c) According to Par.36 of Procedure No.646 one of the grounds for inclusion of a natural and/or legal person into the international list is the available information or request from a foreign country in respect of a natural/ legal person who commits, or attempts to commit, or participates in or facilitates the commission of a terrorist act, or is implicated in terrorism, where there are sufficient grounds to suspect or assume that such person meets the criteria set out in UNSCR 1373, or who wholly or jointly owns, or controls, directly or indirectly, funds and other assets (property) derived or generated from funds (assets) owned by the designated person(s), or acts on behalf, or at the direction of such person(s). It should be noted that according to Par.3 of Procedure No.646 the FMD compiles the international list based on information received via the diplomatic channels through the Ministry of Foreign Affairs.
- d) Tajikistan has not implemented the evidentiary standard of proof of "reasonable grounds" to the initiation of proceedings and complying with requirements for the identification of individuals and entities. The concept of "reasonable basis" for making designations is not legally defined in Tajikistan. Pursuant to Par.8 of Article 6 of the Framework Law and Par.35 of Procedure No. 646, the existence of criminal proceedings constitutes the grounds for inclusion into the list of persons linked to terrorism.
- e) According to Para 34(b) of Procedure No.646, when requesting another country to give effect to the actions initiated under the freezing mechanisms, the FMD must enclose with such request information that allows accurate and reliable identification of a natural or legal person involved in terrorism, including the grounds for the designation and information (details) regarding such person's relationship to any designated person at a given period of time (Par.34 of Procedure No. 646).

98. **Criterion 6.3**

a) Pursuant to article 19 of the Law On Tajik National Security Authorities and par. 2.2. of the FMD Regulations, approved by Board of the National Bank Resolution No. 231 dated November 3, 2015, SCNS and the NB's FMD have legal authority to collect or request information required for the identification of individuals and entities subject to designation.

b) The Tajik legislation does not prohibit to operate *ex parte* when making proposals for inclusion of the identified individuals or entities in the list of persons linked to terrorism.

99. **Criterion 6.4** Pursuant to Paragraphs 11 and 26 of Procedure No. 646, reporting entities shall promptly and indefinitely freeze funds and other financial resources (transfer, conversion, disposition or movement of funds or other property), including funds derived or generated from property wholly or jointly owned, or controlled, directly or indirectly, by the persons included into the consolidated, international or domestic lists, or by any entity owned or controlled by such persons, or by any persons acting on behalf of, or at the direction of such persons. Funds are generally frozen within 24 hours following inclusion of individuals and entities into the list of persons linked to terrorism (the consolidated, international or domestic lists).

100. **Criterion 6.5** According to Article 17.2 of the Law on Combating Terrorism funds or other assets (property) of individuals and entities included into the list of persons linked to terrorism are frozen by the State Committee for National Security (SCNS) in a manner established in the Tajik regulations. According to Paragraphs 29-34 of Procedure No.646 the designated agency (FMD) and the SCNS are the competent authorities responsible for implementation and enforcement of the targeted financial sanctions (TFS). Besides that, according to Paragraphs 26-33 of Procedure No.646, if there are reasonable grounds to believe or suspect that transactions are carried out for terrorist financing purposes, the sequential actions are taken for freezing funds for the following periods of time: reporting entities freeze funds for 3 business days; the designated agency (FMD) freezes funds for up to 7 business days; and the SCNS freezes funds for indefinite period of time.

- a) According to Paragraphs 11 and 26 of Procedure No.646 reporting entities shall freeze funds and other financial resources of the designated individuals and entities without delay. However, the freezing requirement does to apply to all natural and legal persons operating in Tajikistan, but only to reporting entities. Besides that, there is no requirement to freeze funds and other assets of the designated individuals and entities without prior notice.
- b) According to Paragraphs 11 and 26 of Procedure No.646 subject to freezing are funds and other financial resources (transfer, conversion, disposition or movement of funds or other property), including funds derived or generated from property wholly or jointly owned, or controlled, directly or indirectly, by the persons included into the consolidated, international or domestic lists, or by any legal entity owned or controlled by such persons, or by any persons acting on behalf, or at the direction of such persons.
- c) Article 15 of the Law on Combating Terrorism prohibits anyone from providing or raising funds, directly or indirectly, with the goal of allowing all or part of them to be used to carry out terrorist activities and (or) in the knowledge that these funds will be used to carry out terrorist activities. According to Paragraphs 11 and 26 of Procedure No.646 reporting entities shall ensure that any such funds or financial resources are not provided to such persons, whether

residents or non-residents of Tajikistan, for the use by the persons included into the consolidated, international or domestic lists, or by any natural or legal persons owned or controlled, directly or indirectly, by such persons, or by any persons acting on behalf, or at the direction of such persons. Par.11 of Procedure No.646 provides for one exception when funds can be made available to the persons included into the consolidated list for covering their basic needs subject to approval by the relevant Committee on a case-by-case basis.

At the same time, the Tajik legislation does not contain provisions that prohibit anyone from providing, wholly or jointly, financial or other related services, directly or indirectly, to the designated individuals and entities, or to entities owned (or controlled), directly or indirectly, by the designated individuals and entities, or to individuals and entities acting on behalf, or at the direction of the designated individuals and entities, unless licensed, authorized or otherwise notified in accordance with the relevant UNSCRs.

- d) According to Par.7 of Procedure No.646 the consolidated list received from the official UN Security Council sources is immediately posted online on the FMD website, while the international list compiled based on information received via the diplomatic channels through the Ministry of Foreign Affairs and the domestic list provided by the State Committee for National Security are posted on the FMD website not later than the next business day. Besides that, Paragraphs 8-10 of Procedure No.646 require each reporting entity to appoint the designated employee who shall visit, every day, the FMD website, check the updates in all lists, review the contents of the mailbox on the FMD website and send all updated lists to the front office personnel (who have a direct contact with customers) of his/her entity for information and guidance. The Chairman of the National Bank of Tajikistan, by its Order No. 33/ff dated February 6, 2014, approved the guidance for reporting entities on compliance with the UNSCRs.

However, Paragraphs 8-10 of Procedure No.646 do not establish the timelines for dissemination of the updated lists to the front office personnel who have a direct contact with customers.

- e) Pursuant to pars. 12-27 of Procedure No. 646, "...reporting entities shall, not later than 6 hours after freezing the funds and other financial resources, notify the designated authority and SCNS". The obligation for financial institutions and DNFBPs to inform the competent authorities about any attempts by designated persons to carry out transactions is absent.
- f) According to Article 17.2 of the Law on Combating Terrorism individuals and entities may appeal through court against the decisions to designate them as terrorists or terrorist organizations and to freeze their funds or other property, and may also request the court to allow the frozen funds to be used to cover expenses related to medical and social services and material provision of family members, prior to their confiscation. Besides that, according to Par.40 of Procedure No.646 any individual(s), groups, companies and/or organizations, which funds have been frozen on suspicion of terrorist financing, may submit unfreezing requests to the State Committee for National Security.

101. **Criterion 6.6** The delisting and unfreezing mechanism is provided for in Articles 17.1 and 17.2 of the Law on Combating Terrorism and in Paragraphs 15-25 and 38-42 of Procedure No.646.

- a) The documents and procedures required for removal from the consolidated list (the UNSC list) are specified in Paragraphs 15-25 of Procedure No.646. These procedures are generally consistent with the procedures adopted by the 1267/1989 Committee or the 1988 Committee. According to these procedures, any individual/ legal person may submit a de-listing request either directly to the Ombudsman's office or through the country of his residence or nationality. Paragraphs 19-25 of Procedure No.646 establish the procedures for the identification and de-listing of deceased Tajik nationals designated pursuant to UNSCRs.
- b) Individuals and entities are removed from the list of persons linked to terrorism in a manner established in Paragraphs 2, 3 and 4 of Article 17.1 of the Law on Combating Terrorism. According to Par.38 of Procedure No.646 cessation of the circumstances which served as the basis for inclusion into the list of persons linked to terrorism under Paragraphs 35-36 of Procedure No.646 constitutes the grounds for de-listing. According to Article 17.2 of the Law on Combating Terrorism funds or other assets (property) of individuals and organizations included in the list of persons linked to terrorism are unfrozen by the SCNS in a manner established in the Tajik regulations. The unfreezing procedures are specified in Paragraphs 40-42 of Procedure No.646. However, the procedures or mechanisms for the removal of persons from the domestic and international lists are somewhat unclear.
- c) Pursuant to article 17.2 of the Law "On Combating Terrorism", individuals and legal persons may mount a legal challenge against the decision to designate them as terrorists or terrorist organizations and to freeze their funds or other property.
- d) Paragraphs 15-24 of Procedure No. 646 set out procedures for removal from the Combined List that comply with UNSC Resolutions 1988 and 1730.
- e) According to Par.16 of Procedure No.646 an applicant may submit a petition for his removal from the consolidated list either directly to the Ombudsman's office in accordance with Par.20 of Annex II to the UNSCR1904 (2009) as provided for by Par.(c) of Section 7 of Guidelines, or through the country of his residence or nationality as provided for by Par.(d) of Section 7 of the Guidelines.
- f) According to Par.33 of Procedure No.646 the State Committee for National Security conducts preliminary verification and, if such verification reveals that funds have been frozen by mistake, the SCNS issues the unfreezing order and sends it to the designated agency (FMD) and to the relevant reporting entity. However, Procedure No.646 does not provide for publicly known procedures for unfreezing funds that have been frozen based on a false positive match.
- g) According to Par.24 of Procedure No.646, upon receipt, through the Ministry of Foreign Affairs, of the notice of removal of a person from the consolidated list under Par.27 of UNSCR1904 (2009) from UNSC Secretariat, the SCNS disseminates the relevant notices or otherwise communicates the de-listing decision.

According to Par.42 of Procedure No.646 the SCNS prepares and sends an order, along with the relevant information and materials on the unfrozen funds, to the designated agency (FMD), reporting entities and law enforcement agencies of the Republic of Tajikistan in accordance with their competence. A person who applies for unfreezing funds (assets) shall also provide the guarantee that such assets will not be made available, directly or indirectly, to the persons,

groups and organizations included into the sanction list and will not be otherwise used for terrorist purposes. Such assets can be unfrozen within thirty days.

According to Paragraphs 6, 7 and 42 of Procedure No.646 the updates to the lists are posted on the FMD website.

102. **Criterion 6.7** According to Par.13 of Procedure No.646 access to frozen funds is allowed to cover basic expenses of persons included into the consolidated list. Article 17.2 of the Law on Combating Terrorism provides that individuals and entities may apply through court for access to the frozen funds needed for covering expenses related to medical and social services and material provision of family members, prior to their confiscation. Therefore, persons included into the domestic and international lists are allowed to access frozen funds needed for covering basic and extraordinary expenses.

### *Weighting and conclusions*

103. In general, the Tajik legislation contains provisions that allow for applying targeted financial sanctions for terrorism and terrorist financing. At the same time, a number of deficiencies identified include the following. Tajikistan has not identified a competent authority responsible for proposing persons or entities to the 1267/1989 Committee and the 1988 Committee for designation, and there are no clearly defined mechanisms for identifying targets for designation, based on the designation criteria set out in the relevant UNSCRs. There are no procedures for considering and applying an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when deciding whether or not to make a proposal for designation. No procedures have been established for the use of standard forms for listing, as adopted by the relevant UNSC Committees. There are no defined requirements for providing relevant information on the proposed person, a statement of case and the status of a designating state. Tajikistan has not implemented the principle of sufficient grounds for initiating the proceedings and complying with requirements for the identification of individuals and entities. There are no provisions for determining “reasonable grounds” for designation, etc.

104. **Recommendation 6 is rated PC.**

### *Recommendation 7 - Targeted financial sanctions related to proliferation*

105. Given that the requirements for the implementation of targeted financial sanctions related to proliferation were added to the FATF Recommendations in 2012, their implementation was not evaluated in the previous round of mutual evaluations of Tajikistan.

106. The analysis of compliance of the Tajik legislation with Recommendation 7 revealed the following:

107. **Criterion 7.1** The Framework Law establishes the legal basis for freezing funds or other property belonging to a legal person or natural person in respect of which/whom there are sufficient grounds to suspect their involvement in proliferation financing. However, the mechanisms for the prompt application of targeted financial sanctions against individuals and entities designated in accordance with the UNSC resolutions on non-proliferation are absent from the country's regulations.

108. **Criterion 7.2** The country has not established legal authority or identified competent authorities

responsible for implementing and enforcing targeted financial sanctions for proliferation financing.

- a) Article 7 of the AML/CFT Law specifies the rights and obligations of only entities carrying out transactions with funds or other assets related to the application of measures for the suspension, freezing and unfreezing of funds or other assets belonging to a legal or natural person in respect of which/whom there are sufficient grounds to suspect their involvement in proliferation and its financing. However, these requirements apply only to reporting entities and do not cover all natural and legal persons and their obligations to freeze funds and other assets of designated individuals and entities without delay and without prior notice.
- b) There is no legally established list of funds or assets owned by designated persons or entities that are subject to freezing in Tajikistan.
- c) Tajikistan has not established procedures to prevent its nationals or any persons or entities within its territory from making available any funds or other assets to/for the benefit of designated persons or entities, except to the extent permitted by the relevant UNSCRs.
- d) - f) Tajikistan lacks mechanisms for communicating designations to reporting entities, and providing guidance to financial institutions and other persons and entities that may be holding information on funds or assets of designated persons; there is no requirement to report to competent authorities any assets frozen or actions taken in compliance with the prohibition requirements, including attempts to carry out transactions; there are no measures to protect the rights of third parties acting in good faith as part of application of TFS in respect to designated persons and entities participating in PF.

109. **Criterion 7.3** Paragraphs 1 and 2 of article 8 of the AML/CFT / PF Law set out a list of AML/CFT/PF supervisors and their powers to provide appropriate feedback to entities carrying out transactions with funds or other assets.

110. Pursuant to par. 8 of article 12 of the AML/CFT / PF Law, the FMD, in collaboration with supervisors and / or independently, shall monitor compliance by entities carrying out transactions with funds or other assets with the AML/CFT/PF Law.

111. Tajikistan does not monitor compliance by financial institutions and DNFBPs due to the lack of legal regulations governing the application of targeted financial sanctions, nor does it apply sanctions for non-compliance.

112. **Criterion 7.4** Tajikistan lacks publicly known procedures for de-listing persons and entities designated for proliferation financing, namely: there are no procedures that enable designated persons to petition a request for de-listing at the Focal Point established pursuant to UNSCR, or inform designated persons or entities to petition the Focal Point directly; there are no publicly known procedures to unfreeze the funds or other assets of designated persons or entities; there are not procedures that authorize access to funds or other assets pursuant to UNSCRs 1718 and 1737; there are no mechanisms for communicating de-listings and unfreezing to reporting entities immediately upon taking such action, and providing guidance to reporting entities on their obligations to respect a de-listing or unfreezing action.

113. **Criterion 7.5** There are no regulations governing contracts, agreements or obligations that arose prior to the date on which accounts became subject to targeted financial sanctions: there are no

regulations permitting the addition to the accounts frozen pursuant to UNSCRs 1718 or 1737 of interests or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of UNSCRs; there are no procedures that determine Tajikistan's actions pursuant to UNSCR 1737 regarding any payment under a contract entered into prior to the listing of such person or entity by the UNSC.

### *Weighting and conclusions*

114. Tajikistan has failed to comply with Recommendation 7.

115. **Recommendation 7 is rated NC.**

### *Recommendation 8 - Non-profit organizations*

116. In its MER of 2008, Tajikistan was rated NC with Special Recommendation VIII. The main deficiencies related to the lack of the following: appropriate measures and steps required for effective supervision, monitoring and sanctions against NPOs possibly abused for ML/TF purposes; programmes for promoting cooperation with the NPO sector in combating TF; and periodic assessment of the NPO sector for TF risks.

117. **Criterion 8.1**

- (a) The information on the NPO sector, prepared by the Ministry of Justice, the Tax Committee and the Committee on Religious Affairs, Regulation of National Traditions, Celebrations and Ceremonies under the Government of the Republic of Tajikistan in collaboration with other government agencies, was reviewed on February 26, 2018 at a meeting of the Interagency Working Group (IWG) on AML/CFT/PF. The IWG identified the NPOs that fall under the FATF definition of NPO and outlined the near-term objectives of the work in the NPO sector. In addition, using information from appropriate sources, the IWG identified the characteristics and types of NPOs vulnerable to ML/TF/PF risks, as well as five public organizations at high ML/TF risk.
- (b) Tajikistan has not identified the nature of threats posed by terrorist entities to the NPOs or how terrorist actors abuse those NPOs.
- (c) Tajikistan has only reviewed as part of NRA the adequacy of laws and regulations that relate to civil society organizations that may be abused for terrorism financing support in order to be able to take proportionate and effective actions to address the risks identified. In addition, the IWG established requirements for the holding of quarterly training workshops, submission by all concerned government agencies of monthly reports on suspicious NPOs to the FMD, and strengthening of cooperation between the designated authorities responsible for NPO registration.
- (d) Tajikistan has conducted an assessment of the NPO sector as part of the NRA, by reviewing the existing legislation governing the activities of public organisations for potential vulnerabilities to terrorist activities to ensure effective implementation of measures. In addition, a meeting of the interagency Working Group on NPOs was held.

As noted in the meeting resolutions, interagency meetings on NPOs will be held every six months.

**118. Criterion 8.2**

- (a) Tajikistan's existing legislation and measures adopted by the competent authorities (the Justice Ministry, tax authorities and the Prosecutor's Office) promote transparency and fulfilment by NPOs of their declared objectives. However, Tajikistan lacks any strategy/concept for promoting openness of NPOs.
- (b) Tajikistan undertakes outreach and educational programmes to raise and deepen awareness among NPOs as well as the donor community about the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse.
- (c) Tajikistan has prepared a Justice System Development Program for 2015-2020 and enacted provisions governing cooperation between government agencies and NPOs, which, among others, although contribute to the development and refinement of best practices for managing risks and vulnerabilities, lack focus on TF to protect NPOs from abuse.
- (d) The NB and credit institutions, jointly with international organizations, organize workshops to encourage different types of institutions, including NPOs, to conduct transactions via regulated financial channels.

**119. Criterion 8.3** As noted in criterion 8.1, Tajikistan has identified the subsets of NPOs at risk of TF abuse. In addition, the country conducts periodic reassessments of the NPO sector. However, the Tajik supervisors do not apply a risk-based approach to supervision over NPOs. Tajikistan applies a consolidated approach to supervision over all types of NPOs.

120. For example, NPOs in Tajikistan are subject to a wide range of obligations that are broadly in line with the examples given in sub-para 6 (b) of the Explanatory Note to R.8. In particular, these obligations include: registration of NPOs, retention of various data related to NPOs' activities, financial supervision and provision by NPOs of documents in response to requests from the relevant authorities.

**121. Criterion 8.4**

- (a) Appropriate Tajik authorities are empowered to monitor and supervise NPOs' activities (article 34 of the Tajik law "On Public Associations"). For example, the Justice Ministry monitors the compliance of NPOs' activities with their statutory objectives. Tax authorities monitor the income sources used by public associations, the amounts received by them and the payment of taxes. Prosecution authorities ensure both precise and uniform implementation of the laws and overall compliance with the Tajik legislation. At the same time, the shortcomings identified in criteria 8.2 and 8.3 do not allow the country's authorities to ensure full compliance with criterion 8.4.
- (b) The Tajik authorities are empowered to apply various sanctions against NPOs, including written warnings, fines, suspensions and liquidation of NPOs. Appropriate sanctions are provided for by the Tajik Law "On Public Associations" (articles 34-36) and the Code of Administrative Offences (articles 474.4, 478, 476, 477, 599 and 603.1).

The Tajik law also provides for the liability of persons acting on behalf of NPOs, although the penalties provided for are neither effective nor dissuasive.

**122. Criterion 8.5**

- (a) Cooperation, collaboration and information exchange between the Tajik competent authorities are carried out both within the framework of the Interagency Committee and on a bilateral basis between various state bodies. In addition, article 14 of the AML/CFT Law provides for cooperation in information sharing between the FIU and other government agencies.
- (b) The Tajik law enforcement agencies have wide powers and capabilities to pursue investigative activities in accordance with the Law "On Investigative Activities", the Law "On Combating Extremism" and the Law "On Combating Terrorism". Therefore, law enforcement agencies have appropriate investigative expertise.
- (c) The Tajik competent authorities (the Justice Ministry, tax authorities and the Prosecutor's Office) have full access to information on NPOs, including statutory documents, manuals, financial intelligence, etc. In addition, law enforcement agencies have appropriate access to all information on NPOs within the scope of the authority allowed under the Criminal Code and the Criminal Procedure Code.
- (d) Tajikistan has mechanisms in place to ensure the rapid transmission of information on NPOs to the relevant competent authorities. For example, the information about suspicious NPOs is communicated to the FMD (Interior Ministry's AML/CFT Internal Control Guidance). In addition, pursuant to articles 14 and 15 of the AML/CFT Law, the FMD shall share information with the competent authorities.

**123. Criterion 8.6** Tajikistan utilizes common international cooperation procedures and mechanisms to respond to requests related to NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

***Weighting and conclusions***

124. Tajikistan has the necessary legislative requirements applicable to NPOs to ensure their financial transparency and integrity. In addition, competent authorities have the necessary powers to monitor and investigate NPOs' activities, as well as to cooperate and coordinate their activities both at the domestic level and to provide international assistance.

125. At the same time, there are a number of shortcomings that affect Tajikistan's compliance with R.8. For example, Tajikistan has yet to identify the nature of threats posed to NPOs by terrorist entities; the level of cooperation with NPOs to develop and refine best practices to address terrorist financing risks and vulnerabilities is limited; the Tajik supervisors apply a common approach to supervise NPOs.

**126. Recommendation 8 is rated PC.**

***Recommendation 9 - Financial institution secrecy laws***

127. In its MER of 2008, Tajikistan was rated PC with Recommendation 4. Among the main deficiencies were the legal ban on maintaining a record of suspicious transactions and the exchange of

information with legal persons other than law enforcement.

128. **Criterion 9.1** The legal framework in place in Tajikistan enables compliance with the FATF Recommendations.

*Access to information by competent authorities*

129. Pursuant to par. 9 of article 7 of the AML/CFT Law, the provision by FIs and DNFBPs, their management and employees of transaction data to the FMD for the purpose and in accordance with the procedure provided for by this Law shall not constitute a breach of official, banking, tax or commercial secret or the secret of communications, and shall not incur civil, disciplinary, administrative or criminal liability.

130. Also, pursuant to par. 7 of article 12 of the AML/CFT Law, the provision of information by FIs and DNFBPs at the request of the FIU does not constitute a breach of official, banking, tax or commercial secret or the secret of communications.

131. In addition, pursuant to par. 3 of article 14 of the AML/CFT Law, the provision by government authorities of information on suspicious transactions to the FIU does not constitute a breach of official, commercial, banking or other secret protected by law.

132. *Supervisors:* Regulations impeding the transfer of information to the FIU (article 50 of the Law "On Banking", article 7 of the Law "On the Securities Market", paragraph 6 of article 34 of the Law "On Insurance", article 22 of the Law "On Payment Services and Payment System", and articles 14 and 18 of the Law "On Postal Services") are absent from Tajikistan's legal framework. This factor confirms that the provision of information (including on request) does not constitute a breach of any secret.

133. *Law enforcement agencies:* Pursuant to article 48 of the Law "On Banking", the term 'bank secrecy' applies to the information about the following: bank accounts, their holders, funds deposited therein and transactions carried out by clients on this account; money transfers made by individuals without opening an account and their originators (beneficiaries); and money and other values of the client stored in a credit institution. This information can be provided only to the investigative authorities pursuing criminal proceedings against the clients of a credit institutions on the basis of a ruling (determination) of the court (judge) made in accordance with the Criminal Procedure Code.

*Sharing of information between competent authorities both at the domestic and international level*

134. As previously noted in criterion 2.3, with a view to strengthening cooperation and coordination between competent authorities, the FMD has entered into several interagency agreements with other government agencies. Furthermore, the FMD, jointly with law enforcement agencies, has drafted and approved the Guidance on AML/CFT Cooperation and Information Sharing between the FMD and Law Enforcement Agencies. In addition, cooperation between the FIU and other government agencies of Tajikistan is regulated by article 14 of the AML/CFT Law.

135. With respect to international cooperation, the Tajik competent authorities may, pursuant to articles 15 and 16 of the AML/CFT Law, either request information or provide responses to requests from their foreign partners. In doing so, competent authorities may exchange any available information.

*Sharing of information between FIs where this is required by R.13, 16 and 17*

136. The Tajik law does not provide for the exchange of information where this is required by R.13.

137. With respect to money transfers, FIs are required to include the necessary information on the transfer originator (see R.16 for more details).

138. Reliance on third parties to conduct CDD is not allowed in Tajikistan (article 5, sub-para 7 of par. 2, of the AML/CFT Law).

### *Weighting and conclusions*

139. **Recommendation 9 is rated C.**

### *Recommendation 10 - Customer due diligence*

140. In its MER of 2008, Tajikistan was rated NC with Recommendation 5. The main deficiency was, in essence, the absence of regulatory requirements governing CDD.

141. **Criterion 10.1** Pursuant to par. 6 of article 7 of the AML/CFT Law, credit institutions are prohibited from opening or maintaining anonymous accounts or accounts in obviously fictitious names. Under the Law "On Banking", credit institutions do not include insurance companies and securities market participants. Therefore, the requirements of the AML/CFT Law does not apply to them.

142. **Criterion 10.2**

- (a) Pursuant to article 5, sub-para 1 of par. 3, of the AML/CFT Law, FIs shall undertake CDD measures when establishing business relations.
- (b) Article 5, sub-para 2 of para 3, of the AML/CFT Law requires FIs to undertake CDD measures when carrying out any occasional transactions above the applicable designated threshold (approx. USD 10,000). However, this requirement does not apply to transactions below the designated threshold that appear to be linked.
- (c) The Tajik law does not require FIs to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by R.16 and its Interpretive Note.
- (d) FIs are required to undertake CDD measures when there is a suspicion of ML/TF (article 5, sub-para 3 of para 3, of the AML/CFT Law).
- (e) When the FI has doubts about the veracity and/or adequacy of previously obtained customer identification data, it shall undertake CDD measures (article 5, sub-para 4 of para 3 of the AML/CFT Law).

143. **Criterion 10.3** Pursuant to article 5, sub-para 1 of para 2, of the AML/CFT Law, FIs shall identify the customer (whether permanent or occasional, and whether natural or legal person) and verify that customer's identity using reliable, independent source documents and data.

144. In addition, Chapter 2 of the NB Guidance No. 200 "On Identification and Verification of the Identify of Customers and Beneficiary Owners" sets out in detail the documents to be used for customer identification and verification of his identity.

145. However, this requirement does not apply to legal arrangements.

146. **Criterion 10.4** FI are required (article 5, sub-para 1 of para 2, of the AML/CFT Law) to identify and verify the identity of the customer, including any person acting on behalf of the customer. With respect to the requirement to verify the authority of the person acting on behalf of the client, it is contained in NB Guidance No. 200, para 5.

147. **Criterion 10.5** FIs are required to identify the beneficial owner and verify his identity (article 5, sub-para 2 of par. 2, of the AML/CFT Law). In addition, paragraphs 9 and 10 of NB Guidance No. 200 set out in detail the documents and procedures required for the identification of the beneficial owner and verification of his identity. In particular, Paragraph 9 provides that the requirement for identification and verification of beneficial owner is deemed fulfilled if entities can prove, based on the relevant supporting information, that they have taken reasonable and available in given circumstances measures for identifying beneficial owner and verifying his identity.

148. The definition of a beneficial owner (article 1 of the AML/CFT Law and paragraph 1 of NB Guidance No. 200) is fully consistent with the definition of the FATF Recommendations.

149. **Criterion 10.6** FIs are required to obtain information on the purpose and intended nature of the business relationship (article 5, sub-para 3 of par. 2, of the AML/CFT Law), which in practice allows FIs to understand the purpose and intended nature of the business relationship with the customer.

150. **Criterion 10.7**

- (a) FIs shall (article 5, sub-para 4 of par. 2, of the AML/CFT Law) conduct ongoing due diligence on the business relationship and scrutinise transactions with funds or other assets undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the FI's knowledge of the customer, their business and risk profile. In addition, pursuant to paragraph 3 of NB Guidance No. 200, FIs shall, where necessary, study the information on the source of funds.
- (b) FIs shall (paragraph 28 of NB Guidance No. 200) update the information collected in the course of customer or beneficial owner identification at least once a year when the risk is high, and at least once every three years in other cases.

151. **Criterion 10.8** In Tajikistan, financial institutions are required to understand the nature of business activity of a customer (legal entity) and its ownership and control structure (Par.24 of Guidance No.200). These requirements do not apply to legal arrangements.

152. **Criterion 10.9** (a) - (c) The relevant information required to be provided by legal persons to identify the customer and verify its identity is set out in Annexes 1 and 2 to NB Guidance No. 200.

153. However, this requirement does not apply to legal arrangements.

154. **Criterion 10.10**

- (a) As noted in criterion 10.5, the definition of a beneficial owner (article 1 of the AML/CFT Law and paragraph 1 of NB Guidance No. 200) is consistent with the definition of the FATF Methodology. Pursuant to article 5, sub-para 2 of par. 2, of the AML/CFT Law, FIs shall identify the beneficial owner.
- (b) The definition of a beneficial owner (article 1 of the AML/CFT Law and paragraph 1

of NB Guidance No. 200) also includes a person who ultimately controls the legal person.

- (c) Under the Tajik law, the identification of the beneficial owner and verification of its identify must occur under all circumstances.

155. **Criterion 10.11** FIs in Tajikistan are not required to identify and verify the identity of legal arrangements.

156. **Criterion 10.12** The requirement to conduct CDD measures on the beneficiaries of life insurance or other investment related insurance policies applies only to high-risk customers.

157. **Criterion 10.13** The requirement for FIs to include the beneficiary of a life insurance policy as a relevant risk factor in conducting enhanced CDD measures is established by sub-para 2 of par. 14 of NB Guidance No. 200.

158. **Criterion 10.14** Under the Tajik law (article 5 of the AML/CFT Law), FIs are required verify the identity of the customer and beneficial owner before establishing a business relationship or conducting transactions for occasional customers.

159. **Criterion 10.15** Verification of the identity of the customer and beneficial owner must be conducted before establishing a business relationship or conducting transactions for occasional customers.

160. **Criterion 10.16** Pursuant to par. 4 of article 5 of the AML/CFT Law, FIs shall apply the requirements of par. 2 of article 5 of the AML/CFT Law to all new and existing customers. In addition, pursuant to paragraph 3 (d) of NB Guidance No. 200, FIs shall conduct CDD measures on existing customers on the basis of materiality and risk.

161. **Criterion 10.17** As previously noted in criterion 1.7, pursuant to sub-para 3 of par. 14 of NB Guidance No. 200, FIs are required to perform enhanced CDD where the ML/TF risks are higher.

162. **Criterion 10.18** As noted in criterion 1.8, the legislation of the Republic of Tajikistan does not provide for application of simplified CDD measures. However, simplified identification of a customer and beneficial owner is performed (or no identification is performed at all) in respect of certain categories of low-risk customers (Par.36 of NB Guidance No.200) when they carry out certain types of transactions (Chapter 5 of Guidance No.200).

163. In addition, FIs are not required to refrain from applying the special identification procedure for customers and beneficial owners where there is suspicion of ML/TF or specific higher risk scenarios apply.

164. **Criterion 10.19** (a-b) Pursuant to par. 5 of article 5 of the AML/CFT Law, where a financial institution is unable to comply with relevant CDD requirements, it should not open the account, commence business relations or perform the transaction; it also should terminate the business relationship and consider making a suspicious transaction report in relation to the customer.

165. **Criterion 10.20** Pursuant to paragraph 4 of NB Guidance No. 200, where FIs form a suspicion of ML or TF, and they reasonably believe that performing the CDD process will tip-off the customer, they are permitted not to pursue the CDD process, and instead file an STR.

### *Weighting and conclusions*

166. Tajikistan has made significant progress in bringing its CDD requirements in line with R.10. There are extensive CDD requirements, in particular, to identify customers and verify their identity, and to apply enhanced CDD measures in respect of customers with a higher risk. Furthermore, Tajikistan's definition of a beneficial owner is in line with the FATF Methodology.

167. At the same time, there are minor shortcomings in compliance with R.10. For example, CDD requirements do not apply to legal arrangements. In addition, CDD measures are not conducted in respect of government agencies. Besides that, the prohibition from opening anonymous accounts or accounts in fictitious names applies only to credit institutions.

168. **Recommendation 10 is rated LC.**

### *Recommendation 11 - Record keeping*

169. In its MER of 2008, Tajikistan was rated NC with Recommendation 10. The main deficiency was the absence of regulatory requirements governing record keeping.

170. **Criterion 11.1** Article 38, paragraph 1, of the Law "On Banking" requires credit institutions to maintain a record of each transaction for at least 5 years. However, this requirement does not apply to FIs other than credit institutions.

171. **Criterion 11.2** Pursuant to paragraph 4 of article 7 of the AML/CFT Law, FIs shall keep all records obtained through CDD measures, business correspondence and account files for at least 5 years following the termination of the business relationship and closing of the account. In addition, paragraph 6 of article 6 of the AML/CFT Law requires FIs to keep the results of any analysis undertaken for at least 5 years following the termination of the business relationship with the customer.

172. At the same time, paragraph 1 of article 38 of the Law "On Banking" requires credit institutions to keep all records obtained through CDD measures, business correspondence and account files for at least 5 years. Thus, there is a discrepancy in record-keeping requirements between the AML/CFT Law and the Law "On Banking".

173. **Criterion 11.3** Under the Tajik law (AML/CFT Law and NB Guidance No. 200), FIs are required to maintain transaction records in volumes sufficient to permit reconstruction of individual transactions. In addition, pursuant to par. 3<sup>1</sup>, FIs shall ensure that all data are, where necessary, available to the competent authorities.

174. **Criterion 11.4** According to the country's sector-specific regulations, the AML/CFT Law and the Criminal Procedure Code, FIs are required to ensure that all CDD information and transaction records are available to domestic competent authorities upon appropriate authority (see also criterion 9.1).

### *Weighting and conclusions*

175. The Tajik law requires FIs to maintain certain types of records (CDD, accounts and business correspondence). However, there are shortcomings in the requirements for maintaining transaction records.

176. **Recommendation 11 is rated LC.**

***Recommendation 12 - Politically exposed persons***

177. In its MER of 2008, Tajikistan was rated NC with Recommendation 6. The main deficiency was the absence of regulatory requirements applicable to PEPs.

178. **Criterion 12.1** The definition of a person falling within the meaning of a PEP is given in article 1 of the AML/CFT Law. This definition is in line with the FATF Methodology.

- (a) Pursuant to article 10, sub-para 1 of par. 1, of the AML/CFT Law, FIs shall take reasonable and available in the given circumstances measures to identify among their new and existing customers individuals who are foreign PEPs. In addition, pursuant to par. 25 (a) of NB Guidance No. 200, FIs shall take reasonable and available in the given circumstances measures to identify among beneficial owners individuals who are PEPs. However, this approach does not constitute the risk management system.
- (b) Pursuant to article 10, sub-para 2 of par. 1, of the AML/CFT Law, FIs shall obtain written senior management approval before establishing a business relationship with a PEP. In addition, pursuant to par. 25 (b) of NB Guidance No. 200, FIs shall obtain written senior management approval before establishing a business relationship with customers or beneficial owners who are PEPs. However, there is no requirement for FIs to obtain senior management approval before continuing the relationship with the customer or beneficial owner if it becomes a PEP.
- (c) Pursuant to article 10, sub-para 3 of par. 1, of the AML/CFT Law, and par. 25 (c) of NB Guidance No. 200, FIs shall take reasonable and available measures to establish the source of wealth and the source of funds of PEPs.
- (d) The requirement for FIs to conduct enhanced ongoing monitoring on their relationships with PEPs is established by article 10, sub-para 4 and 5 of par. 1, of the AML/CFT Law and par. 25 (d) of NB Guidance No. 200.

179. **Criterion 12.2** Pursuant to article 1 of the AML/CFT Law, domestic PEPs include persons who have been entrusted with prominent state functions in Tajikistan. However, the term 'domestic PEP' does not include prominent politicians, senior military and judicial officials, heads of state corporations, and prominent figures of political parties.

180. The definition given in the same article of persons entrusted with a prominent function by an international organization is consistent with the FATF Methodology Glossary.

181. Criteria 12.1 applies to domestic PEPs and persons entrusted with a prominent function by an international organization. Criterion 12.2 applies in all cases.

182. **Criterion 12.3** In accordance with the definition of a PEP given in article 1 of the AML/CFT Law, criteria 12.1 and 12.2 apply only to family members.

183. In respect of close associates of PEPs, pursuant to paragraph 25 (d) of NB Guidance No. 200, FIs are only required to pay more attention to transactions with funds and other assets. Therefore, only criterion 12.1(d) is complied with.

184. **Criterion 12.4** In relation to life insurance policies, CDD measures on PEPs are only conducted in Tajikistan where higher risks are identified.

### *Weighting and conclusions*

185. Tajikistan has taken steps to implement some of the R.12 requirements. At the same time, there are significant shortcomings related to the conduct of CDD measures on PEPs and definition of domestic PEPs. Furthermore, FIs are not required to obtain senior management approval before continuing the relationship with the customer or beneficial owner if it becomes a PEP. Besides that, financial institutions are not obliged to obtain senior management approval for maintaining business relationship with a customer if such customer or his beneficial owner has become the PEP. In addition, only the requirement for enhanced ongoing monitoring is applicable to close associates of PEPs.

186. **Recommendation 12 is rated PC.**

### *Recommendation 13 - Correspondent banking*

187. In its MER of 2008, Tajikistan was rated NC with Recommendation 7. The main deficiency was the absence of regulatory requirements governing the establishment of correspondent banking relationships.

188. **Criterion 13.1**

- (a) Pursuant to paragraph 30 of NB Guidance No. 171, credit institutions authorized to open and maintain bank accounts shall, when establishing cross-border correspondent relations, identify and verify the identity of the customer acting as a respondent bank, gather information about the nature of the respondent bank's business and determine from publicly available information the reputation of the respondent bank and whether it is subject to AML/CFT supervision.
- (b) In addition, pursuant to paragraph 30 of NB Guidance No. 171, credit institutions shall assess the respondent bank's AML/CFT controls.
- (c) According to Par.41 of Guidance No.200 approval of director of a credit institution (senior management of a financial institution) is required to establishing correspondent relationships.
- (d) The requirement to clearly understand the respective AML/CFT responsibilities of each institution in establishing correspondent relationships is absent in Tajikistan.

189. At the same time, the legal requirements in place in Tajikistan do not apply to other similar correspondent relations between FIs.

190. **Criterion 13.2** The use of "payable-through accounts" directly by FI clients is not allowed under the Tajik law.

191. **Criterion 13.3** Credit institutions may not enter into, or continue, correspondent banking relationships with shell banks. In addition, they shall take precautions to avoid executing transaction with foreign financial correspondent institutions that permit shell banks to use their accounts (paragraph 30 of NB Guidelines No. 171).

### *Weighting and conclusions*

192. The requirement for FIs to study the AML/CFT system and the reputation of the respondent bank, including understanding the objectives of the business relationship, is in place in Tajikistan. In addition, credit institutions are prohibited from entering into, and continuing, correspondent relations with shell banks. However, there are several minor shortcomings in particular, there is no requirement for credit institutions to obtain approval from senior management. In addition, the requirements applicable to correspondent relations do not apply to other similar correspondent relations.

193. **Recommendation 13 is rated LC.**

### *Recommendation 14 - Money or value transfer services*

194. In its MER of 2008, Tajikistan was rated NC with Special Recommendation VI. The main deficiency related to the absence of legislative requirements governing the provision of money or value transfer services.

195. **Criterion 14.1** Providers of money or value transfer services are required to be licensed (article 18 of the Law "On Licensing of Certain Types of Activities").

196. **Criterion 14.2** The provision of money or value transfer services without a license is prohibited in Tajikistan, with offenders incurring administrative liability (article 510 of the Code of Administrative Offences) and criminal liability (article 259 of the Criminal Code).

197. In addition, Tajikistan takes practical steps to identify money or value service providers that operate without a license. For example, the Tajik law enforcement agencies, jointly with the NB, take steps to identify and prosecute persons engaged in illegal provision of money or value transfer services.

198. **Criterion 14.3** Pursuant to article 1 of the Law "On Payment Services and Payment System", money or value transfer services in Tajikistan can be provided by the NB as well as credit and non-credit institutions.

199. Pursuant to article 8 of the AML/CFT Law, the NB monitors credit institutions for AML/CFT compliance. With respect to postal institutions engaged in the provision of money or value transfer services, the responsibility for monitoring AML/CFT compliance is assigned to the Communications Agency under the Government of the Republic of Tajikistan.

200. **Criterion 14.4** Payment agents and subagents are not subject to licensing and operate on the basis of contracts concluded with payment service providers. At the same time, MVTS providers are required to maintain a list of their agents (subagents) and monitor their compliance with applicable legislation, including AML/CFT/PF requirements (par. 12 of article 13 of the Law "On Payment Services and Payment System").

201. According to the same article of the Law "On Payment Services and Payment System", among the competent authorities, only tax authorities may require MVTS providers to submit the list of their agents (subagents). At the same time, pursuant to article 29, the NB may request this information from payment service providers as part of its supervisory functions.

202. **Criterion 14.5** Money or value transfer service providers are required to monitor the payment agent for compliance with the terms of the agreement concluded between them and with applicable

Tajik legislation, including AML/CFT requirements. The procedure for carrying out such monitoring is established by the NB. The agent, in turn, shall exercise similar control over the subagent (article 13 of the Law "On Payment Services and Payment System").

203. At the same time, MVTS providers are not required to include their agents in their AML/CFT programmes.

### *Weighting and conclusions*

204. Tajikistan has largely complied with Recommendation 14. The activities of money or value transfer service providers are subject to licensing. Persons that provide MVTS without a license are held liable. At the same time, there is a minor shortcoming related to the absence of agents from the service providers' AML/CFT programmes, though it is offset by the obligation to monitor their activities.

205. **Recommendation 14 is rated LC.**

### *Recommendation 15 - New technologies*

206. In its MER of 2008, Tajikistan was rated NC with Recommendation 8. The main deficiency was the absence of regulatory requirements governing the use of new technologies.

207. **Criterion 15.1** Pursuant to Par.4 of NB Guidance No.201 credit institutions are obliged to develop and implement a comprehensive program for ensuring information security of remote (online) banking services, that shall include risk mitigation measures, *inter alia*, application of the relevant customer identification technologies and internal controls. Other financial institutions are not required assess risks associated with new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products.

208. **Criterion 15.2** Par.14 of NB Guidance No.201 on Remote (Online) Banking Services obliges credit institutions to monitor, assess and implement new customer identification technologies and, depending on transaction type and access level, ensure introduction of relevant modifications in the customer identification system based on the existing risk factors. Other financial institutions are not required identify and assess ML or TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products.

### *Weighting and conclusions*

209. There are no requirements in the Republic of Tajikistan at the national level and for most financial institutions to identify and assess ML/TF risks that may arise in relation to the implementation of new technologies and new business practices, except for the credit institutions sector, for which such requirement is set forth in the Guidance of the National Bank of Tajikistan.

210. **Recommendation 15 is rated PC.**

### *Recommendation 16 - Wire transfers*

211. In its MER of 2008, Tajikistan was rated NC with Special Recommendation VII. The main

deficiency was the absence of regulatory requirements applicable to wire transfers.

212. **Criterion 16.1** FIs are not required to ensure that all cross-border wire transfers are accompanied by originator and beneficiary information. However, MVTs operators are obliged to collect originator and beneficiary information, including information on source of funds and purpose of wire transfer (paragraphs 13-14 of NB Guidance No.204).

213. **Criterion 16.2** There is no requirement stipulating that where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file should contain originator and beneficiary information.

214. **Criterion 16.3** FIs are not required to ensure that all cross-border wire transfers are accompanied by originator and beneficiary information.

215. **Criterion 16.4** FIs are not required to verify the originator and beneficiary information for accuracy if the transfer amount is less than USD 1000 or there is a suspicion of ML/TF.

216. **Criterion 16.5** FIs in Tajikistan are required to ensure that domestic wire transfers are accompanied by originator information, including the name, taxpayer identification number and the number of its account with a credit institution (paragraph 16 of Guidance No. 193).

217. **Criterion 16.6** See criterion 16.5.

218. **Criterion 16.7** Pursuant to article 7 of the Law "On Payment Services and Payment Systems", the retention period for notifications sent or received from the customer and all relevant information is at least 3 years, which is not in compliance with Recommendation 11.

219. **Criterion 16.8** The requirement not to execute the wire transfer if it does not comply with the requirements specified at criteria 16.1-16.7 is absent.

220. **Criterion 16.9** Intermediary FIs executing cross-border wire transfers are not required to retain all accompanying originator and beneficiary information.

221. **Criterion 16.10** Intermediary FIs executing cross-border wire transfers are not required to retain all the information received from the ordering financial institution or another intermediary financial institution for at least 5 years.

222. **Criterion 16.11** There is no requirement for intermediary FIs executing cross-border wire transfers to take reasonable measures to identify cross-border wire transfers that lack required originator or beneficiary information.

223. **Criterion 16.12** There is no requirement for intermediary FIs executing cross-border wire transfers to have risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.

224. **Criterion 16.13** There is no requirement for beneficiary FIs to monitor and identify cross-border wire transfers that lack required originator information or required beneficiary information.

225. **Criterion 16.14** There is no requirement for beneficiary FIs to verify the identity of the beneficiary and maintain this information for at least 5 years.

226. **Criterion 16.15** There is no requirement for beneficiary FIs to have risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action.

227. **Criterion 16.16** Money or money transfer service providers are not required to comply with the requirements of R.16.

228. **Criterion 16.17** Since money or value transfer service providers fall within the category of reporting entities, they are subject to the requirement of the AML/CFT Law to file an STR with the FMD.

229. **Criterion 16.18** The obligations to freeze wire transfers without delay and for an unlimited period, as per UNSCRs, are set out in Government Decree No. 646 dated November 2, 2015.

### *Weighting and conclusions*

230. There are no requirements in Republic of Tajikistan to ensure that cross-border wire transfers are accompanied by the required information. At the same time, a wire transfer cannot be carried out without collection by MVTS operator of originator and beneficiary information, including information on source of funds and purpose of wire transfer. The necessary requirements applicable to cross-border wire transfers are absent in Tajikistan. With respect to domestic wire transfers, they must be accompanied by the required originator information. In addition, Tajikistan complies with two more criteria of R.16, namely, the filing of an STR and freezing of wire-transfers linked to persons designated for terrorism pursuant to UNSC Resolutions 1267/1989, 1988 and 1373.

231. **Recommendation 16 is rated PC.**

### *Recommendation 17 - Reliance on third parties*

232. In its MER of 2008, Tajikistan was rated NA with Recommendation 9.

233. **Criterion 17.1** Pursuant to article 5, sub-para 7 of par. 1, of the AML/CFT Law, FIs may not rely on intermediaries or other third parties to conduct CDD (identification of the customer; identification of the beneficial owner; and understanding the nature of the business).

234. **Criteria 17.2 and 17.3** are not applicable.

### *Weighting and conclusions*

235. Reliance on third parties to conduct CDD measures is not allowed in Tajikistan.

236. **Recommendation 17 is rated NA.**

### *Recommendation 18 - Internal controls and foreign branches and subsidiaries*

237. In its MER of 2008, Tajikistan was rated NC with Recommendation 15. The main deficiency was the absence of regulatory requirements applicable to internal controls.

238. **Criterion 18.1** Pursuant to par. 2 of article 7 of the AML/CFT Law, FIs shall develop internal controls against ML/TF, which shall include the following:

- (a) requirements applicable to the designated person (compliance officer) (article 7, sub-para 7 of par. 2, of the AML/CFT Law);
- (b) hiring-related screening procedures (article 7, sub-para 3 of par. 2);
- (c) AML/CFT training and retraining programmes for employees (article 7, sub-para 5 of par. 2, of the AML/CFT Law);
- (d) an internal audit function to test the AML/CFT system (article 7, sub-para 6 of par. 2, of the AML/CFT Law).

239. **Criterion 18.2** There is no requirement for financial groups to implement group-wide AML/CFT programmes.

240. **Criterion 18.3** Foreign branches and subsidiaries abroad are required to implement the requirements of the framework AML/CFT/PF Law to the extent that host country laws and regulations permit. If the host country laws and regulations do not permit or impede this, FIs shall notify their supervisors of their branches or subsidiaries' inability to apply them (par. 6 of article 5 of the Framework Law).

### *Weighting and conclusions*

241. Tajikistan has put in place the necessary legal framework to ensure compliance with R.18. In particular, FIs are required to develop internal controls against ML/TF, while their branches and subsidiaries are required to comply with the AML/CFT Law. At the same time, the Tajik law does require financial groups to implement group-wide programmes.

242. **Recommendation 18 is rated LC.**

### *Recommendation 19 - Higher risk countries*

243. In its MER of 2008, Tajikistan was rated NC with Recommendation 21. The main deficiency was the absence of regulatory requirements applicable to higher risk countries.

244. **Criterion 19.1** Pursuant to sub-para 3 of par. 14 of NB Guidance No. 200, FIs shall apply enhanced due diligence where there is a higher ML/TF risk. Higher risk categories include (paragraph 30 (d) of NB Guidance No. 200) countries (territories) that fail to duly enforce international AML/CFT requirements. A list of such countries is compiled by the FMD or international organizations. In addition, higher risk countries (territories) include jurisdiction that are subject to UN sanctions.

245. **Criterion 19.2** There is no requirement in Tajikistan to apply countermeasures proportionate to the risks: (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF to do so.

246. **Criterion 19.3** The FMD posts on the NB website ([www.nbt.tj/ru/financial\\_monitoring](http://www.nbt.tj/ru/financial_monitoring)) notifications to FIs about weaknesses in the AML/CFT systems of other countries. Such notifications are prepared based on the data made available by international organizations involved in AML/CFT efforts.

### *Weighting and conclusions*

247. FIs in Tajikistan are required to apply enhanced due diligence against countries (territories) that fail to duly enforce international AML/CFT requirements. In addition, Tajikistan has established the procedure for notifying FIs about such countries (territories). At the same time, the application of countermeasures against such countries (territories) is not provided for.

248. **Recommendation 19 is rated LC.**

### ***Recommendation 20 - Reporting of suspicious transactions***

249. In its MER of 2008, Tajikistan was rated NC with Recommendation 13 and Special Recommendation IV. The main deficiency was the absence of the legal requirement for FIs and DNFBPs to file an STR.

250. **Criterion 20.1** Pursuant to article 7, sub-para 3 of par. 1, of the AML/CFT Law, FIs shall report promptly all suspicious customer transactions to the FMD.

251. The definition of a 'suspicious transaction' is set out in article 1 of the AML/CFT Law. According to this article, 'suspicious transaction' means a transaction with funds or other assets deemed suspicious in accordance with the AML/CFT Law and a list of indicators of suspicious transactions approved by the FMD.

252. One of such indicator is the existence of reasonable grounds or suspicions held by the financial institution itself (article 6, sub-para 3 of par. 5, of the AML/CFT Law).

253. **Criterion 20.2** FIs are required to report all suspicious transactions, including attempted transactions, regardless of the amount of the transaction.

### ***Weighting and conclusions***

254. **Recommendation 20 is rated C.**

### ***Recommendation 21 - Tipping-off and confidentiality***

255. In its MER of 2008, Tajikistan was rated NC with Recommendation 14 due to the absence of the necessary legal requirements.

256. **Criterion 21.1** Paragraph 9 of article 7 of the AML/CFT Law provides protection for legal persons, their directors and employees from civil, disciplinary, administrative and criminal liability for disclosure of transaction-related information or documents made for AML/CFT purposes.

257. **Criterion 21.2** Legal persons, their directors and employees (permanent and temporary) are prohibited from disclosing to their customers or other persons the fact that an STR is being filed with the Financial Intelligence Unit (paragraph 8 of article 7 of the AML/CFT Law).

### ***Weighting and conclusions***

258. **Recommendation 21 is rated C.**

### ***Recommendation 22 - DNFBP: Customer due diligence***

259. In its MER of 2008, Tajikistan was rated NC with Recommendation 12. The main deficiency

was the absence of the legal requirement for DNFBPs to conduct CDD measures.

**260. Criterion 22.1**

- (a) Casino operations are prohibited in Tajikistan in accordance with Presidential Decree No. 328 dated July 20, 2000.
- (b) Pursuant to paragraph 6 of article 4 of the AML/CFT Law, real estate agents fall within the category of reporting entities and as such, pursuant to article 5 of the AML/CFT Law, are required to conduct CDD measures.
- (c) Dealers in precious metals and in precious stones fall within the category of reporting entities (paragraph 6 of article 4 of the AML/CFT Law) and as such are required to conduct CDD measures (article 5 of the AML/CFT Law).
- (d) Lawyers, notaries and independent legal professionals fall within the category of reporting entities (paragraph 9 of article 4 of the AML/CFT Law) and as such are required to conduct CDD measures (article 5 of the AML/CFT Law).
- (e) Trust and company service providers fall within the category of reporting entities (paragraph 9 of article 4 of the AML/CFT Law) and as such are required to conduct CDD measures (article 5 of the AML/CFT Law).

261. The shortcomings noted in R.10 in relation to FIs are also applicable to DNFBPs.

262. **Criterion 22.2** The shortcomings noted in R.11 are also applicable to the DNFBPs.

263. **Criterion 22.3** The shortcomings noted in R.12 are also applicable to DNFBPs.

264. **Criterion 22.4** The shortcomings noted in R.15 are also applicable to DNFBPs.

265. **Criterion 22.5** The AML/CFT Law prohibits DNFBPs from relying on third parties to conduct CDD measures.

***Weighting and conclusions***

266. The shortcomings concerning CDD, record keeping, PEPs and new technologies noted in respect of FIs are also applicable to DNFBPs.

267. **Recommendation 22 is rated PC.**

***Recommendation 23 - DNFBP: Other measures***

268. In its MER of 2008, Tajikistan was rated NC with Recommendation 16. The main deficiencies were: the absence of legal requirements for DNFBPs to file an STR, pay attention to higher risk countries and meet the tipping-off and confidentiality requirements.

**269. Criterion 23.1**

- (a) Lawyers, notaries, other independent legal professionals and accountants fall within the category of reporting entities (paragraph 9 of article 4 of the AML/CFT Law) and as such are required to file an STR (article 7, sub-para 4 of par. 1, of the AML/CFT Law).
- (b) Dealers in precious metals and in precious stones fall within the category of reporting

entities (paragraph 9 of article 4 of the AML/CFT Law) and as such are required to file an STR (article 7, sub-para 4 of par. 1, of the AML/CFT Law).

- (c) Trust and company service providers fall within the category of reporting entities (paragraph 9 of article 4 of the AML/CFT Law) and as such are required to file an STR (article 5 of the AML/CFT Law).

270. Notably, casino operations are prohibited in Tajikistan (see Criterion 22.1(a)).

271. **Criterion 23.2** The shortcoming noted in R.18 applies to financial groups. No other shortcomings have been identified. Thus, Tajikistan has complied with the requirements of R.18 related to DNFBPs.

272. **Criterion 23.3** The shortcomings noted in R.19 are also applicable to DNFBPs.

273. **Criterion 23.2** The requirements of R.21 are applicable to DNFBPs.

#### *Weighting and conclusions:*

274. There are minor shortcomings related to compliance with R.19. The rest of the R.23 criteria are complied with by DNFBPs.

275. **Recommendation 23 is rated LC.**

#### *Recommendation 24 - Transparency and beneficial ownership of legal persons*

276. In its MER of 2008, Tajikistan was rated NC with Recommendation 33 due to the country's failure to provide the information needed for the assessment.

277. **Criterion 24.1** The creation of different types of legal persons is permitted in Tajikistan, as noted earlier in Chapter 1 (legal persons and arrangements). The main regulations governing the creation of legal persons are: the Civil Code of the Republic of Tajikistan, the Law "On State Registration of Legal persons and Individual Entrepreneurs", the Law "On Joint Stock Companies", the Law "On the Securities Market" of June 28, 2011 and the Law " On Public Associations".

278. Information on the procedure for the creation of legal persons is accessible via the official website of the Tax Committee under the Government of the Republic of Tajikistan (<http://andoz.tj/ru/registration.html>).

279. Pursuant to article 5, sub-para 2 of par. 1, of the Law "On State Registration of Legal Persons and Individual Entrepreneurs", the Tax Committee under the Government of the Republic of Tajikistan is responsible for maintaining the Unified State Register (Register). This register contains publicly accessible basic information on legal persons.

280. **Criterion 24.2** Tajikistan did not assess the ML/TF risks associated with legal persons.

281. **Criterion 24.3** Pursuant to article 51 of the Civil Code, legal persons are subject to state registration. Article 8 of the Law "On State Registration of Legal Persons and Individual Entrepreneurs" establishes a list of information on the legal person to be included in the register.

282. The information contained in the Unified State Register is open and publicly accessible in accordance with art. 9 of the Law "On State Registration of Legal persons and Individual

Entrepreneurs".

283. **Criterion 24.4** The requirement for legal persons to retain information referred to in criterion 24.3 is absent.

284. With regard to joint-stock companies, pursuant to article 41 of the Law "On Joint-Stock Companies", the register of shareholders of a joint-stock company shall be maintained by a registrar. In exceptional circumstances, Tajikistan's Finance Ministry may maintain the register of shareholders of joint-stock companies in which the state holds a stake, or which, due to the nature of their business, are considered important. Closed joint-stock companies may maintain the register of their shareholders themselves or assign the responsibility for it to a registrar.

285. **Criterion 24.5** Tajikistan has mechanisms in place to ensure that the information referred to in criterion 24.3 is accurate. However, there are no mechanisms to ensure the accuracy of the information referred to in criterion 24.4.

286. Pursuant to article 26 of the Law "On State Registration of Legal Persons and Individual Entrepreneurs", changes to the basic information on the legal person constitute the grounds for making changes to the register. Pursuant to article 27, the relevant changes should be entered into the register within 2 business days from the day of notification of the Tax Committee.

287. With regard to joint-stock companies, pursuant to article 12 of the Law "On the Securities Market", the Finance Ministry is responsible for maintaining the Unified State Register of Securities. In pursuance of this article, the Finance Ministry has drafted and approved the "Procedure for maintaining the Unified State Register of Securities in the Republic of Tajikistan and the procedure for assigning a state registration number to the issues of equity securities", which governs the provision by issuers of accurate information and its entry in the Unified State Register of Securities.

288. **Criterion 24.6** Tajikistan relies on various available mechanisms to obtain beneficial ownership information, including due diligence on customers of FIs and DNFBPs (R.10 and 22), and registries of legal persons, shareholders and securities (criteria 24.3 and 24.4).

289. **Criterion 24.7** See criterion 10.7 (b).

290. **Criterion 24.8** There is no requirement in Tajikistan for one or more natural persons/DNFBPs resident in the country to be authorised by the company, and accountable to competent authorities, for providing all basic information and available beneficial ownership information, and giving further assistance to the authorities.

291. **Criterion 24.9** According to Government Decree No. 493 dated November 2, 2013 "Guidelines on State Registration of Legal Persons, Individual Entrepreneurs, Branches and Representative Offices of Foreign Legal Persons", all documents submitted to the state registrar shall be accumulated in separate folders and, subject to the procedure established by the tax authority, deposited in the archive.

292. According to Government Decree No. 203 dated May 4, 2000, documents deposited in the archive shall be kept from 5 to 75 years.

293. In addition, pursuant to paragraph 3 of article 89 of the Law "On Joint-Stock Companies", the Finance Ministry is required to maintain beneficial ownership information for at least five years after the date on which the joint-stock company is dissolved.

294. **Criterion 24.10** The register contains publicly accessible basic information on legal persons (<http://andoz.tj/ru/register.html>). The FMD may request beneficial ownership information pursuant to paragraph 6 of article 12 of the AML/CFT Law.

295. Law enforcement agencies may, if necessary, request the necessary beneficial ownership information from the FMD, or petition a court for direct access to the information held by FIs or DNFBPs (R.31).

296. **Criterion 24.11** Pursuant to article 13 of the Law "On the Securities Market", issuance of bearer securities is allowed in Tajikistan. Pursuant to paragraphs 13 and 14 of article 13 of the Law "On the Securities Market", the state securities market regulator may take steps to prevent the misuse of bearer securities for ML/TF, or, subject to the request of the AML/CFT authority, prohibit the issuance of bearer securities.

297. **Criterion 24.12** The Law "On the Securities Market" (article 47) allows the provision of services in Tajikistan by nominee shareholders. Only depositories and brokers can act as nominee shareholders in Tajikistan (article 47, paragraph 2). In addition, pursuant to article 47, sub-para 4 of par. 5, the nominee holder, subject to the request of the registrar, depository or the NB, shall disclose information about the securities holders.

298. At the same time, there are no regulations in Tajikistan governing the activities of nominee directors.

299. **Criterion 24.13** *With respect to basic information on legal persons:* article 603<sup>1</sup> of the Code of Administrative Offences provides for liability for violation of the requirements of the law on state registration, with fines ranging from USD 12 to 600, depending on the violation.

300. *With respect to beneficial ownership information:* sanctions for failure to comply with the AML/CFT Law are provided for in article 527<sup>1</sup> of the Code of Administrative Offences, according to which a failure to comply with applicable law, provided the elements of criminal offence are absent, is punishable by a fine (from USD 280 to 560 for natural persons; and from USD 1100 to 2800 for legal persons), with confiscation of the subject of the offence.

301. *With respect to the securities register:* Article 566 of the Code of Administrative Offences provides for liability for violation of the procedure for maintaining the register of securities holders, with fines ranging from USD 170 to 300, depending on the violation.

302. The sanctions against legal persons provided for by the Tajik law cannot be considered effective or dissuasive.

303. **Criterion 24.14**

- (a) As previously noted in criterion 24.3, the register of legal persons is publicly accessible and, therefore, can be accessed directly by foreign competent authorities.
- (b) In Tajikistan, the register of shareholders of a joint-stock company is maintained by a registrar (criterion 24.4). Information held by the registrar may, subject to the decision of a court, be provided to the supervisory authority, the FMD and law enforcement agencies.
- (c) See criterion 40.8 this is also true for beneficial ownership information. In addition, the

FMD may request beneficial ownership information from FIs and DNFBPs (See criterion 29.3). The FMD is authorized to share the provided beneficial ownership information with foreign competent authorities.

304. **Criterion 24.15** The Financial Monitoring Department of the National Bank of Tajikistan only monitor the quality of assistance it receives from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.

### *Weighting and conclusions*

305. Tajikistan has put in place a legal framework and guidelines for the creation of various types of legal persons. In addition, the country has set up a publicly accessible register of legal persons. Competent authorities have the necessary powers to obtain beneficial ownership information and provide international cooperation.

306. At the same time, there are some shortcomings, in particular, Tajikistan did not assess the ML/TF risks associated with legal entities and sanctions in respect to legal entities envisaged by Tajik law cannot be treated as proportionate or dissuasive.

307. **Recommendation 24 is rated LC.**

### *Recommendation 25 - Transparency and beneficial ownership of legal arrangements*

308. In its MER of 2008, Tajikistan was rated NC with Recommendation 34 due to the country's failure to provide information needed for the assessment.

309. **Criterion 25.1** Sub-criteria (a) and (b) are not applicable since Tajikistan does not recognize trusts or similar legal arrangements, nor is there a legal framework for the creation of trusts or similar legal arrangements.

310. Sub-criterion(c) Since trust or company service providers fall within the category of entities that carry out transactions with funds and other assets (paragraph 4 of article 11 of the AML/CFT Law), they are required to comply with the requirements of paragraph 4 of article 7 of the AML/CFT Law, namely, keep all records obtained through CDD measures, business correspondence and account files for at least 5 years following the termination of the business relationship and closing of the account. However, these record-keeping requirements do not apply to information on the settlor or other regulated agents and trust service providers.

311. Tajikistan is not a party to the 1985 Hague Convention on the Law Applicable to Trusts and on their Recognition.

312. **Criterion 25.2** Information obtained through CDD measures by trust or company service providers must be updated (R.10 and R.22). However, this requirement does not apply to information that is not obtained through CDD measures as referred to in criterion 25.1.

313. **Criterion 25.3** There is no requirement for trust and company service providers in Tajikistan to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold.

314. **Criterion 25.4** There are no laws or regulations in Tajikistan that prevent trust and company service providers from providing information to competent authorities.

315. **Criterion 25.5** Law enforcement agencies have all the powers necessary to request any required information as part of investigative proceedings (See R.31). At the same time, as noted in criterion 27.3, among the supervisors, only the FMD and the NB may request information from their reporting entities.

316. **Criterion 25.6** There are general regulations applicable to international cooperation in Tajikistan, with no special regulations provided for. At the same time, deficiencies in criteria 25.1, 25.2 and 25.3 negatively affect international cooperation.

317. **Criterion 25.7** The Tajik law provides for legal liability of trust and company service providers for failure to comply with the AML/CFT Law (R.28). However, as noted earlier, the requirements of R.25 are not complied with by trust and company service providers. Therefore, liability for non-compliance with the requirements set out in R.25 is not provided for.

318. **Criterion 25.8** Liability for failure to grant to competent authorities access to information referred to in criterion 25.1 is provided for by article 527<sup>1</sup> of the Code of Administrative Offences. At the same time, trust and company service providers do not collect the relevant information.

### *Weighting and conclusions*

319. Since trusts or similar legal arrangements are not recognized by Tajikistan, some of the criteria of R.25 are not applicable. There are a number of strong points in terms of compliance with the requirements of R.25, particularly the granting to competent authorities of access to information and provision of international cooperation. However, there are significant shortcomings associated with the maintenance of information on settlors and disclosure by trust and company service providers of their status. These shortcomings have a negative effect on compliance with the requirements of R.25.

320. **Recommendation 25 is rated PC.**

### *Recommendation 26 - Regulation and supervision of financial institutions*

321. In its MER of 2008, Tajikistan was rated NC with Recommendation 23 due to the lack of AML/CFT supervision over financial institutions.

322. **Criterion 26.1** The AML/CFT Law (paragraph 1 of article 8) sets out a list of AML/CFT supervisors in the financial sector (except for leasing companies).

323. **Criterion 26.2** The Law "On Licensing of Certain Types of Activities" (articles 17 and 18) sets out the types of activities that are subject to mandatory licensing, including the activities of FIs as per the FATF Glossary.

324. Paragraphs 7 and 8 of article 5 of the AML/CFT Law prohibit the creation of, and cooperation with, shell banks.

325. **Criterion 26.3** The NB requests the provision of proof of no criminal record in two cases: for holders of controlling interest – when issuing a license; and for its senior employee – when granting the permission to open a branch of a foreign bank (paragraph 1 of article 9 and paragraph 2 of article

12 of the Law "On Banking").

326. Candidates for senior positions in credit institutions are required to provide proof of no criminal record for premeditated offences that are not related to religious or political views and actions (paragraph 7 of article 10 and paragraph 5 of article 23 of the Law "On Banking").

327. Paragraph 2 of article 13 of the Law "On Insurance" stipulates that individuals with unexpunged conviction may not hold the position of insurance broker or agent.

328. Employees of professional securities market participants that are directly involved in their activities are required to comply with the qualification requirements established by the securities market regulator. At the same time, there is no requirement for the owners and beneficial owners of insurance and securities market participants to have no criminal record.

329. The Law "On Postal Services" similarly establishes no requirements for either owners or directors of postal service companies. However, the employees of the only postal service operator - Pochtai Tojik state unitary enterprise – are the civil servants, and all newly hired employees are subject to criminal record check in accordance with the RT Law on Public Service and Order No.17.08 of the General Director Pochtai Tojik dated 05.08.2017.

**330. Criterion 26.4**

- (a) Supervisors monitor and regulate reporting entities (banks, non-bank financial institutions, insurance institutions, insurance companies and securities market participants) in line with the Core Principles. In February 2016, the IMF published the Financial Stability Assessment Report (FSAP) on Tajikistan, highlighting both the country's overall progress in strengthening the regulatory framework in line with its 2017 recommendations and delays in improving supervision and regulatory compliance. The work to draft a guidance on consolidated supervision was still ongoing at the time of the IMFs' assessment. Despite the Memoranda of Understanding concluded with some countries, supervision was still lacking in Tajikistan. Furthermore, non-financial entities of corporate groups remained outside the NB's supervisory net. The FSAP report also noted the embryonic state of macro prudential supervision in Tajikistan at the time. According to information provided by the country, a certain progress was made in implementation of banking supervision-related recommendations contained in the FSAP report over three years after publication of that report. In particular, the amendments introduced in the Law on the National Bank of the Republic of Tajikistan and in the Law on Banking broadened the powers vested in the National Bank, enhanced its status and extended its functions pertaining to application of supervisory sanctions and cooperation, including international cooperation.

At the time of preparation of this MER, the process of implementation of other recommendations was still underway in the framework of technical assistance provided by the World Bank and IMF.

- (b) The NB monitors non-bank credit institutions, microfinance organizations and commercial banks, including for compliance with AML/CFT requirements (Chapter 9 of the Law "On Banking" and Chapter 7 of the Law on the National Bank). Money or value transfer services, as well as currency exchange services, are also provided by

credit institutions, which are supervised by the NB, and non-credit institutions, which have no designated supervisor (criterion 14.3 above). The ML/TF risks are not taken into account when exercising supervision.

331. **Criterion 26.5** In the Republic of Tajikistan, frequency and intensity of on-site and off-site AML/CFT inspections of financial institutions is based on the requirements set forth in the legislation.

332. **Criterion 26.6** The requirement for the supervisors to review the assessment of the ML/TF risk profile of a financial institution, or when there are major events or developments in the management and operations of the financial institution, is absent in Tajikistan.

### *Weighting and conclusions*

333. Tajikistan has designated supervisors for FIs. In addition, the Tajik law requires all FI institutions to be licensed. Notably, Tajikistan has taken robust measures to prevent criminals and their associates from holding a controlling interest or management function in FIs. However, there are serious weaknesses in the supervisory regime, in particular, the regulation and supervision are not in line with the Core Principles, and supervision is not based on the RBA.

334. **Recommendation 26 is rated PC.**

### *Recommendation 27 - Powers of supervisors*

335. In its MER of 2008, Tajikistan was rated NC with Recommendation 29 due the lack of supervisors' powers to exercise AML/CFT supervision.

336. **Criterion 27.1** As noted in criterion 26.1, the AML/CFT Law sets out a list of supervisors for FIs. Pursuant to paragraph 10 of article 10 of the AML/CFT Law, the responsibility for monitoring compliance with the AML/CFT Law is assigned to the relevant supervisors.

337. **Criterion 27.2** Supervisor in Tajikistan have the authority to conduct inspections of FIs (paragraph 3 of article 6 of the Law on the National Bank, article 10 of the Law on the Securities Market, and article 22 of the Law on Insurance).

338. At the same time, the Communications Agency under the Government of the Republic of Tajikistan has no authority to carry out inspections of postal service providers for compliance with the AML/CFT Law.

339. **Criterion 27.3** The FMD has the authority to compel production of any information required for the exercise of its functions (paragraph 6 of article 12 of the AML/CFT Law).

340. The NB is authorized to compel production by credit institutions of any information (paragraph 1 of article 44, articles 44 and 47 of the Law on the National Bank). The Ministry of Finance, as a responsible government body for supervision of securities, is empowered to compel production of any information from reporting entities (para 1 of Article 9 of the Law “On securities”).

341. The Communications Agency lacks the powers to compel the production by postal service entities of any information relevant to monitoring compliance with the AML/CFT requirements.

342. **Criterion 27.4** The NB has access to broad powers to impose sanctions for failure to comply with the AML/CFT Law (article 48 of the Law on the National Bank), including disciplinary and

financial sanctions, and the power to withdraw and suspend the FI's license. These sanctions are effective, proportionate or dissuasive.

343. At the same time, the other FI supervisors lack the powers to impose sanctions for non-compliance with AML/CFT requirements. In addition, shortcomings related to R.35 also apply to this criterion.

### *Weighting and conclusions*

344. Virtually all Tajik supervisors are authorized to supervise and monitor compliance with the AML/CFT Law. There are shortcomings related to the supervisors' access to information relevant to monitoring compliance with the AML/CFT requirements. In addition, only the NB is authorized to impose sanctions for non-compliance with AML/CFT requirements.

345. **Recommendation 27 is rated LC.**

### *Recommendation 28 - Regulation and supervision of DNFBPs*

346. In its MER of 2008, Tajikistan was rated NC with Recommendation 24. . The main deficiency was the absence of supervisors in the DNFBP sector.

347. **Criterion 28.1** Casino operations are prohibited in Tajikistan in accordance with Presidential Decree No. 328 dated July 20, 2000.

348. **Criterion 28.2** Pursuant to article 8 of the AML/CFT Law, the following supervisors are responsible for regulation and monitoring of DNFBPs:

- (a) For real estate agents – the FMD (article 8, sub-para 8 of par. 1, of the AML/CFT Law).
- (b) For dealers in precious metals and in precious stones and independent accountants – the Finance Ministry (article 8, sub-para 2 of par. 1, of the AML/CFT Law).
- (c) For notaries – the Justice Ministry (article 8, sub-para 3 of par. 1, of the AML/CFT Law).
- (d) For lawyers and other independent legal professionals – the FMD (article 8, sub-para 8 of par. 1, of the AML/CFT Law.)
- (e) For trust and company service providers – the FMD (article 8, sub-para 8 of par. 1, of the AML/CFT Law).

349. **Criterion 28.3** All categories of DNFBPs referred to in the FATF Methodology are subject to the AML/CFT Law and have a designated supervisor. In addition, the AML/CFT Law also covers DNFBPs not referred to in the FATF Methodology.

350. **Criterion 28.4**

- (a) DNFBP supervisors are authorized to conduct on-site and off-site inspections, including monitor compliance with AML/CFT requirements, except for auditors and dealers in precious stones and precious metals.
- (b) The Tajik law has a requirement to take the necessary measures to prevent criminals or their associates from holding a controlling interest in a DNFBP, however this

requirement does not cover persons close to criminals.

- (c) Article 527<sup>1</sup> of the Code of Administrative Offences provides for liability for failure to comply with AML/CFT requirements. The shortcomings noted in R.35 also apply to this criterion. However, supervisors are not authorized to apply sanctions against DNFBPs for failure to comply with the AML/CFT Law.

351. **Criterion 28.5** Supervision of DNFBPs is performed under requirements of law in Tajikistan.

### *Weighting and conclusions*

352. The Tajik law has designated only supervisors responsible for compliance of DNFBPs with AML/CFT requirements. No other steps to implement R.27 have been taken by Tajikistan.

353. **Recommendation 28 is rated PC.**

### *Recommendation 29 - Financial intelligence units*

354. In its MER of 2008, Tajikistan was rated NC with Recommendation 26. The main deficiency was the lack of organization framework for collection, analysis and dissemination of STRs and other relevant information related to the activities presumably linked to ML and TF. In addition, both the system for the collection of information on suspicious transactions and the guidelines for the provision of such information by FIs and DNFBPs were absent.

355. **Criterion 29.1** The FMD, a structural subdivision of the NB, authorised national centre, is responsible for collecting, processing, analysing and sharing with law enforcement agencies, information on transactions with funds and other assets carried out for ML/TF purposes (paragraph 5 of article 12 and article 13 of the AML/CFT Law, and paragraph 2.1 of the FMD Regulations).

356. **Criterion 29.2** The FMD is the central authority for the receipt of STRs filed by FIs and DNFBPs as required by R. 20 and R.23; as well as reports on transactions in the amount equal to or exceeding the established thresholds (approximately USD 10,000), including banking, securities and real estate transactions and transactions with other property subject to mandatory state registration, as well as other specified types of translations, including with cash.

357. **Criterion 29.3**

- (a) Pursuant to paragraph 6 of article 12 of the AML/CFT Law, FIs and DNFBPs shall, upon request, provide to the FMD any information and documents required for the discharge of its functions.
- (b) Pursuant to article 14, sub-para 3 of par. 2, of the AML/CFT Law, the Tajik state authorities shall grant to the FMD access to their information systems and databases. In addition, pursuant to article 14, sub-para 1 of par. 1, of the AML/CFT Law, state authorities shall provide to the FMD any information required for AML/CFT.

358. **Criterion 29.4**

- (a) The FMD conducts operational analysis in accordance with paragraph 2.1 of the FMD Regulations.
- (b) The FMD conducts strategic analysis (paragraph 4.2.1 of the FMD Regulations).

359. **Criterion 29.5** The FMD is authorized to disseminate, spontaneously and upon request, information and the results of its analysis to relevant competent authorities (article 13, sub-para 7 of par. 1, of the AML/CFT Law) using special safe protected channels.

360. **Criterion 29.6**

- (a) Pursuant article 13, sub-para 2 of par. 2, of the AML/CFT Law, the FMD shall have procedures in place for proper storage, protection and integrity of the submitted information constituting official, trade, banking or any other protected by law secret.
- (b) Pursuant to paragraph 3 of article 12 of the AML/CFT Law, FMD staff members shall refrain from disclosing any information related to the FMD's activities that constitutes official, banking, tax, commercial or communications secret, and shall be held liable in accordance with applicable law for any such disclosure. The FMD has a security clearance system in place that is based on the use of e-passes.
- (c) Only a limited number of FMD staff members have physical and IT access to the database server, with access to each department office granted only to the staff of the relevant department.

361. **Criterion 29.7**

- (a) As noted in criterion 29.1, the FMD is responsible for collecting, processing, analysing and sharing with law enforcement agencies, information on transactions with funds and other assets carried out for ML/TF purposes.
- (b) The FMD's powers to engage with other domestic authorities are provided for by article 14 of the AML/CFT Law, and with foreign counterparts by article 16 of the AML/CFT Law.
- (c) All the core functions of a FIU are discharged exclusively by the FMD.
- (d) As noted previously, the FMD was established under the NBT. The budget of the FMD, as well as its operating and administrative expenses, is presented as a separate line item in the NB budget. The high professional standards of the FMD staff are maintained through compliance with the requirements of the Labour Code and the Law on the National Bank of Tajikistan, as well as the use of job descriptions setting out the responsibilities of each FMD employee.

362. **Criterion 29.8** Tajikistan is a member of the Egmont Group since 2012.

### *Weighting and conclusions*

363. **Recommendation 29 is rated C.**

### *Recommendation 30 - Responsibilities of law enforcement and investigative authorities*

364. In its MER of 2008, Tajikistan was rated partially compliant with the former Recommendation 27. One of the main factors impacting the rating for this recommendation was the law enforcement agencies' exclusive focus on investigations into underlying offences at the expense of ML/TF investigations.

365. **Criterion 30.1** Investigative jurisdiction over criminal cases during preliminary investigation is established by article 161 of the Criminal Procedure Code. Pursuant to this article, ML investigations fall within the purview of the specialized anti-corruption agency, the Agency for State Financial Control and Combating Corruption (Corruption combating Agency). TF investigations are pursued by the investigators of the national security agency (SCNS).

366. In accordance with their competence, the investigators of the Agency, the Prosecutor's Office, the internal affairs agencies and the Drug Control Agency are investigating the predicate crimes for ML. In addition, these authorities can investigate ML. In accordance with articles 168 of CPC, the prosecutor has the right to request any criminal case from the body of inquiry and investigation or transfer it to another, with the exception of cases of crimes of a corruption nature or to take on the production of prosecution authorities. If there are signs of ML, the prosecutor will decide which of the indicated authorities will investigate the ML.

367. **Criterion 30.2** The Prosecutor's Office has special powers to refer criminal cases to any law enforcement agency for preliminary inquiry and criminal investigation. Pursuant to article 168 of the Criminal Procedure Code, in order to ensure the most comprehensive, complete and objective preliminary inquiry and criminal investigation, irrespective of the investigative jurisdiction, the prosecutor may transfer any criminal case from one investigating authority to another, except for corruption cases, or assign the responsibility for its investigation to the prosecutor's office. The prosecutor may set up an investigation team to investigate any corruption offences uncovered by prosecution, law enforcement, national security or drug control agencies in the course of their activities, or assign the responsibility for conducting a preliminary investigation into these offences to the said agencies.

368. Investigators' powers are defined by article 39 of the Criminal Procedure Code. Investigators may identify and track criminal proceeds by taking investigative action and requesting the findings of operational and investigative activities from the bodies of inquiry. In accordance with Article 19 of the Law of the Republic of Tajikistan "On the Agency for State Financial Control and the Fight against Corruption", the anti-corruption agency have the right to conduct audits of financial and economic activities, tax audits of individuals and legal entities. There is an instruction of the General Prosecutor's Office of the Republic of Tajikistan No. 14-7-220 of October 6, 2016 "On strengthening the activity of detecting and investigating crimes related to legalization (laundering) of proceeds from crime", which contains provisions for establishing property obtained by. Thus, these bodies are empowered to conduct a financial investigation, but the procedure for conducting a financial investigation in parallel or within the framework of a criminal investigation of the predicate offense, ML and TF, has not been determined. At the same time, there are no restrictions on its implementation at the legislative level.

369. The place of investigative proceedings is determined pursuant to article 164 of the Criminal Procedure Code and corresponds to the district where the crime was committed.

370. **Criterion 30.3** Law enforcement agencies and the FMD, within the scope of their AML/CFT competences, are responsible for identifying, tracing and freezing property that is, or may become, subject to confiscation, or is suspected of being proceeds of crime.

371. These powers of the FMD are provided for by Government Decree No. 646 dated November 2, 2015 "On the Procedure for Freezing and Unfreezing Funds or Other Assets of Persons and Entities

Designated for Terrorism".

372. Under the Criminal and Criminal Procedure Codes of the Republic of Tajikistan, the authorities responsible for pursuing criminal proceedings (i.e. the prosecutor, the investigator and the body of inquiry) are required to promptly freeze the property that is, or may become, subject to confiscation, or is suspected of being proceeds of crime (article 57 of the Criminal Code, and article 113, sub-para 4 of par. 1, and article 116 of the Criminal Procedure Code).

373. **Criterion 30.4** In Tajikistan, financial investigations are pursued only by law enforcement agencies, which have all the necessary investigative powers, including to pursue financial investigations.

374. **Criterion 30.5** Under the Criminal and Criminal Procedure Codes, as well as in line with the regulations governing the conduct of investigative activities, anti-corruption enforcement authorities are empowered to identify and freeze criminal assets. The decision of the person pursuing the investigation is final.

### *Weighting and conclusions*

375. Tajikistan has defined the responsibilities of law enforcement bodies in investigating criminal offences. At the same time, the procedure for carrying out a parallel financial investigation has not been established.

376. **Recommendation 30 is rated LC.**

### *Recommendation 31 - Powers of law enforcement and investigative authorities*

377. In its MER of 2008, Tajikistan was rated largely compliant with the former Recommendation 28. One of the key factors impacting the rating for this recommendation cited by the assessors was the fact that law enforcement agencies did not use their powers to take witness statements, obtain a search warrant, carry out a search of persons and premises, or seize and obtain transaction records or other financial documents for use in ML/TF investigations.

378. **Criterion 31.1** Pursuant to article 39 of the Criminal Procedure Code, the investigator can to obtain access to all necessary documents and information for use in investigations and subsequent judicial proceedings. These measures apply to individuals and legal entities, regardless of the form of ownership. In addition, in accordance with Article 24 of the Law of the Republic of Tajikistan "On prosecution authorities of the Republic of Tajikistan", the prosecutor has the right: to demand for verification decisions, orders, orders and other documents, materials, statistical and other information (in original or copies). Pursuant to articles 39, 190, 191, 197-199 of the Criminal Procedure Code, investigative authorities have powers to compel production of documents, seize documents, search persons and premises and take witness statements.

379. **Criterion 31.2** Pursuant to article 6 of the Law on Investigative Activities, investigative authorities shall use various investigative techniques to carry out operational and investigative activities, including undercover operations (paragraph 13 of article 6 of the Law on Investigative Activities) and creating legendized enterprises in the form of a legal person, branches and their representative offices (paragraph 4 of article 6). Such enterprises are created for the purpose of solving the tasks provided for by the Law on Investigative Activities.

380. Pursuant to article 8 of the Law on Investigative Activities, investigative activities that restrict the constitutional rights of an individual and a citizen to the privacy of correspondence, telephone conversations, mail, telegraph and other communications transmitted through electrical and postal communication networks, as well as the right to privacy of home, may be undertaken subject to a motivated decision of the state bodies carrying out investigative activities at the request of the authorized prosecutor and the authorization of the duly authorized judge.

381. Interception of communications (wiretapping) during criminal investigations into serious and particularly serious offences is carried out pursuant to article 196 of the Criminal Procedure Code.

382. Access to computer systems can be gained as part of investigative activities referred to in article 6 of the Law on Investigative Activities. In addition, investigative authorities, with the authorization of a court, may remove a computer hard drive. The grounds and procedure for such removal are set out in article 192 of the Criminal Procedure Code. Controlled delivery is provided for by paragraph 14 of article 6 of the Law on Investigative Activities.

383. Under the Law "On amendments to the Criminal Code of the Republic" No. 965 of June 13, 2013, money laundering (article 262 of the Criminal Code) falls within the category of serious and particularly serious offences, which makes the use of such investigative techniques as communications interception (wiretapping) possible.

**384. Criterion 31.3**

- a) Entities carrying out transactions with funds or other assets are required to submit to the designated authority on demand information and documents required for the discharge of its functions, including related to accounts and their holders.

Under the Criminal Procedure Code, the submission of information constituting bank secrecy during criminal investigations against customers of credit institutions is subject to the request of a law enforcement agency and decision (determination) of a court (judge).

Pursuant to paragraph 19 of the Guidance on AML/CFT/PF Cooperation and Information Sharing between the FMD and Law Enforcement Agencies, law enforcement requests submitted to the FMD, as well as the FMD's own requests, shall be executed within 15 days. Subject to the agreement between the officials responsible for information exchange, the deadline for the execution of such requests may be reduced to one day (this was confirmed during the on-site visit).

- b) In order to identify the accounts held by individuals and legal persons, law enforcement agencies may, where necessary, submit requests to the FMD pursuant to paragraph 7 of article 13 of the AML/CFT Law, including for information on suspicious transactions or transactions related to ML/TF/PF. In addition, on the organization of interaction on information exchange between the DFM and law enforcement agencies, it is also possible to provide other information that may contribute to the identification of accounts.

At the same time, information on suspicious transactions is not enough to identify illegal assets.

The FMD may request from financial institutions information on the accounts of individuals and legal persons (article 12, paragraph 6, of the on AML/CFT/PF Law.) When providing information to the designated authority, entities carrying out transactions with funds or other

assets are prohibited from tipping off the customers of these entities or other persons (article 7, paragraph 8, of the AML/CFT/PF Law).

385. **Criterion 31.4** Law enforcement investigators conducting criminal investigations may ask for information held by the FMD. Pursuant to article 13, paragraph 7, of the Framework Law, the FMD may, upon demand and in accordance with the established procedure, provide to law enforcement, prosecution and judicial authorities, information or generalized material related to the initiated or pending criminal investigations into TF and ML.

386. The exchange of information during investigations into money laundering, predicate offences and terrorist financing is conducted in accordance with the Guidance on AML/CFT/PF Cooperation and Information Sharing between the NB's FMD and Law Enforcement Agencies". No restrictions on the exchange of information between the FMD and law enforcement agencies were detected during the on-site visit.

### *Weighting and conclusions*

387. The Tajik competent authorities are able to access all documents and information necessary for investigations of offences and subsequent judicial proceedings. They are also granted powers required for effective investigations of ML and TF.

388. **Recommendation 31 is rated C.**

### *Recommendation 32 - Cash couriers*

389. In its MER of 2008, Tajikistan was rated non-compliant with Special Recommendation 9. In justification of this decision, the assessors noted that, despite the existence of the provisions governing the monitoring of the physical cross-border transportation of foreign currency in cash, they do not apply to local currency or local/foreign bearer negotiable instruments. Information on the amounts of declared or otherwise detected currency, as well as the personal identification data of the persons transporting the currency, was not stored in an electronic format, nor was there a centralized database. The law was not applied in practice as there were no ML or TF investigations.

390. **Criterion 32.1** The cross-border movement of the national currency of Tajikistan, securities denominated in the national currency of Tajikistan, foreign currency and other currency values is governed by the Customs Code and other regulations of the Republic of Tajikistan.

391. The provisions directly addressing the incoming and outgoing cross-border transportation of currency are contained in the Law "On Currency Regulation and Currency Control" (the Currency Regulation Law) and set out in detail in Guidance No. 234 "On Import and Export of Currency Valuables into/out of the Republic of Tajikistan", approved by the Board of the National Bank Resolution No. 30 dated March 15, 2018 and the Order of the Customs Service under the Government of the Republic of Tajikistan.

392. In accordance with the Guidance No. 234, currency values include foreign currency, securities and payment documents expressed in foreign currency, as well as national currency, securities and payment documents expressed in national currency only when they carry out transactions between residents and non-residents or between non-residents.

393. The Export and import of currency values across the customs border of the Republic of Tajikistan by couriers, mail, freight transport and / or other types of transportation is subject to declaration in compliance with the requirements of the Guidance No. 234. Thus, these requirements not only refer to foreign and national currency but also include BNIs.

394. **Criterion 32.2** As per Guidance 234, the Customs Service shall maintain a record of the volume of imported and exported into/from Tajikistan currency values subject to mandatory written declaration, and submit consolidated data to the National Bank of Tajikistan and other concerned institutions and agencies on a monthly basis.

395. Export of cash currency values by individuals (residents and non-residents) from Tajikistan is subject to the following procedure:

- resident and non-resident individuals can freely, without completing a writing declaration form or presenting any documents evidencing the source of currency values, which constitute the grounds for export of currency values from the Tajikistan, take out of the country at any one time currency values in the amount equivalent to USD 3,000;

- export from Tajikistan of currency values in the amount equivalent to USD 3,001 to 10,000 by resident individuals is subject to mandatory written declaration. The provision of the documents evidencing their source, which constitute the grounds for export of currency values from the Tajikistan, is not required in this case;

- export from Tajikistan of currency values in the amount exceeding the equivalent of USD 10,000 by resident individuals is subject to mandatory written declaration and provision of the documents evidencing their source, which constitute the grounds for export of currency values from Tajikistan;

- export from Tajikistan of currency values in the amount exceeding the equivalent of USD 3,000 by non-resident individuals is subject to mandatory written declaration and provision of documents evidencing their source, which constitute the grounds for export of cash foreign currency from Tajikistan.

396. Currency values can be imported into Tajikistan by individuals (residents and non-residents) without restrictions, except to the extent such import complies with applicable customs legislation. In this case, the requirement to complete a written declaration applies to imports of currency values in the amount equivalent to or exceeding USD 3,000.

397. **Criterion 32.3** is not applicable.

398. **Criterion 32.4** Pursuant to article 408 of the Customs Code of the Republic of Tajikistan, customs authorities check the documents and information submitted at the customs clearance of goods and vehicles in order to verify the authenticity of documents and credibility of information contained therein, as well as to ensure compliance with the clearance requirements.

399. In addition, when carrying out customs inspections, customs officials may reasonably request additional documents and information needed to verify the information contained in the customs declaration and other customs documents.

400. In addition to the above, article 410 of the Customs Code grants customs officials the authority

to solicit clarifications (about the circumstances relevant to the conduct of customs inspections, including from the declarants and other persons related to the movement of goods and vehicles through the customs border and having access to such information). Article 407 of the Customs Code also allows the use of oral interviews.

401. Pursuant to 18 of Guidance No. 234, the customs authorities, upon discovery of a false declaration of currency values or a failure to declare currency values that are subject to mandatory declaration, may request further information from the carrier with regard to the origin of the currency values and their intended use.

402. **Criterion 32.5** Pursuant to article 578, paragraph 4, of the Code of Administrative Offences, non-declaration or false declaration by a natural or legal person of foreign currency or the currency of the Republic of Tajikistan which is being transported across the customs border of the Republic of Tajikistan, and subject to compulsory written declaration, is punishable by a fine in the amount of ten to twenty calculation values for natural persons, twenty to thirty for officials, and one hundred to two hundred for legal persons.

403. The size of penalty for natural persons cannot be considered dissuasive, given that the maximum amount of a fine for a natural person is 1000 somoni (about USD 100). Moreover, confiscation measures are not applied to them. According to the experts, such a size of sanctions for individuals cannot be a deterrent.

404. In the event of repeated non-declaration or false declaration occurring within a year after the imposition for a similar conduct of administrative sanctions, the offender may be held criminally liable under article 289 of the Criminal Code (Smuggling). This offence carries a maximum sentence of 20 years of imprisonment.

405. **Criterion 32.6** Customs authorities are required to make available to the authority responsible for combating money laundering and terrorist financing on demand information from their own information systems (article 462 of the Customs Code).

406. Pursuant to article 4 of the Framework Law, customs authorities responsible for overseeing the transportation across the border of the Republic of Tajikistan of cash and bearer negotiable instruments by residents and non-residents fall within the category of entities carrying out transactions with funds or other assets. Pursuant to article 7 of the Framework Law, entities carrying out transactions with funds or other assets shall report transactions subject to mandatory control and suspicious transactions to the designated authority.

407. In addition, customs authorities are required to make available to the designated authority information required by it for AML/CFT/PF in the manner determined by the designated authority; and grant to the designated authority access to their own information systems and databases.

408. **Criterion 32.7** Tajikistan informed the assessors about the Guidance on AML/CFT/PF Cooperation and Information Sharing between the National Bank's Financial Monitoring Department and Law Enforcement Agencies. Customs authorities participate in this cooperation.

409. The Customs Service under the Government of the Republic of Tajikistan has entered into mutual cooperation agreements with the State National Security Committee's Main Directorate of the Border Troops No. 180-P of November 11, 2006 and No. 361 of November 14, 2006.

410. Cooperation agreements have also been concluded by the Customs Service with the General

Prosecutor's Office, the Interior Ministry, the DCA and other ministries and departments.

411. However, given the absence of the copies of these agreements among the material made available to the assessors, it is not possible to assess the effectiveness of the efforts to combat the illegal cross-border transportation of currency and BNIs.

412. **Criterion 32.8**

a) Law enforcement agencies pursuing criminal proceedings under article 262 (Money laundering) or article 289 (Smuggling) of the Criminal Code have access to a range of tools for restricting the movement currency (seizure, freezing, etc.).

Pursuant to article 7, sub-para 5 of par. 1, of the Framework Law, entities carrying out transactions with funds or other assets, which include customs authorities, shall take steps to suspend, freeze and unfreeze the funds or other assets of a person or entity in respect of whom/which there is sufficient evidence of their involvement in terrorist activities, TF and PF.

In addition, pursuant to paragraph 22 of Guidance No. 234, the Customs Service under the Government of the Republic of Tajikistan may, if necessary, suspend and restrict the movement of currency values in order to ascertain whether evidence of ML/TF/PF may be found in cases: where there is a suspicion of ML/TF/PF or predicate offences; or where there is a false declaration or false disclosure of currency values. However, it is not clear how long the movement of currency values can remain suspended or restricted, since neither the Guidance nor the Tajik law addresses this issue.

At the same time, similar measures are not applied where there is a suspicion of ML or predicate offences.

b) Law enforcement agencies pursuing criminal proceedings under article 289 (Smuggling) of the Criminal Code have access to a range of tools for restricting the movement currency (seizure, freezing, etc.) Although the Customs Code also provides for the use of a freezing mechanism, such mechanism, based on the contents of Article 418 of the Customs Code that governs its application, cannot be used in the case of a false declaration of currency and BNIs.

Meanwhile, pursuant to paragraph 22 of Guidance No. 234, the Customs Service has the right suspend and restrict the movement of currency values in case where there is a false declaration or failure to provide information on the export and import of currency values. However, it is not clear how long the movement of currency values can remain suspended or restricted, since neither the Guidance nor the Tajik law addresses this issue.

413. **Criterion 32.9** According to the Guidelines for the Acceptance, Registration, Accounting and Storage of Cargo Customs Declarations and Transit Declarations, approved by Customs Service Decree No. 227 dated December 30, 2009, copies of declarations shall be stored in a special archive of the customs authority. The retention period is set at 5 calendar years.

Paragraph 23 of Guidance No. 234 requires the Customs Service under the Government of the Republic of Tajikistan to retain the information received for at least 5 years when: a declaration which exceeds

the prescribed threshold is made; there is a false declaration; or there is a suspicion of ML/TF/PF.

414. **Criterion 32.10** Any information collected by customs authorities in accordance with customs or other regulations of the Republic of Tajikistan or the customs authority may be used exclusively for customs purposes (article 9 of the Customs Code).

415. Customs authorities and their officials, as well as any other persons who have access to the designated information by virtue of a law or contract, may not disclose, use for personal purposes or make available to third parties, including state bodies, information constituting a state, commercial, banking, tax or other secret protected by law, or any other confidential information, except to the extent provided by this Customs Code and other regulations of the Republic of Tajikistan.

416. Access to the information constituting a state, commercial, bank, tax or other secret protected by law, or other confidential information, is subject to a special security regime.

417. Any loss of documents containing a state, commercial, bank, tax or other secret protected by law or other confidential information, disclosure of such information, its use for personal purposes, or transfer to third parties, is punishable in accordance with applicable law.

418. Confidential information related trade payments made by specific importers/exporters can be made available only to courts and preliminary investigation authorities in connection with the investigation of criminal cases.

419. **Criterion 32.11**

a) The movement of foreign currency or currency of the Republic of Tajikistan related to ML / FT or predicate offenses entails administrative or criminal liability measures. Penalties are proportionate and dissuasive. The size of penalty for natural persons cannot be considered dissuasive, given that the maximum amount of a fine for a natural person is 1000 somoni (about USD 100).

b) The confiscation measures are not applied in case of administrative offences of the procedure of the movement of foreign currency related to ML/FT or predicate offences. The confiscation is use as punishment for crime.

### *Weighting and conclusions*

420. The legal framework in place in Tajikistan is not sufficient to identify cash couriers. There is no information regarding which authority is responsible for the proper coordination between customs, immigration and other concerned authorities on issues related to the application of Recommendation 32, which agencies are involved in these activities, and what organizational and regulatory documents they are guided by.

421. **Recommendation 32 is rated LC.**

### *Recommendation 33 - Statistics*

422. In its MER of 2008, Tajikistan was rated non-compliant with Recommendation 33. The main factor influencing the rating for this recommendation cited by the assessors was the Tajik authorities' failure to conduct a regular assessment of the AML/CFT system. Law enforcement agencies did not

provide annual statistics on identified, investigated and referred to court cases. In addition, assessors noted the provision of incomplete statistics by various competent authorities.

**Criterion 33.1** The responsibility for maintaining statistics on matters relevant to the effectiveness and efficiency of their AML/CFT system is assigned, pursuant to article 13, sub-para 4 of par. 2, of the Framework Law, to the FIU. Pursuant to paragraph 28 of the Guidance on AML/CFT/PF Cooperation and Information Sharing between the FMD and Law Enforcement Agencies, law enforcement agencies shall make available (electronically) to the FMD once in three months the following statistics:

- on criminal proceedings into predicate offences, money laundering, terrorist financing and proliferation financing initiated, terminated and referred to court;
- on frozen, seized and confiscated property (funds);
- on mutual legal assistance in criminal matters or other international requests for co-operation made and received.

Statistics are provided to the FMD before the 10th of the next month of the reporting quarter.

- a) This information was provided to the assessors during the on-site visit, but it is not clear how it is compiled and maintained.
- b) There are not statistics on ML/TF prosecutions and convictions. Nor is this issue addressed in the Guidance on cooperation.
- c) This criterion is addressed in the Guidance on cooperation.
- d) This criterion is addressed in the Guidance on cooperation.

### *Weighting and conclusions*

423. Tajikistan has not complied with the requirements of the recommendation related to the maintenance of statistics on prosecutions and convictions.

424. **Recommendation 33 is rated LC.**

### *Recommendation 34 - Guidance and feedback*

425. In its MER of 2008, Tajikistan was rated non-compliant with the former Recommendation 25. Among the main factors influencing the rating for this recommendation cited by the assessors were: due to the absence of AML/CFT legislation, no guidance on reporting suspicious transactions was used, nor were there feedback requirements in place.

426. **Criterion 34.1** Article 8 of the Framework Law, with a view to assisting entities carrying out transactions with funds and other assets, requires competent authorities responsible for regulation and supervision (including the FMD) to establish appropriate guidelines on the application of national legislation, and the FMD to provide feedback.

427. The Tajik Government, by its decrees, approved the Regulations on Freezing and Unfreezing of Funds or Other Assets of Persons and Entities Designated for Terrorism; and Guidelines on Determining the Risk Assessment Criteria for Businesses.

428. The National Bank has developed internal AML/CFT regulations for commercial banks;

regulations on the identification and verification of the identity of the customer and the beneficial owner; guidelines on the identification and reporting of suspicious transactions when assessing risks; guidelines on conducting transactions with entities from offshore jurisdictions; a guidance on compliance with the UNSC resolutions for the private sector; guidelines on the identification and reporting of suspicious transactions when assessing risks; and the registry of indicators of suspicious transactions. All these guidelines are accessible via the National Bank website. Visitors to the website may also access the FATF guidance, the terror list (compiled, pursuant to article 6, paragraph 7, of the AML/CFT Law by the FMD), information about training workshops organized by the FMD, and FMD annual performance reports.

429. The register of the indicators of suspicious transactions, approved by the Board of the National Bank of Tajikistan Resolution No. 112 dated May 10, 2013, is intended for use by a wide range of entities, including those that report to other government regulatory agencies and supervisors. As a result, the said Resolution may not be implemented by all stakeholders.

430. No information about guidelines established by other competent authorities responsible for state regulation and control over reporting entities (the Justice Ministry, the Ministry of Economic Development and Trade, the Customs Service and the Tax Committee) were provided.

431. Pursuant to article 8, sub-para 8 of par. 1 and par. 3, of the Framework Law, the FMD shall establish guidelines for reporting entities which do not have a designated supervisor (leasing companies, organizations involved in buying and selling of real estate property, organizations managing investment funds or private pension funds, lawyers, auditors, trust and company service providers, etc.).

432. According to the information provided by Tajikistan, after the official appointment of a compliance officer, entities carrying out transactions with funds or other assets must notify the FMD thereof in writing. After that, the appointed compliance officer undergoes training at the FMD in reporting suspicious transactions to the FMD in accordance with the Guidance on completing reporting form No. 101 "On Suspicious Transactions and Transactions Subject to Mandatory Control", with extra focus on identifying suspicious transactions. After completing his training, the compliance officer is provided with FMD contact information for advisory assistance and feedback.

433. The Framework Law requires supervisors and regulators to establish guidelines, and the designated authority to provide feedback, to assist reporting entities in applying the AML/CFT/PF legislation.

434. In compliance with this requirement, the NB has established several guidelines, including the Guidelines on the Identification and Reporting of Suspicious Transactions When Assessing Risks; the Register of Indicators of Suspicious Transactions; and the Guidance for the Private Sector on Compliance with the UNSC Resolutions.

### *Weighting and conclusions*

435. Not all Tajik competent authorities are involved in the establishment of guidelines.

436. **Recommendation 34 is rated LC.**

### ***Recommendation 35 - Sanctions***

437. In its MER of 2008, Tajikistan was rated NC with Recommendation 17 due to the lack of sanctions for non-compliance with AML/CFT requirements.

#### **438. Criterion 35.1**

*R.6, 9-23*

439. Sanctions for failure to comply with the AML/CFT Law are provided for in article 527<sup>1</sup> of the Code of Administrative Offences, according to which a failure to comply with applicable law, provided the elements of criminal offence are absent, is punishable by a fine (from USD 280 to 560 for natural persons; and from USD 1100 to 2800 for legal persons), with confiscation of the subject of the offence.

440. As noted earlier in criterion 27.4, the NB has access to broad powers to impose sanctions for failure to comply with the AML/CFT Law (article 48 of the Law on the National Bank), including disciplinary and financial sanctions, and the power to withdraw and suspend the FI's license. These sanctions are proportionate or dissuasive.

441. Therefore, only credit institutions are subject to a wide range of proportionate and dissuasive sanctions.

*R.8*

442. See criterion 8.4.

443. **Criterion 35.2** The sanctions provided for in criterion 35.1 are also applicable to officials and directors. As in the case of criterion 35.1, there is no broad set of effective, proportionate and deterrent sanctions.

### ***Weighting and conclusions***

444. The Tajik law provides for liability of FIs and DNFBPs, including their officials and directors, for failure to comply with the AML/CFT Law. However, the sanctions provided for are not effective, proportionate or dissuasive. In addition, the range of sanctions is limited.

445. **Recommendation 35 is rated PC.**

### ***Recommendation 36 - International instruments***

446. In its MER of 2008, Tajikistan was rated non-compliant with both Special Recommendation I and the former Recommendation 35. The deficiencies with respect to SR. I. included the absence of measures to ensure the full implementation of the UN Terrorist Financing Convention and compliance with UNSC resolutions; and with respect to R. 35, the lack of measures to implement the Palermo Convention, conduct ML investigations, etc.

447. **Criterion 36.1** Tajikistan has ratified or acceded to the following UN conventions:

- The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), acceded on May 6, 1996;
- UN Convention against Transnational Organized Crime (Palermo Convention), ratified on July 8, 2002;

- UN International Convention for the Suppression of the Financing of Terrorism (the Terrorism Financing Convention), ratified on August 15, 2004;
- UN Convention against Corruption (Mérida Convention), acceded on September 26, 2006.

448. **Criterion 36.2** Tajikistan has made significant progress in putting in place mechanisms designed to meet the requirements of the above conventions and to eliminate the shortcoming identified in the MER of 2008.

449. Article 179.2 of the Criminal Code, which provides for liability for terrorist financing, has been amended to cover not only the financing of a terrorist group but also individual terrorists; extend criminal liability for such conduct to deliberate actions and fundraising; and bring the definition of 'funds' in line with the TF Convention. In addition, article 15 of the Law "On Combating Terrorism" No. 845 of November 16, 1999 (Law No. 969 of June 13, 2013) has been amended to prohibit anyone from providing or raising funds, directly or indirectly, with the goal of allowing all or part of them to be used to carry out terrorist activities and (or) in the knowledge that these funds will be used to carry out terrorist activities. Article 17.2 of this Law provides for the freezing (unfreezing) of funds or other assets of persons involved in terrorist activities (amendments made by Law No. 879 of August 1, 2012 and Law No. 1138 of November 27, 2014). Government Decree No. 646 dated November 2, 2015 approved the Procedure for Freezing and Unfreezing Funds or Other Assets of Persons and Entities Designated for Terrorism.

450. The legally established powers of the Tajik competent authorities to engage in international cooperation in combating crime are in line with the requirements of the convention. Tajikistan is a party to the main treaties on international legal assistance in criminal matters. The Criminal Procedure Codes establishes procedures for the provision of various types of mutual legal assistance (MLA). The law also provides for the use for these purposes of the capabilities of investigative agencies. Pursuant to article 11, paragraph 6, of the Law on Investigative Activities, the results of investigative activities can be made available to other countries, subject to compliance with the terms of international treaties and legislation of the Republic of Tajikistan. Meanwhile, the responsibility for implementing the requests of international law enforcement organizations and foreign law enforcement agencies and security services in the manner provided by international treaties of the Republic of Tajikistan is assigned to the investigative authorities.

### *Weighting and conclusions*

451. Tajikistan has ratified and acceded to the main conventions.

452. **Recommendation 36 is rated C.**

### *Recommendation 37 - Mutual legal assistance*

453. In its MER of 2008, Tajikistan was rated non-compliant with both Special Recommendation V and the former Recommendation 36. The main deficiency was the lack of data needed to conduct an expert assessment.

454. **Criterion 37.1** The main regulation governing the provision of MLA in relation to criminal investigations is the Criminal Procedure Code. Under the Criminal Procedure Code, mutual legal

assistance in relation to all criminal investigations shall be provided in accordance with international treaties or agreements for the provision of MLA.

455. The Criminal Procedure Code sets out sufficiently detailed procedures for the provision of MLA. Pursuant to article 473 of the Criminal Procedure Code, the court, the prosecutor, the investigator and the body of inquiry shall implement the requests of foreign agencies and officials for the conduct of investigative or judicial actions delivered to them in the prescribed manner in accordance with the general rules of the said Code. If provided for in the international treaty, the implementation of these requests can be carried out in accordance with the procedures of a foreign country. The Tajik law allows the submission of material needed to continue criminal proceedings in a foreign country (article 474 of the Criminal Procedure Code), as well as the implementation of requests for the continuation or initiation of criminal proceedings in Tajikistan (article 475 of the Criminal Procedure Code).

456. In addition, certain procedural issues related to the provision of MLA (including the timing and order of execution of relevant requests) are detailed in the organizational and administrative documents of the departments responsible for this area of work. In particular, the order of the General Prosecutor of the Republic of Tajikistan dated 05.24.2016 No. 5-83 approved the instruction on the procedure for rendering legal assistance in criminal cases, extradition, and transfer of convicted persons. According to the Instruction, the deadline for the execution of requests for MLA is 30 days and, depending on the complexity, can be extended up to two months, not more. If necessary, the possibility of its execution in a shorter time.

457. Tajikistan is a party to a number of bilateral treaties and agreements on mutual legal assistance in criminal matters (with the United Arab Emirates, Afghanistan, India, Uzbekistan, Turkey, China, Ukraine, Kazakhstan, Belarus, Iran, Kyrgyzstan, Armenia, etc.).

458. Within the CIS, mutual legal assistance is provided in accordance with the Convention on Legal Assistance and Legal Relations in Civil, Domestic and Criminal Proceedings of January 22, 1993 (Minsk) and the Convention on Legal Assistance and Legal Relations in Civil, Domestic and Criminal Proceedings of October 7, 2002 (Chisinau).

459. **Criterion 37.2** Pursuant to article 470 of the Criminal Procedure Code, the General Prosecutor's Office (requests for a separate investigative action) and the Supreme Court (requests for a judicial action) are the central authorities for sending requests, who, if necessary, may seek the mediation of the Foreign Ministry. The return of unimplemented MLA requests is also made through these agencies.

460. The powers of the prosecution authorities are set out in detail in the Constitutional Law "On the Prosecutor's Office". Pursuant to article 50 of this law, as part of international cooperation in legal matters, the General Prosecutor's Office, acting in compliance with applicable laws and international regulations recognized by Tajikistan, sends MLA and extradition requests and implements other types of requests provided for by applicable laws and international regulations. The same government agency, acting in compliance with intergovernmental agreements on mutual legal assistance, decides on matters related to the initiation of criminal proceedings, investigation of criminal offences, conduct of inquiries, extradition of criminals or persons suspected of committing crimes, submission of reports on the outcomes of criminal proceedings, and other matters covered by these agreements.

461. Besides the Criminal Procedure Code, the powers of the Supreme Court to engage in international cooperation are regulated by the Convention on Legal Assistance and Legal Relations in

Civil, Domestic and Criminal Proceedings (1993) and the Convention on Legal Assistance and Legal Relations in Civil, Domestic and Criminal Proceedings (2002).

462. There is an electronic document management system in the Prosecutor's Office of the Republic of Tajikistan, which is used to keep track of the receipt and execution of MLA requests. Procedural issues of the provision of MLA are governed by the instruction, but the order of priority execution of MLA requests is not established. At the level of the judiciary, this issue is also not resolved.

463. **Criterion 37.3** Pursuant to article 473, paragraph 4, of the Criminal Procedure Code, an MLA request shall be returned if its implementation may undermine sovereignty or security, or runs contrary to the legislation, of Tajikistan.

464. **Criterion 37.4**

- a) The Criminal Procedure Code does not allow MLA requests to be refused on the grounds that the offence also involves fiscal matters. This means that such MLA requests can be implemented.
- b) With respect to criminal investigations, the Criminal Procedure Code establishes a mechanism for overcoming bank secrecy (through a judicial decision, as, for example, in article 192 of the Criminal Procedure Code concerning search and seizure). These provisions of the Criminal Procedure Code are consistent with the relevant provisions of the Law "On Banking".

Pursuant to article 473, paragraph 2, of the Criminal Procedure Code, requests from foreign agencies and officials for the conduct of investigative or judicial actions submitted in accordance with the established procedure shall be implemented in accordance with the general rules of the said Code. In view of the foregoing, we can conclude that the general mechanism for overcoming the restrictions connected with bank secrecy during investigations can also be used in the implementation of MLA requests.

465. **Criterion 37.5** Section XII of the Criminal Procedure Code, which covers international cooperation, does not contain a specific provision governing confidentiality of received mutual legal assistance requests and the information contained therein.

466. Pursuant to article 177 of the Criminal Procedure, the disclosure of preliminary investigation findings is prohibited. Any violation of this provision is punishable under article 361 of the Criminal Code. Given that requests from foreign agencies and officials for the conduct of investigative or judicial actions submitted in accordance with the established procedure are implemented in accordance with the general rules of the Criminal Procedure Code, the requirement of article 177 of the Criminal Procedure Code also applies to the implementation of MLA requests.

467. Certain limitations on the disclosure of relevant information are also established by the Law "On Combating Money Laundering, Terrorist Financing and the Financing of the Proliferation of Weapons of Mass Destruction". Pursuant to article 16, paragraph 7, of this Law, the authorized body shall not disclose to a third party any information or documents provided to it, or use such information or documents in a preliminary inquiry or any criminal, administrative or civil proceedings, without the prior consent of the foreign competent authority. Pursuant to paragraph 9 of that article, designated authorities shall take all necessary measures, including security measures, to preclude any possible

disclosure of the transferred information to other bodies, authorities or agencies without the prior consent of the foreign competent authority.

468. Confidentiality provisions are also contained in article 20 of the Chisinau Convention, to which Tajikistan is a party.

469. **Criterion 37.6** In general, there are no provisions in the Criminal Procedure Code that make dual criminality a condition of rendering assistance.

470. **Criterion 37.7** The Criminal Procedure Code imposes no restrictions on the implementation of MLA requests related to the category of offence or the terminology used to denominate it.

471. **Criterion 37.8**

- a) Based on the systematic interpretation of the regulations, all investigative techniques provided for in the Criminal Procedure Code can be used to provide MLA (including enforcement measures to compel the production of information by financial institutions, DNFBPs and other individuals or legal persons; searches of persons and premises; the taking of witness statements; and gathering and seizure of evidence).
- b) It is also possible to use the capabilities of investigative authorities to implement MLA requests.
- c) Pursuant to article 6 of the Law "On Investigative Activities", requests by foreign law enforcement agencies or international law enforcement organizations made in accordance with international agreements entered into by Tajikistan constitute the basis for undertaking any type of investigative activities. In this case, authorities undertaking investigative activities in accordance with international agreements and Tajik legislation make the results of their activities available to other countries on a gratuitous basis (article 11 of the Law).

472. Article 16 of the Law "On Combating Money Laundering, Terrorist Financing and the Financing of the Proliferation of Weapons of Mass Destruction" also provides for the exchange of information with foreign competent authorities.

### *Weighting and conclusions*

473. Tajikistan's legal framework for the provision of mutual legal assistance is sufficient. However, the procedure for prioritisation of MLA requests is absent.

474. **Recommendation 37 is rated LC.**

### *Recommendation 38 - Mutual legal assistance: freezing and confiscation*

475. In its MER of 2008, Tajikistan was rated non-compliant with Recommendation 38. The main deficiency was the lack of data needed to conduct an expert assessment.

476. **Criterion 38.1** Section XII of the Criminal Procedure Code, which covers international cooperation, lacks the procedure for the freezing of property in response to international requests on criminal matters. Pursuant to article 473, paragraph 1, of the Criminal Procedure Code, requests from foreign agencies and officials for the conduct of investigative or judicial actions on identification, seizure and confiscation shall be implemented in accordance with the general rules of the said Code.

477. The Criminal Procedure Code, as a whole, provides for the powers of law enforcement officials to identify (through the use of various investigative techniques) and seize the property subject to confiscation. At the same time, pursuant to article 57 of the Criminal Code, all types of property listed in Criterion 38.1 are subject to confiscation, i.e. mandatory, uncompensated appropriation by the State of property on the basis of a conviction.

478. The issues related to the identification of the property subject to confiscation are also regulated by the Law "On Investigative Activities". In addition, Tajikistan is a party to various international treaties that deal with these issues. However, the status of the frozen property and the procedure for handling the Criminal Procedure Code is not regulated.

479. **Criterion 38.2** In accordance with Art. 20 of the Constitution of Tajikistan no one is considered guilty of committing a crime till the entry of a conviction into force. In this regard, non-conviction based confiscation is contrary to the fundamental principles of the national legislation.

480. **Criterion 38.3** The procedure for storing the frozen property which may subsequently be subject to confiscation at the investigation stage is determined by the investigator in charge of the criminal investigation.

481. In order to prevent the taking of any unlawful actions against the frozen property, such property may be seized or deposited, subject to the discretion of the person enforcing the freezing order, with a representative of a local self-government body, a housing management organization, the owner of such property or any another person (par. 7 of article 116 of the Criminal Procedure Code).

482. In addition, article 185 of the Criminal Procedure Code establishes the procedure governing the storage and, if necessary, disposal of the property recognized as material evidence.

483. Pursuant to article 202 of the Code of Enforcement of Criminal Punishment, following the hearing of the criminal case by the court and entry into force of the conviction which provides for confiscation, the confiscated property shall, after satisfaction in accordance with applicable law of all claims against the convicted person, be deposited by the bailiff with financial authorities in accordance with the procedure established by the Ministry of Finance and the Ministry of Justice of the Republic of Tajikistan. However, this procedure has yet to be developed by Tajikistan.

484. Subsequently, financial authorities must provide to the sentencing court evidence of enforcement of the court order with regard to confiscation of property.

485. **Criterion 38.4** There are no mechanisms in Tajikistan for the sharing of confiscated property with other countries.

### *Weighting and conclusions*

486. The mechanism for the seizure, storage and confiscation of property within the framework of MLA is regulated by general rules set forth in the Code of Criminal Procedure of the Republic of Tajikistan. At the same time there are no rules that regulate the handling of frozen property. There is no information on the availability of authority of MLA when responding to requests for confiscation and application of interim measures without a conviction. There are no mechanisms in Tajikistan for the sharing of confiscated property with other countries.

487. **Recommendation 38 is rated PC.**

### ***Recommendation 39 - Extradition***

488. In its MER of 2008, Tajikistan was rated non-compliant with Recommendation 39 due to the lack of data needed to conduct an assessment.

489. **Criterion 39.1** Extradition is allowed under the Tajik law.

490. Pursuant to article 16 of the Constitution of the Republic of Tajikistan, extradition of criminals to foreign countries is subject to the conclusion of a bilateral agreement. Tajikistan has entered into a number of bilateral agreements and international treaties on mutual legal assistance and extradition of criminals (the Extradition Agreement between Tajikistan and the UAE, the Extradition Agreement between Tajikistan and Afghanistan, the Extradition Agreement between Tajikistan and China, the Agreement on the Transfer of Convicts between Tajikistan and Ukraine, etc.).

491. On October 1, 2004, Tajikistan ratified the Chisinau Convention on Legal Assistance and Legal Relations in Civil, Domestic and Criminal Proceedings. Pursuant to article 66 of this convention, the signatory states agree to extradite, upon request, persons located in their territory for prosecution or serving a sentence. In addition, pursuant to article 90 of the Convention, in the event of refusal to extradite person, that person may be prosecuted by the party that refused the request.

492. Similar provisions are contained in article 56 of the Minsk Convention on Legal Assistance and Legal Relations in Civil, Domestic and Criminal Proceedings of January 22, 1993, which came into force in Tajikistan on December 20, 1994.

493. In the Criminal Procedure Code, the issues of extradition are covered by chapters 59 (establishes the procedure and conditions for the extradition of a person for prosecution or serving of a sentence) and 60 (establishes the procedure for the transfer of a person sentenced to imprisonment to the country of his nationality to serve his sentence).

- a) ML and TF are criminalized in Tajikistan, with liability for these offences provided for by articles 262 and 179.1 of the Criminal Code, respectively. This means that individuals guilty of these crimes can be extradited on the basis of a request from a foreign country.
- b) The procedure for the execution of extradition requests is set out in chapters 59 and 60 of the Criminal Procedure Code. At the same time, there is no information on the system for managing extradition requests. According to Tajikistan, the Prosecutor's Office is responsible for maintaining an electronic register of documents, including requests for extradition of persons wanted by Interpol, which automatically manages and monitors the timeliness of execution of international incoming and outgoing requests. However, with this approach in place, it is not clear how the priority of these or other requests is determined.
- c) A list of grounds for refusal of extradition is set forth in Article 479 of the Criminal Procedure Code. There are certain restrictions on the extradition of Tajik nationals (their extradition is subject to the existence of certain provisions in bilateral agreements). These restriction are not excessive or unreasonable though.

494. **Criterion 39.2**

- a) Article 16 of the Constitution prohibits the extradition of Tajik nationals to foreign countries. Meanwhile, extradition of criminals is subject to the terms of a bilateral agreement concluded

between the countries. This wording of this article of the Constitution is consistent with the provisions of the Criminal Code. Pursuant to article 16 of this Code, a Tajik national who has committed an offence in the territory of another State shall not be extradited to that State, unless otherwise provided for in bilateral agreements.

- b) Article 475 of the Criminal Procedure Code establishes a general procedure for the execution of requests for the continuation of criminal prosecution or initiation of criminal proceedings in Tajikistan, which may also be applied to persons whose extradition has been refused.

In addition, pursuant to article 15, paragraph 1, of the Criminal Code, a Tajik national or a stateless person permanently residing in Tajikistan may be held liable for crimes committed in the territory of a foreign country if the offence committed by him also constitutes an offence in the country in whose territory it was committed and, and if this person was not convicted of this offence in that foreign country.

A Tajik national or a stateless person permanently residing in Tajikistan may also be held liable for crimes committed in the territory of a foreign country if the specific articles of the Special Chapter provide for criminal liability specifically for crimes committed in the territory of a foreign country.

On October 1, 2004, Tajikistan ratified the Chisinau Convention on Legal Assistance and Legal Relations in Civil, Domestic and Criminal Proceedings. Pursuant to article 66 of this convention, the signatory states agree to extradite, upon request, persons located in their territory for prosecution or serving a sentence. Pursuant to article 90 of the Convention, in the event of refusal to extradite a person, that person may be prosecuted by the party that refused the request. In addition, Tajikistan has ratified the UN Convention against Transnational Organized Crime (Palermo Convention), which also contain extradition provisions.

495. **Criterion 39.3** Tajikistan places no restrictions on the execution of foreign extradition requests related criminal offences.

496. **Criterion 39.4** There are no simplified extradition procedures in the country.

### *Weighting and conclusions*

497. Tajikistan has a legal framework in place to execute extradition requests. At the same time, Tajikistan needs to address the existing shortcomings in the handling of extradition requests and establish simplified extradition procedures.

498. **Recommendation 39 is rated LC.**

### *Recommendation 40 - Other forms of international co-operation*

499. In MER of 2008, Tajikistan was rated non-compliant with Recommendation 40 due to the lack of data needed to conduct an expert assessment. Among the identified deficiencies were the lack of the necessary information on bilateral and multilateral agreements; and the shortcomings in the legal framework underpinning cooperation with competent authorities of other countries that are not parties to international agreements, etc.

500. **Criterion 40.1** The General Prosecutor's Office, jointly with law enforcement agencies and

supervision authorities, within the limits of their powers authority, can provide international cooperation on in combating ML and TF related issues along with predicate cases both spontaneously and upon request.

501. Pursuant to article 15 of the Framework Law, the designated authority (FMD), along with other state bodies involved in AML/CFT/PF, can send information requests to foreign competent authorities. In addition, the competent authorities, in accordance with the procedure established by applicable law and international agreements to which Tajikistan is a party, or on the basis of the principle of reciprocity, can prepare responses to requests from foreign competent authorities.

502. General provisions on international cooperation are set contained in the Law "On Combating Terrorism", pursuant to article 5 of which Tajikistan, acting in accordance with international agreements, shall cooperate in combating terrorism with foreign countries, their law enforcement agencies, security agencies and international organizations engaged in the fight against terrorism.

503. The Tajik law also provides for the use of the capabilities of investigative agencies. Pursuant to article 11, paragraph 6, of the Law on Investigative Activities, the results of investigative activities can be made available to other countries, subject to compliance with the terms of international treaties and legislation of the Republic of Tajikistan. In addition, the responsibility for executing the requests of international law enforcement organizations and foreign law enforcement agencies and security services in the manner provided by international treaties of the Republic of Tajikistan is assigned to the investigative authorities.

#### 504. **Criterion 40.2**

- a) The legal basis for international cooperation between the Tajik law enforcement agencies and their foreign counterparts is established by regulations, memoranda and agreements on combating crime.

The powers of the Financial Monitoring Department of the National Bank of Tajikistan to engage in international cooperation are enshrined in article 16 of the Framework Law. The FMD has the authority to share information with foreign competent authorities to combat money laundering and terrorist financing.

Pursuant to article 47 of the Law "On the Prosecutor's Office", the General Prosecutor's Office, acting in compliance with the laws and international regulations recognized by Tajikistan, engages in international legal cooperation with foreign law enforcement and other competent authorities and international organizations.

Under the Law "On the Agency for State Financial Control and Combating Corruption", the Agency is currently empowered to provide legal assistance in criminal matters. Article 33 contains a separate provision according to which the Agency engages in international legal cooperation with foreign law enforcement and other competent authorities and international organizations to prevent money laundering and terrorist financing, injection of criminal assets into the country's economy and other economic crimes.

Pursuant to article 19 of the Law "On the National Security Authorities", SCNS may cooperate with security forces, law enforcement agencies and other organizations of foreign countries and international organizations, as well as to share with them, on a mutual basis, intelligence

and specialized and other equipment, in the manner prescribed by law.

The Interior Ministry, acting in compliance with the Regulations on the Interior Ministry, shall cooperate with foreign government agencies and international organizations in areas under its purview.

Pursuant to article 462 of the Customs Code, customs authorities shall ensure the fulfilment of Tajikistan's international customs obligations and cooperate with foreign customs and other competent authorities and international organizations dealing with customs related issues.

No documents governing the activities in this sphere of the Tax Committee under the Government of the Republic of Tajikistan, the Drug Control Agency under the President of the Republic of Tajikistan or the Supreme Court of the Republic of Tajikistan were provided;

- b) There are no legal restrictions on the powers authority of the FMD or law enforcement agencies to use the most effective means to promote international cooperation;
- c) The FMD uses the Egmont Group's secure communication channel to exchange information with foreign competent authorities. Law enforcement agencies use different types of open and secure gateways and channels to share information with their foreign counterparts, but no detailed information was provided on this issue;
- d) No procedure for the prioritisation of requests has been established;
- e) The Framework Law imposes restrictions on the disclosure of the relevant information. Pursuant to article 16, paragraph 7, of this Law, the authorized body shall not disclose to a third party any information or documents provided to it, or use such information or documents in a preliminary inquiry or any criminal, administrative or civil proceedings, without the prior consent of the foreign competent authority. Pursuant to paragraph 9 of that article, designated authorities shall take all necessary measures, including security measures, to preclude any possible disclosure of the transferred information to other bodies, authorities or agencies without the prior consent of the foreign competent authority.

With regard to law enforcement agencies, there are no separate provisions governing the issues of confidentiality of submitted mutual legal assistance requests and information contained therein. At the same time, according to the general rule (i.e. pursuant to article 177 of the Criminal Procedure Code), disclosure of preliminary investigation data is prohibited. Any violation of this provision is punishable under article 361 of the Criminal Code. Given that requests from foreign agencies and officials for the conduct of investigative or judicial actions submitted in accordance with the established procedure are implemented in accordance with the general rules of the Criminal Procedure Code, the requirement of article 177 of the Criminal Procedure Code also applies to the implementation of MLA requests. Confidentiality provisions are also contained in article 20 of the Chisinau Convention, to which Tajikistan is a party.

505. **Criterion 40.3** Pursuant to article 15 of the Framework Law, the designated authority and other government agencies engaged in the fight against money laundering, terrorist financing the financing of the proliferation of weapons of mass destruction may send information requests to foreign competent authorities and reply to information requests received from such competent authorities in

the manner provided by law and international agreements, or on the basis of reciprocity.

506. There are cooperation agreements concluded by the FMD and law enforcement agencies. There are no time limits for concluded agreements.

507. **Criterion 40.4** As a member of the Egmont Group, the FMD is required to provide feedback pursuant to paragraph 19 of the Egmont Group's Principles of Information Exchange. Certain provisions governing the exchange of relevant information which can be extended to other Tajik competent authorities are contained in article 74 (Notice of the Outcomes of Criminal Proceedings) of the Chisinau Convention.

508. At the same time, no information on the instruments governing international cooperation of certain agencies or, by extension, on the existence therein of provisions requiring requesting competent authorities to provide feedback to competent authorities which provided assistance on the use and usefulness of the information obtained, was provided by Tajikistan.

509. **Criterion 40.5**

- a) There are no grounds for refusing to investigate a tax offense.
- b) Legislation of the Republic of Tajikistan limits the possibility of the FI and DNFBPs to share the information containing bank secrecy matters, but such restrictions do not cover FMD and specific law enforcement agencies;
- c) Pursuant to article 16, paragraph 6, of the Framework Law, the designated authority may refuse to disclose the information capable of harming a criminal investigation conducted by the competent authorities of the Republic Tajikistan, or, in exceptional circumstances, blatantly violating the legitimate interests of the natural or legal person of the Republic of Tajikistan, or in any way contravening the basic legal principles. Such refusal must be appropriately substantiated by the designated authority.
- d) In accordance with Part 3 of Article 16 of the Basic Law of the Republic of Tajikistan, the authorized body may exchange information with foreign authorized bodies, regardless of whether they have the administrative, law enforcement, judicial or other status. In the regulatory legal acts regulating the activities of law enforcement agencies, there are no restrictions on cooperation due to the status of a foreign state body that applied for legal assistance.

510. **Criterion 40.6** Pursuant to article 16, paragraph 7, of the Framework Law, the designated authority may use the information or documents provided by a foreign competent authority only for AML/CFT/PF. The authorized body shall not disclose to a third party any information or documents provided to it, or use such information or documents in a preliminary inquiry or any criminal, administrative or civil proceedings, without prior consent of the foreign competent authority.

511. Law enforcement agencies, acting within the scope of their authority, shall monitor the use of information obtained from foreign competent authorities, while its provision to other competent bodies is subject to the terms of international agreements, memoranda entered into by the Tajik law enforcement authorities, as well as to the consent of the requested party.

512. **Criterion 40.7** Pursuant to article 16, paragraph 9, of the Framework Law, competent authorities

shall take all necessary measures, including security measures, to preclude any possible disclosure of the exchanged information to other bodies, authorities or agencies without the prior consent of the foreign competent authority. In addition, the FMD, being a member of the Egmont Group, is also required to abide by the principles of information exchange, according to which the exchanged data shall be protected in the same manner as similar data received from domestic sources.

513. Law enforcement agencies, acting within the scope of their authority, shall protect the information obtained in the course of international cooperation when investigating criminal cases and conducting intelligence gathering.

514. The Tajik law does not require competent authorities to refuse to provide information if the requesting competent authority cannot protect the information effectively. At the same time, these issues are addressed in the bilateral cooperation agreements concluded by Tajikistan with other countries (Latvia, Iran, Saudi Arabia and the UAE).

515. **Criterion 40.8** Pursuant to article 11, paragraph 6, of the Law on Investigative Activities, the results of investigative activities can be made available to other countries, subject to compliance with the terms of international treaties and legislation of the Republic of Tajikistan. The responsibility for implementing the requests of international law enforcement organizations and foreign law enforcement agencies and security services in the manner provided by international treaties of the Republic of Tajikistan is assigned to the investigative authorities.

#### *Exchange of information between FIUs*

516. **Criterion 40.9** Pursuant to article 13 of the Framework Law, the FMD may, upon request or spontaneously, share information with a foreign competent authority related to the fight against money laundering, terrorist financing and proliferation financing. Pursuant to article 16, paragraph 3, of the Framework Law, the FMD may engage in information sharing with foreign competent authorities irrespective of their status (administrative, law enforcement, judicial, etc.). The FMD shares information on predicate offences in accordance with the terms of the agreements concluded by it.

517. **Criterion 40.10** There are no legislative provisions preventing the FMD from providing feedback to its foreign counterparts, upon request and whenever possible, on the use of the information provided, as well as on the outcomes of the analysis conducted, based on the information provided. In addition, as a member of the Egmont Group, the FMD is required to provide such feedback pursuant to paragraph 19 of the Egmont Group's Principles of Information Exchange.

518. **Criterion 40.11** Pursuant to article 15 and paragraph 2 of article 16 of the AML/CFT Law, the FMD may, spontaneously or on demand, share with foreign competent authorities any available to it information that may be related to the processing or analysis of information or investigations, in accordance with the procedure established by law and international agreements of Tajikistan, or subject to the principle of reciprocity.

#### *Exchange of information between financial supervisors*

519. **Criterion 40.12** The Framework Law authorities Tajik authorities engaged in AML/CFT/P to send information requests to foreign competent authorities and reply to information requests received from such competent authorities.

520. The NB may enter into agreements with other foreign central (national) banks or internal and

external oversight bodies, and use them for information sharing. The NB has entered into a number of intelligence sharing agreements with its counterparts in Russia, Kazakhstan, Turkey, China, Labuan, Afghanistan and Iran.

521. The NB, the Finance Ministry and Communications Agency are involved in international cooperation on matters under their purview (monetary policy, banking supervision, fiscal matters, integration into the world economy, implementation of international standards and participation in international organizations).

522. However, no legal framework is set for information sharing on AML/CFT for these agencies.

523. **Criteria 40.13** The framework law and other legislative acts of the Republic of Tajikistan provide for a general principle of information exchange between the authorities of the Republic of Tajikistan and their foreign counterparts.

524. **Criteria 40.14** There are no restrictions on the exchange of information between AML/CFT supervisors.

525. **Criterion 40.15** Financial supervisors in Tajikistan are not authorized to conduct inquiries on behalf of foreign counterparts, or to facilitate the ability of foreign counterparts to conduct inquiries themselves in the country.

526. **Criterion 40.16** There is no legally established procedure in Tajikistan for obtaining the prior authorization of the requested financial supervisor for any dissemination of information exchanged.

*Exchange of information between law enforcement authorities*

527. **Criterion 40.17** Tajikistan's Code of Criminal Procedure and the Law "On Investigative Activities" allow law enforcement agencies, acting within their scope of authority, to exchange information with foreign counterparts for intelligence or investigative purposes relating to money laundering, associated predicate offences or terrorist financing, including the identification and tracing of the proceeds of crime, assets and crime instrumentalities

528. **Criterion 40.18** Law enforcement agencies have the capacity to conduct investigations and gather intelligence on behalf of foreign counterparts.

529. The Interpol National Central Bureau (NCB) of Tajikistan is established in accordance with the powers conferred on the Interior Ministry in connection with its membership of the International Criminal Police Organization. Tajikistan joined Interpol on October 5, 2004 and became the 182th Member State of this organization.

530. The NB is responsible for the receipt, processing and submission to the Interpol General Secretariat and foreign central banks of requests, inquiries and reports from the Tajik authorities for use in the search for and seizure abroad of the proceeds of crime, stolen items and documents, as well as in the conduct of other investigative activities. It also takes steps to facilitate the execution of requests by international law enforcement agencies and law enforcement agencies of the Interpol Member States.

531. **Criterion 40.19** Law enforcement agencies can form joint investigative teams and enter into agreements to enable such joint investigations in accordance with the Agreement on the Creation and Activities of Joint Investigative Teams in the Territories of the CIS Member States of October 16,

2015. No information was provided on the possibility of forming joint investigation teams outside the Commonwealth of Independent States.

532. **Criterion 40.20** Tajikistan has not provided information on this issue.

*Weighting and conclusions*

533. Tajikistan has a legal basis for the participation by its competent authorities in international cooperation on money laundering, predicate crimes and terrorist financing. At the same time, there is not enough information on the prioritisation of requests, cooperation between supervisors, and the possibility of indirect information exchange with non-counterparts.

534. **Recommendation 40 is rated LC.**

## Summary of Technical Compliance – Key Deficiencies

Compliance with the FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks and applying a risk-based approach	LC	<ul style="list-style-type: none"> <li>• There are no requirements for reporting entities to apply enhanced CDD measures to manage and mitigate higher ML/TF risks identified in the NRA, or to incorporate the risk information into their risk assessments;</li> <li>• Simplified CDD measures are not fully consistent with the NRA findings;</li> <li>• FIs and DNFBPs are not required to identify, assess and understand ML/TF risks for products, services, transactions or delivery channels;</li> <li>• FIs and DNFBPs are not required to: <ul style="list-style-type: none"> <li>○ document their risk assessments;</li> <li>○ consider all the relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to be applied;</li> <li>○ keep its risk assessment up to date.</li> </ul> </li> </ul>
2. National cooperation and coordination	C	
3. Money laundering offence	LC	<ul style="list-style-type: none"> <li>• Sanctions provided for legal entities are not fully proportionate and dissuasive.</li> </ul>
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> <li>• No mechanisms for managing frozen and seized property;</li> <li>• The procedure for undertaking investigative activities does not include a mechanism for obtaining information constituting bank secrecy.</li> </ul>
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> <li>• TF offences do not include financing the 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;</li> <li>• Sanctions provided for legal entities are not fully proportionate and dissuasive.</li> </ul>
6. Targeted financial sanctions related to	PC	<ul style="list-style-type: none"> <li>• Tajikistan has not identified a competent authority responsible for proposing persons or</li> </ul>

terrorism and TF		<p>entities to the 1267/1989 Committee and the 1988 Committee for designation;</p> <ul style="list-style-type: none"> <li>• The mechanisms for identifying targets for designation, based on the designation criteria set out in the relevant United Nations Security Council resolutions, have not been defined; there are no procedures for reviewing and applying an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when deciding whether or not to make a proposal for designation; the procedures for the use of standard forms for listing, as adopted by the relevant UNSC committees, have not been adopted; the requirements for the provision of information on the proposed name, similarly to a statement of case, or for specifying whether the status as a designating state has been made known, have not been defined;</li> <li>• There are no procedures for considering and applying an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when deciding whether or not to make a proposal for designation;</li> <li>• Compilation of the National List due to the presence of criminal proceedings;</li> <li>• The requirement to freeze funds does not apply to all individuals and legal entities, and is limited only to accountable ones;</li> <li>• There is no obligation for financial institutions and DNFBP to report to the competent authorities about attempts to perform operations by designated persons;</li> <li>• There are no publicly known procedures for defrosting funds in the event of false-positive freezing of funds.</li> </ul>
7. Targeted financial sanctions related to proliferation	<b>NC</b>	<ul style="list-style-type: none"> <li>• There are no legal provisions related to PF.</li> </ul>
8. Non-profit organizations	<b>PC</b>	<ul style="list-style-type: none"> <li>• Tajikistan has not identified the nature of threats posed by terrorist entities to the NPOs or how terrorist actors abuse those NPOs;</li> <li>• The Republic of Tajikistan only reviewed the adequacy of laws related to public</li> </ul>

		<p>organisations;</p> <ul style="list-style-type: none"> <li>• Tajikistan lacks any strategy/concept for promoting openness of NPOs;</li> <li>• Tajikistan does not conduct cooperation with NPOs to develop and refine best practices to address terrorist financing risk and vulnerabilities;</li> <li>• Tajik supervisors do not apply the risk-based approach to supervision over NPOs;</li> <li>• Penalties provided for by the Tajik law are neither effective nor dissuasive.</li> </ul>
9. Financial institution secrecy laws	<b>C</b>	
10. Customer Due Diligence	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no prohibition on the opening and maintenance of anonymous accounts and accounts in obviously fictitious names for insurance companies and securities market participants;</li> <li>• The requirement to conduct CDD measures does not apply to transactions below the designated threshold that appear to be linked;</li> <li>• There is no requirement to identify and verify the identity of a customer that is a legal arrangement;</li> <li>• The requirements of criterion 10.9 are not applicable to legal arrangements;</li> <li>• There is no requirement for legal arrangements to understand the nature of the business relationship of a client (legal person) and its ownership and control structure;</li> <li>• There is no requirement to identify and verify the identity of legal arrangements;</li> <li>• There is no requirement to conduct CDD measures on the beneficiaries of life insurance or other investment related insurance policies;</li> <li>• No due diligence is conducted on government authorities;</li> <li>• There is no requirement to refrain from</li> </ul>

		applying simplified CDD measures where there is a suspicion of ML/TF or specific higher risk scenarios apply.
11. Record keeping	<b>LC</b>	<ul style="list-style-type: none"> <li>• FIs (except for credit institutions) are not required to retain transaction data for at least 5 years after the transaction;</li> <li>• There is a discrepancy in record-keeping requirements between the AML/CFT Law and the Law "On Banking".</li> </ul>
12. Politically exposed person	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no risk management system to determine PEPs;</li> <li>• There is no requirement for FIs to obtain senior management approval before continuing the relationship with the customer or beneficial owner if it becomes a PEP;</li> <li>• The term 'domestic PEP' does not include prominent politicians, senior military and judicial officials, heads of state corporations, and prominent figures of political parties;</li> <li>• Requirements of criteria 12.1 (except for 12.1 (d)) and 12.2 are not implemented in relation to close associates of PEPs;</li> <li>• There is no requirement to conduct CDD measures where the beneficiary of funds under a life insurance policy is a PEP.</li> </ul>
13. Correspondent banking	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no requirement to clearly understand the respective AML/CFT responsibilities of each institution in establishing correspondent relationships.</li> </ul>
14. Money or value transfer services	<b>LC</b>	<ul style="list-style-type: none"> <li>• MVTS providers are not required to include their agents in their AML/CFT programmes.</li> </ul>
15. New technologies	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no requirement for FIs to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products;</li> <li>• FIs are not required to take appropriate measures to manage and mitigate the risks arising from new technologies.</li> </ul>

<p>16. Wire transfers</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• FIs are not required to ensure that all cross-border wire transfers are accompanied by originator and beneficiary information;</li> <li>• There is no requirement stipulating that where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file should contain originator and beneficiary information;</li> <li>• FIs are not required to verify the originator and beneficiary information for accuracy if the transfer amount is less than USD 1000 or there is a suspicion of ML/TF;</li> <li>• FIs are not required to ensure that domestic wire transfers are accompanied by originator information or this information is provided to the beneficiary FI and relevant authorities;</li> <li>• The established requirements for retaining originator and beneficiary information are not in line with R.11;</li> <li>• There is no requirement not to execute the wire transfer if it does not comply with the requirements specified at criteria 16.1-16.7;</li> <li>• Intermediary FIs executing cross-border wire transfers are not required to retain all accompanying originator and beneficiary information;</li> <li>• Intermediary FIs executing cross-border wire transfers are not required to retain all the information received from the ordering financial institution or another intermediary financial institution for at least 5 years;</li> <li>• There is no requirement for intermediary FIs executing cross-border wire transfers to take reasonable measures to identify cross-border wire transfers that lack required originator or beneficiary information;</li> <li>• There is no requirement for intermediary FIs executing cross-border wire transfers to have risk-based policies and procedures for determining: (i) when to execute, reject, or suspend a wire transfer lacking required</li> </ul>
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		<p>originator or required beneficiary information; and (ii) the appropriate follow-up action;</p> <ul style="list-style-type: none"> <li>• There is no requirement for beneficiary FIs to monitor and identify cross-border wire transfers that lack required originator information or required beneficiary information;</li> <li>• There is no requirement for beneficiary FIs to verify the identity of the beneficiary and maintain this information for at least 5 years;</li> <li>• There is no requirement for beneficiary FIs to have risk-based policies and procedures for determining: (i) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (ii) the appropriate follow-up action;</li> <li>• Money or money transfer service providers are not required to comply with the requirements of R.16.</li> </ul>
17. Reliance on third parties	<b>N/A</b>	
18. Internal controls and foreign branches and subsidiaries	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no requirement for financial groups to implement group-wide AML/CFT programmes.</li> </ul>
19. Higher risk countries	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no requirement to apply countermeasures proportionate to the risks: (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF to do so.</li> </ul>
20. Reporting of suspicious transactions	<b>C</b>	
21. Tipping-off and confidentiality	<b>C</b>	
22. DNFBP: customer due diligence	<b>PC</b>	<ul style="list-style-type: none"> <li>• CDD shortcomings noted in R.10 are also applicable to DNFBPs;</li> <li>• Record keeping shortcoming noted in R.11 are also applicable to DNFBPs;</li> <li>• PEP shortcomings noted in R.12 are also applicable to DNFBPs;</li> <li>• The shortcoming related to new technologies noted in R.15 are also applicable to DNFBPs.</li> </ul>
23. DNFBP: other	<b>LC</b>	<ul style="list-style-type: none"> <li>• The shortcomings noted in R.19 are also</li> </ul>

measures		applicable to DNFBPs.
24. Transparency and beneficial ownership of legal arrangements	<b>LC</b>	<ul style="list-style-type: none"> <li>• Tajikistan has not assessed the ML/TF risks associated with legal persons;</li> <li>• There is no requirement for legal persons to retain information referred to in criterion 24.3;</li> <li>• There are no mechanisms to ensure the accuracy of the information referred to in criterion 24.3 and 24.4;</li> <li>• There is no requirement in Tajikistan for one or more natural persons/DNFBPs resident in the country to be authorised by the company, and accountable to competent authorities, for providing all basic information and available beneficial ownership information, and giving further assistance to the authorities;</li> <li>• There are no regulations in Tajikistan governing the activities of nominee directors;</li> <li>• The sanctions against legal persons provided for by the Tajik law cannot be considered effective or dissuasive;</li> <li>• In Tajikistan only the DFM monitors the quality of assistance it receives from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.</li> </ul>
25. Transparency and beneficial ownership of legal arrangements	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no requirement to keep and update information on the settlor or other regulated agents and trust service providers;</li> <li>• Information obtained through CDD measures by trust or company service providers is not updated;</li> <li>• There is no requirement for trust and company service providers in Tajikistan to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold;</li> <li>• deficiencies in criteria 25.1, 25.2 and 25.3 negatively affect international cooperation;</li> <li>• There is no legal liability of trust and company</li> </ul>

		service providers for failure to comply with the requirements set out in R.25.
26. Regulation and supervision of financial institutions	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no requirement for the owners and beneficial owners of insurance and securities market participants to have no criminal record;</li> <li>• Supervision over FIs is not fully in line with the Framework Principles;</li> <li>• The frequency and intensity of on-site and off-site AML/CFT supervision of financial institutions is not determined on the basis of the risk-based approach;</li> <li>• There is no requirement for the supervisors to review the assessment of the ML/TF risk profile of a financial institution, or when there are major events or developments in the management and operations of the financial institution.</li> </ul>
27. Powers of supervisors	<b>LC</b>	<ul style="list-style-type: none"> <li>• The Communications Agency under the Government of the Republic of Tajikistan has no authority to carry out inspections of postal service providers for compliance with the AML/CFT Law;</li> <li>• The Communications Agency lacks the powers to compel the production by reporting entities of any information relevant to monitoring compliance with the AML/CFT requirements;</li> <li>• Financial sector supervisors other than the NB lack the powers to impose sanctions for non-compliance with AML/CFT requirements.</li> </ul>
28. Regulation and supervision of DNFBPs	<b>PC</b>	<ul style="list-style-type: none"> <li>• Supervisors over auditors and dealers in precious metals and precious stones are not authorized to conduct on-site and remote inspections, including monitor compliance with AML/CFT requirements;</li> <li>• There is no requirement to take the necessary measures to prevent criminals or their associates from holding a controlling interest in a DNFBP;</li> <li>• The shortcomings noted in R.35 also apply to criterion 28.4(c);</li> <li>• Supervisors are not authorized to apply</li> </ul>

		<p>sanctions against DNFBBs for failure to comply with the AML/CFT Law;</p> <ul style="list-style-type: none"> <li>• Supervision over DNFBBs is not based on the risks identified.</li> </ul>
29. Financial intelligence units	<b>C</b>	
30. Responsibilities of law enforcement and investigative authorities	<b>LC</b>	<ul style="list-style-type: none"> <li>• No procedure for conducting a parallel financial investigation.</li> </ul>
31. Powers of law enforcement and investigative authorities	<b>C</b>	
32. Cash couriers	<b>LC</b>	<ul style="list-style-type: none"> <li>• The legal framework in place is not sufficient to identify cash couriers;</li> <li>• There is no information regarding which authority is responsible for the proper coordination between customs, immigration and other concerned authorities on issues related to the application of Recommendation 32;</li> <li>• It is not clear which agencies are involved in these activities, and what organizational and regulatory documents they are guided by.</li> </ul>
33. Statistics	<b>LC</b>	<ul style="list-style-type: none"> <li>• No statistics on prosecutions and convictions.</li> </ul>
34. Guidance and feedback	<b>LC</b>	<ul style="list-style-type: none"> <li>• Not all competent authorities are involved in the establishment of guidelines.</li> </ul>
35. Sanctions	<b>PC</b>	<ul style="list-style-type: none"> <li>• A broad range of effective, proportionate and dissuasive sanctions against FIs (except for credit institutions), DNFBBs their senior management are absent.</li> </ul>
36. International instruments	<b>C</b>	
37. Mutual legal assistance	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are no procedures for the prioritisation of MLA requests.</li> </ul>
38. Mutual legal assistance: freezing and confiscation	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no legal basis for managing the frozen assets;</li> <li>• The issue concerning the sharing of confiscation property with other countries remains unresolved.</li> </ul>
39. Extradition	<b>LC</b>	<ul style="list-style-type: none"> <li>• No prioritisation of extradition requests and no simplified extradition procedures.</li> </ul>
40. Other forms of	<b>LC</b>	<ul style="list-style-type: none"> <li>• Information is limited on the provision of the</li> </ul>

international cooperation		<p>competent authorities with different types of open and secure gateways and channels of information sharing;</p> <ul style="list-style-type: none"> <li>• There is no request prioritisation;</li> <li>• Feedback mechanisms for law enforcement agencies and supervisory authorities are not documented;</li> <li>• No provisions for all supervisory authorities to exchange information on AML/CFT issues;</li> <li>• Financial supervisors have no powers to conduct inquiries on behalf of foreign counterparts or facilitate the ability of foreign counterparts to conduct inquiry themselves;</li> <li>• No legally established procedure for obtaining the prior authorisation of the requested financial supervisor for any dissemination of information exchanged;</li> <li>• No mechanisms set in place to exchange information indirectly.</li> </ul>
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## TABLE OF ACRONYMS

AML/CFT/PF Law / Framework Law	Law of the Republic of Tajikistan "On Combating Money Laundering, Terrorist Financing and the Financing of the Proliferation of Weapons of Mass Destruction"
BNI	Bearer negotiable instrument
BO	Beneficial owner
CC	Criminal Code of the Republic of Tajikistan
CC	Criminal Code of the Republic of Tajikistan
CDD	Customer due diligence
CFT	Combating the financing of terrorism
CIS ATC	CIS Anti-Terrorism Centre
CIS	Commonwealth of Independent States
CPC	Criminal Procedure Code of the Republic of Tajikistan
CSTO	Collective Security Treaty Organization
DCA	Drug Control Agency under the President of the Republic of Tajikistan
DNFBPs	Designated Non-Financial Business or Professions
DPRK	Democratic People's Republic of Korea
EAG	Eurasian Group on Combating Money Laundering and Financing of Terrorism
FATF	Financial Action Task Force
FI	Financial institution
Finance Ministry	Ministry of Finance of the Republic of Tajikistan
FIU	Financial Intelligence Unit
FMD	Financial Monitoring Department of the National Bank of Tajikistan
FTF	Foreign Terrorist Fighter
IAEA	International Atomic Energy Agency
IC	Interagency Committee
IMF	International Monetary Fund
IN	Interpretive Note
Interior Ministry	Ministry of Internal Affairs of the Republic of Tajikistan
Interior Ministry's MIAC	Interior Ministry's Main Information and Analytical Centre
IO	Immediate Outcome
IT	Information technology
Justice Ministry	Ministry of Justice of the Republic of Tajikistan
MCI	Micro-credit custodial institutions
ML	Money laundering
MLA	Mutual legal assistance
MVTS	Money or value transfer service
NB	National Bank of Tajikistan
NB's DBS	Department for Banking Supervision of the National Bank of Tajikistan
NB's Guidance No. 171	Guidance No. 171 of the National Bank of Tajikistan "On the Procedure for Opening, Re-registering and Closing Bank Accounts"

	by Tajik Credit Institutions"
NB's Guidance No. 200	Guidance No. 200 of the National Bank of Tajikistan "On the Identification and Verification of the Identify of Customers and Beneficial Owners"
NPO	Non-profit organization
NRA	National risk assessment
NRSA	Nuclear and Radiation Safety Agency of the Academy of Sciences of Tajikistan
OSCE	Organisation for Security and Co-operation in Europe
Palermo Convention	United Nations Convention against Transnational Organized Crime 2000
PEPs	Politically exposed persons
PF	Proliferation financing
Prosecutor's Office	General Prosecutor's Office of the Republic of Tajikistan
R.	Recommendation
RATS SCO	Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization
RBA	Risk-based approach
SCNS	State Committee for National Security of the Republic of Tajikistan
SCO	Shanghai Cooperation Organisation
SR.	Special Recommendation
SRO	Self-regulatory organization
STR	Suspicious transaction report
Tajikistan	Republic of Tajikistan
TC	Technical compliance
TCSP	Trust and company service provider
Terrorist Financing Convention	International Convention for the Suppression of the Financing of Terrorism 1999
TF	Terrorist financing
TFS	Targeted financial sanctions
UN	United Nations
UNSCR	United Nations Security Council Resolution
Vienna Convention	The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988