



Anti-money laundering
and counter-terrorist
financing measures

Bangladesh

Mutual Evaluation Report

October 2016





The Asia/Pacific Group on Money Laundering (APG) is an autonomous and collaborative international organisation founded in 1997 in Bangkok, Thailand consisting of 41 members and a number of international and regional observers. Some of the key international organisations who participate with, and support, the efforts of the APG in the region include the Financial Action Task Force, International Monetary Fund, World Bank, OECD, United Nations Office on Drugs and Crime, Asian Development Bank and the Egmont Group of Financial Intelligence Units.

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

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This mutual evaluation report was adopted by the APG at its annual meeting in September 2016.

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APG Secretariat
Locked Bag A3000
Sydney South
New South Wales 1232
AUSTRALIA
Tel: +61 2 9277 0600

E mail: mail@apgml.org

Web: www.apgml.org

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BANGLADESH

3RD ROUND APG MUTUAL EVALUATION REPORT 2016

1. This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in place in Bangladesh as at the date of the end of the on-site visit (22 October 2015). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Bangladesh's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

Bangladesh has made significant progress since the last Mutual Evaluation Report (MER) in 2009, reflecting political commitment and leadership on AML/CFT.

Bangladesh faces significant money laundering (ML) and terrorism financing (TF) risks and competent authorities have a reasonable understanding of those risks. The National Risk Assessments (NRA) and sectoral risk assessments add to effectiveness and guide national strategies, however they do not comprehensively cover threats and TF. Inter-agency work to assess TF risks shows strengths, but more work is needed to assess foreign TF threats, to further assess ML threats and to share information on TF risks with the private sector.

Bangladesh has a range of high-level coordination committees to set policy and coordinate AML/CFT priorities. The high-level National Coordination Committee (NCC) is well structured and draws on technical expertise from relevant agencies and has been instrument in driving key AML/CFT reforms. There were well functioning policy coordination structures for countering the financing of terrorism (CFT) and for implementing United Nations Security Council Resolutions (UNSCRs) against terrorism and proliferation of weapons of mass destructions (WMD). At operational levels, coordination and cooperation occur to a varying degree although recent reforms have sought to address identified issues particularly between law enforcement agencies (LEAs).

The 2015-17 National AML/CFT Strategy and CT strategies are, in part, driven by findings of risk assessments. AML/CFT strategies complement other strategies including CT priorities, but corruption-related ML remains the biggest unmitigated risk area.

Bangladesh Financial Intelligence Unit (BFIU) demonstrated strengths in capacity and outputs. The quality of BFIU disseminations was generally good; however improvement is needed with the quality and quantity of reporting to the BFIU and LEAs' systematic use of financial intelligence for predicate offences and ML beyond corruption cases.

The ACC had done a significant number of ML investigations related to corruption, but not other offences and until late 2015 Bangladesh had not sufficiently prioritised ML investigations and prosecutions consistent with the risk profile (ie predicates beyond corruption). At the time of the onsite visit only ML five trials had been completed and four convictions obtained, with 214 ML prosecutions pending due to lengthy delays with the courts. The October 2015 legislative amendments allow ML investigations by all relevant LEAs.

Provisional measures and confiscation outputs by LEA were low and most often related to instruments of crime. LEAs need to prioritise tracing, restraint and confiscation of proceeds. The BFIU's powers to trace and freeze funds held on account adds to effectiveness. Seizures and confiscations by the Bangladesh National Board of Revenue (NBR - Customs and Tax) added effectiveness in some high risk areas.

Lengthy delays and capacity challenges in the justice system undermine effectiveness. The courts and the Attorney-General's Office (AGO) are seriously under-resourced. ML and predicate trials are often delayed over many years and issues with judicial independence of the lower courts add to capacity challenges. Special Courts give the greatest priority to CT and terrorism trials and the TF trials have not been delayed.

Bangladesh has conducted preliminary investigations (enquiries) into a large number of TF cases and a full investigation of 23 cases. A small number of TF prosecutions have been successful and a number are pending. Bangladesh's focus on terrorism prevention and de-radicalisation adds to effectiveness. While Bangladesh has managed to combat TF threats related to ISIL, financing of foreign fighters is an emerging issue.

Bangladesh has a comprehensive regulatory framework for targeted financial sanctions (TFS) against terrorism. Bangladesh has designated six (6) domestic groups under UNSCR 1373. Outreach and implementation by reporting organisations (ROs) has not led to ROs spontaneously identifying matches with persons acting on behalf of designated entities to freeze assets. Freezing has predominantly occurred in cases where LEAs arrest members of a proscribed group and take TFS freezing actions pursuant to the designations.

AML controls on the not-for profit (NPO) sector go significantly beyond the obligations in the FATF standards, but are not in keeping with TF risks. Stringent requirements on NPOs receiving foreign funding place onerous obligations on that part of the sector, but may not address domestic TF risks. Oversight and supervision does not adequately target TF risk. The recent NPO sector review considers some TF risk elements.

Bangladesh has a comprehensive legal and regulatory framework for TFS against WMD proliferation. Supervision of PF-related obligations by banks was undertaken, however this needs to be extended to other sectors. A number of case studies demonstrate levels of effectiveness of TFS systems and vigilance measures by authorities.

Bangladesh has made important progress with preventive measures for the financial sector and DNFBPs and has applied significant resources to raise ROs' awareness of their AML/CFT obligations. ROs have made some progress in moving to a risk-based approach (RBA) implementation of preventive measures and rules-based implementation has deepened. Further implementation of key preventive measures is needed within and beyond the banking sector, in particular customer due diligence (CDD), domestic politically exposed persons (PEPs) and suspicious transaction reports (STR) reporting and wire transfers.

Bangladesh has controls in place to prevent criminals and their associates from entering the market, albeit with some gaps. Whilst improvements were being made, significant fit and proper risks with the board and management of state-owned commercial banks were not being sufficiently mitigated. Bangladesh Bank (BB) needs to prioritise the RBA to supervision consistent with the risk profile. The frequency, scope and intensity of on-site inspections of commercial banks and non-bank financial institutions (NBFIs) were generally sufficient however there were inadequate resources available to undertake comprehensive supervision across all sectors, particularly DNFBPs. Available fines and sanctions were generally low and rarely applied.

Measures to ensure transparency and prevent misuse of legal persons and arrangements were not well established or implemented. Registration requirements for basic ownership were not well implemented. Beneficial ownership information was not required to be collected by legal persons or parties to legal arrangements. ROs' obligations to understand the beneficial ownership of customers do not sufficiently mitigate risks of misuse of legal persons and arrangements.

Bangladesh demonstrated its strong commitment to international cooperation and its open and responsive approach to fulfil requests received from foreign partners. While the BFIU actively requests international cooperation and there have been some important successful mutual legal assistance (MLA) requests by Bangladesh, the overall level and focus of requests for international cooperation by LEAs, Customs and prosecutors (MLA) was not in keeping with the risk profile.

Risks and General Situation

2. Bangladesh faces ML and TF risks from both domestic and trans-national sources. The underlying proceeds-generating crime levels are relatively high, with corruption, bribery and related offences of fraud generating the most significant proceeds of crime. Corruption remains a significant risk for Bangladesh, with corruption connected to a range of other predicate offences and its consequences undermining governance and development.
3. Bangladesh is a destination and trans-shipment point for illegal drugs and smuggling of goods and gold smuggling remains a key risk along with human trafficking and people smuggling. Bangladesh has notable insider trading and market manipulation risks even with recent reforms to the sector. Bangladesh has identified a range of ML techniques, including use of formal banking channels, trade-based ML, informal transfer for laundering outside of Bangladesh, and real estate investment.
4. Bangladesh is exposed to TF threats chiefly from domestic terrorist groups with an increase in attacks in the recent past and a significant number of terrorism arrests and prosecutions. Authorities indicate these domestic groups operate with relatively small-scale funding and Bangladesh has not, in general, been a source of TF for foreign terrorist groups. Whilst trans-national terror groups have publicly pronounced links to Bangladesh, authorities had not identified any concrete association between domestic and trans-national terror groups nor the financing of such groups at the time of the on-site visit. Relatively few Bangladeshi nationals have been recruited as foreign terrorist fighters.

Overall Level of Effectiveness and Technical Compliance

5. Bangladesh has made considerable progress with the legal and institutional framework since the last assessment in 2009. The levels of technical compliance with the 40 Recommendations are generally high, but levels of effectiveness across the 11 immediate outcomes are more mixed. The BFIU, including with its regulatory and supervisory roles, is the strongest building block of effectiveness, but other areas require further improvement. Bangladesh demonstrates increasingly credible results in relation to pursuing financial aspects of terrorism, including TF prosecutions. Of particular concern was the failure of the Anti-Corruption Commission (ACC) to fulfil its role as sole ML investigation authority for the wider range of predicates beyond corruption prior to October 2015. The October 2015 Money Laundering Prevention Act 2015 (MLPA) amendments allow a wider range of LEAs to use AML tools to investigate proceeds of crime should improve effectiveness in the future. AML/CFT regulation and supervision of the financial sector is increasingly risk based, but very significant ongoing corruption/fraud/ML risks are present with the state owned commercial banks which require further risk mitigation.

Overall Level of Effectiveness and Technical Compliance

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

6. Bangladesh generally has a good understanding of its key ML/TF risks having undertaken two NRAs, initially in 2011 and most recently in 2015. The 2015 NRA identified five threats - corruption, fraud, forgery, human trafficking and smuggling (including gold and drugs) as high risk. Four sectors with high risks for ML were identified: banking, NBFIs (finance companies), real estate and jewellery sectors. Bangladesh has also undertaken sectoral risk assessments which complement its understanding of ML/TF risk generally. The NRA process included real strengths, but did not comprehensively cover ML threat areas and TF in sufficient detail. Key risk areas such as drug trafficking, tax evasion and smuggling of goods required further analysis. Deeper assessments of risks with state-owned commercial banks are needed.

7. Terrorism threats and associated TF risks were lightly covered in the public NRA, but were more comprehensively assessed through inter-agency processes coordinated in the Cabinet Division and involving a wide range of LEAs and security intelligence agencies. Information provided on the focus and scope of TF-related assessments and interviews with LEAs and intelligence agencies highlight their understanding of the dynamics of TF risks facing Bangladesh.

8. A 2015-2017 National Strategy was prepared taking into account the 2015 NRA findings and is a key strength. However, some of the weaknesses in the NRA is reflected in there being insufficient measures in the strategy to prioritise operational activities to mitigate ML and TF threats. CT and CFT policy priorities were well integrated and reflect findings of risk assessments.

9. A high-level NCC responsible for developing and coordinating ML and TF policy is convened by the Finance Minister and a Working Committee comprising of 23 relevant agencies. The MLPA and associated rules give these structures a statutory basis. Bangladesh has good operational coordination structures to mitigate ML and TF.

10. In relation to TF, in addition to the NCC there are a number of coordination structures relating to CT which include CFT. The Cabinet Division Taskforce coordinates operational work including joint agency assessments of terrorism threats. The National Committee on the Implementation of the UNSCR on Combating TF and WMD Proliferation is mandated to monitor Bangladesh's implementation of UNSCRs relating to terrorism and financing of proliferation of WMD. Further security intelligence coordination structures support domestic cooperation and coordination.

11. Whilst private sector stakeholders and other relevant organisation were involved in the NRA process to a limited degree, in general the understanding of risk and application of mitigating measures across the private sector is limited. The results of TF assessments are not distributed amongst the private sector. The preliminary results of the 2015 NRA were shared with the banking sector but not with other sectors. The securities sectoral risk assessment was shared with industry however a lack of understanding of risks in that sector remains. Despite efforts to raise awareness, there is relatively little detail in the NRA to guide implementation as the NRA focuses on legal and institutional vulnerabilities. The basis upon which the private sector then is able to apply the findings in the NRA to daily practice is not apparent.

Financial intelligence, money laundering and confiscation (Chapter 3 - IOs 6, 7-8; R.3, R.4, R.29-32)

12. The BFIU receives a good range of reports from an increasingly wide range of reporting organisations (ROs) and from government. BFIU functions well with sophisticated systems and has skilled, well-trained and experienced staff to add value to reports to develop financial intelligence (operational and strategic). The BFIU regularly seeks information from international counterparts. The BFIU has the powers and mechanisms to obtain information from ROs, government authorities and foreign partners. BFIU demonstrated well performing analysis capabilities and the dissemination of a range of good quality intelligence products related to ML, predicates and TF. The suggested moderate improvements to ensure greater effectiveness of the BFIU relate mostly to efforts to improve the quality and quantity of reporting and the use of financial intelligence by LEAs.

13. Use of financial intelligence is mixed amongst LEAs but there are signs of recent improvement. The good quality BFIU disseminations were applied by ACC in relation to ML and corruption and by most LEAs for predicate investigations, but greater use is needed to be effective. LEAs make better use of BFIU intelligence for combating TF and terrorism. LEAs place a high level of trust in the BFIU, reflecting its quality disseminations and its targeted support to LEA investigations.

14. Until the amendment of the MLPA in October 2015, the ACC was the sole authority investigating ML. ACC did not pursue ML associated with predicates other than those investigated by the ACC. The ACC did not demonstrate good implementation of available powers in the ML cases it conducted. LEAs can now access MLPA powers to conduct ML investigations with the predicate investigations.

15. Bangladesh had four ML convictions and one acquittal at the time of the onsite, but 214 ML prosecutions were under trial. Three of the convictions were made *in absentia*. Sanctions in those cases were proportionate. Resourcing constraints and process challenges with the courts and trials lead to very lengthy legal processes and hinder effective ML investigations and prosecutions.

16. Overall levels of confiscation were low and mostly reflect instrumentalities of crime. LEAs did not sufficiently focus on restraint and confiscation for key risk areas. LEAs generally did not effectively trace, restrain and manage proceeds of crime at an early stage in investigations which leads to a limited ability to ultimately recover proceeds of crime. BFIU's powers and experience in tracing and freezing funds held on account added to effectiveness to some extent. Customs and BFIU need to more regularly utilise the results of the cross-border cash declaration system to address ML and TF risks.

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

17. Financial investigations of terrorism and related TF investigation and prosecutions are given priority and generally reflect the risk profile. Bangladesh focused on domestic groups and was giving increased focus to groups with trans-national elements.

18. There had been only two TF convictions at the time of the onsite visit, however there were a large number of ongoing prosecutions and investigations. TF prosecutions were reasonably well supported and prosecution of terrorism and TF offences is given the highest priorities by the courts, which results in far fewer delays than the general court systems. Bangladesh's focus on terrorism prevention and de-radicalisation added to efforts to prevent and combat TF.

19. Bangladesh has a high degree of technical compliance for TFS and Bangladesh has recently made 1373 designations of domestic terror group bringing the total to six proscribed terror groups. Bangladesh has not taken steps to seek foreign recognition of these designations and has not always comprehensively considered foreign requests for giving effect to their designations. Cases of asset freezing under TFS have been reactive to LEA investigations confirming connections between persons and the six entities designated under 1373. There were very few cases of freezing property owned or controlled indirectly by Anti-Terrorism Act (ATA) proscribed entities.

20. Bangladesh has issued guidance and conducted a lot of awareness raising and outreach to the banking and other sectors on TFS. This was also a major area for offsite and on-site supervisory focus. While Bangladeshi banks have a good awareness of their obligations, it is lacking amongst DNFBPs. Overall implementation by ROs requires further support, including further specific guidance on risk elements to key sectors to guide vigilance and implementation.

21. AML/CFT controls on NPOs go well beyond the FATF standards and may disrupt legitimate NPO activities while still not addressing the TF risks. The detailed controls on the NPO sector primarily focus on funds coming into Bangladesh. Purely domestic NPOs are subject to few effective regulations for registration and transparency and registration and monitoring obligations are not well implemented. NGO Affairs Bureau (NGOAB) controls do not sufficiently focus on mitigating TF risk and there is some duplication in oversight and supervision between the NGOAB controls and the AML/CFT controls. Concern exists in the NPO sector as there are large numbers of NPOs that have not been targeted and monitored in relation to TF risk. The NRA and sectoral risk assessment assist NPOs take risk based approaches. Large-scale NPOs working in high risk zones are guided, to some extent, on risks by LEAs and the BFIU, which is a strength.

22. Bangladesh has a comprehensive legal and regulatory framework for TFS against WMD proliferation. Inter-agency coordination structures are in place to develop policies and guide implementation through the UNSCR committee chaired by the Ministry of Foreign Affairs (MFA). Banks have increasingly good awareness of TFS obligations. Supervision of those obligations is occurring in the banking sector, but implementation needs to be deepened beyond the banking sector and further supported with improved systems-based checking, additional guidance and continuing supervision. Bangladesh has identified a number of sectors exposed to Iran and Democratic Peoples Republic of Korea (DPRK) trade and entities and has taken priority actions in relation to specific cases. While no assets have been frozen, vigilance measures have led to interventions which support effectiveness.

Preventative measures (Chapter 5 - IO.4; R.9-23)

23. Bangladesh's preventative measures have a high degree of technical compliance with the FATF standards which establishes a good foundation to implement measures to understand and mitigate risks and adopt a risk-based approach. An increasing amount of awareness-raising has been conducted on AML/CFT risk elements, including findings from the 2011 NRA and some private sector involvement in the 2015 NRA process. There is still a lack of quality and detailed risk information available to the ROs on TF in Bangladesh.

24. The BFIU, BB and other regulators have allocated significant resources to raising awareness of AML/CFT obligations across all sectors of ROs. This is reflected in the increasing scope and quality of STR reporting by ROs and reports of improving compliance with a range of preventive measures.

25. The private commercial banking sector demonstrated an understanding of risks and obligations, but more needs to be done by other ROs to increase understanding of risk, thereby refocusing from a rules-based to a risk-based approach (RBA). Key sectors such as state-owned commercial banks, securities and DNFBPs lack a good understanding of their risks and AML/CFT obligations.

26. Banks have conducted enterprise level risk assessments since early 2015 and BFIU interventions have helped banks to improve the conduct of risk assessments and to move to a RBA. Other sectors have not yet completed enterprise level risk assessments.

27. CDD implementation is overly reliant on checklists of documentation and CDD controls in the state-owned commercial banks are less well implemented than in the private banks. Whilst the collection of information pertaining to beneficial ownership has challenges, Bangladesh is not a major secrecy jurisdiction and has a generally low number of complex legal structures. Implementing the relatively new domestic PEP obligations is an area of significant challenge, but banks are increasingly applying a combination of systems screening and manual checking.

28. Most FI sectors are now reporting STRs but DNFBPs are not. STR numbers are low, taking into account the risk and context, but they are steadily increasing. The quality of reporting is mixed.

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

29. Controls are in place to prevent criminals and their associates from entering the market although gaps remain in relation to beneficial ownership of owners and directors/management and source of funds and risk from domestic PEPs owning or controlling banks and securities intermediaries. Market entry fit and proper challenges are greatest in the state-owned commercial banks and the securities sector. There are significant gaps in the regulator's ability to enforce compliance on the state-owned commercial banks given their ownership by the Finance Ministry.

30. Recent corruption-related ML cases in state-owned commercial banks have seen Bangladesh seek to address some of the risk through both AML and prudential supervision and related monitoring measures, but more needs to be done.

31. The BFIU and BB are increasingly taking a risk-based approach to prioritise supervision consistent with risks. This is demonstrated in the prioritisation of banks and planned prioritisation supervision of the securities sector. Priority allocation of BFIU and BB supervisory resources to supervise state-owned commercial banks following the large scale frauds is commended.

32. The BFIU requires further resources to undertake risk-directed priority work. DNFBP sectors in particular require greater supervision which is currently limited by under-resourcing. The MLPA amendments in 2015 which gave AML/CFT supervisory responsibility to BB, Bangladesh Securities and Exchange Commission (BSEC) and the Insurance Development and Regulation Authority Bangladesh (IDRA) should help to relieve the resource challenges on BFIU, but more capacity building is required for the new AML/CFT supervisors.

33. Bangladesh has taken strong actions to identify and shut illegal money or value transfer services (MVTs) (also referred to as 'hundi') and to increase opportunities for financial inclusion through formal channels. Actions against illegal MVTs have included related prosecutions.

34. BFIU places focus on remedial actions and warning letters to address compliance shortfalls, which adds to effectiveness. There is little evidence that sanctions imposed have had a deterrent effect. Fines available to regulators are low and those applied have been low even in that context.

Transparency of Legal Persons and Arrangements (Chapter 7 - IO.5; R.24-25)

35. Bangladesh is not a prominent jurisdiction for establishing and operating legal persons and arrangements. Bangladesh has assessed some of the ML and TF risks arising from legal persons, but gaps include comprehensive assessment of risk from legal arrangements, including the large and poorly administered sector of religious trusts (waqfs). Bangladesh has a system of domestic trusts and religious trusts governed by statute. Bangladesh also recognises foreign trusts.

36. There are gaps with the scope and depth of obligations to register legal persons and file basic information. Compliance with registration and filing requirements is poor and regulators lack resources and sanctions to ensure compliance. This results in low quality of registered data on basic ownership of legal persons. Trust instruments for immovable property and religious trusts are required to be registered, but monitoring of registration requirements and compliance is weak.

37. There are no legal obligations for companies to hold beneficial ownership information or for such information to be disclosed to or registered with the Registrar of Joint Stock Companies and Firms (RJSC). The concept of beneficial ownership is not covered by Bangladesh's trust law.

38. ROs must conduct CDD to identify beneficial ownership and control arrangements, including when their customers are legal persons or parties to a trust. Doubts remain as to whether such information is accurate and available to competent authorities in a timely manner. There are no obligations for trustees that are customers of an RO to declare their status. Competent authorities have adequate powers to seek beneficial ownership information from government authorities and ROs and they are empowered to share any available information with foreign partners.

International Cooperation (Chapter 8 - IO.2; R. 36-40)

39. Bangladesh has a strong legal framework for international cooperation including MLA and is generally able to provide a wide range of assistance. Gaps exist in relation to a few predicate offences although Bangladesh can provide MLA in the absence of dual criminality. Bangladesh places a high priority on responding to international cooperation requests and demonstrates a flexible and open approach, never having refused an MLA request.

40. Bangladesh has two Central Authorities with the AGO as the main central authority for MLA. There are no clear procedures for managing MLA cases or for monitoring current requests. Bangladesh has sought to overcome some of these challenges with specialised coordination capacity from the Prime Minister's Office (PMO) in asset recovery cases, but there is further to go with agencies internalising formal international cooperation as part of a standard agency-level approach. Recent improvements are noted in bilateral cooperation with India and other key partners to mitigate risks.

41. Formal requests for MLA are not in keeping with the risk profile. Bangladesh has had success in seeking and providing MLA in ML matters and has repatriated money to and from other jurisdictions. However these matters are largely historic with fewer successes in recent times.

42. LEAs are not proactive in seeking international cooperation to complete domestic investigations and trace proceeds and do not regularly pursue agency to agency cooperation. Bangladesh makes use of their membership of international organisations such as the Egmont Group, World Customs

Organisation, Regional Intelligence Liaison Offices (RILO, part of the World Customs Organization), INTERPOL and other agency to agency mechanisms.

43. BFIU is very active in international cooperation. Cooperation between supervisory authorities regarding beneficial ownership remains low. Cooperation with regional neighbours should be prioritised reflecting the risk profile.

Priority Actions

- MHA, ACC, NBR should instruct all LEAs to prioritise parallel ML/TF enquiries with all predicate offences and terrorism cases and related asset tracing and freezing in keeping with the risk profile. Instructions should require LEAs to:
 - ensure the systematic use of financial intelligence and cooperation with BFIU.
 - prioritise formal and informal cooperation between domestic LEAs and international cooperation, in keeping with the risk profile, to target high risk areas
 - further target TF risks relating to trans-national terror groups
 - Pursue MLA in keeping with the risk profile and improve processes / mechanisms for case management & coordination between the two central authorities.
 - Build capacity of each LEA's AML/CFT units
- Supplement National AML/CFT Strategies with detailed plans of operational priorities (investigations, prosecutions, proceeds of crime actions, supervision) including:
 - address the regulation and supervision of state-owned commercial banks including improving: Finance Ministry implementation of the fit and proper checks; on and off-site AML/CFT supervision by BB; internal control and audit; sanctioning powers of BB.
 - Prioritise active use of TFS framework under S20A of the ATA to proactively freeze asset indirectly owned or controlled by proscribed persons / entities.
 - Conduct more in-depth risk assessments. This should include a corruption/ML risk assessment and an assessment of TF risks, including domestic and cross-border terror threats (Al Qaeda in the Indian Subcontinent (AQIS), ISIL, etc).
- Increase the range, quality and timeliness of ML prosecutions & proceeds actions:
 - address structural and resourcing issues of courts / prosecutors.
 - Provide AGO with more resources to support LEAs' prosecutions and use of provisional measures at the enquiry stage of investigations
 - Develop and implement asset management procedures and capacity
- Strengthen risk-based implementation of AML/CFT controls amongst ROs through increased outreach, guidance and supervision, with a focus on banking, securities and real estate.
 - Share available TF risk findings with the private sector.

- Deepen the RBA across all sectors, with a focus on risks from domestic PEPs, verification of CDD, identification of beneficial ownership, ongoing CDD, better quality STRs and deeper implementation of TFS.
- Strengthen risk-based AML/CFT supervision by BFIU, BB and BSEC
 - Increase supervisory and regulatory resources in BFIU
 - BB and BSEC should prioritise their fit and proper checking, including of the beneficial owners of FIs, to address risks from domestic PEPs across key sectors and other supervisory interventions.
- Amend the Companies Act 1994 and other statutes for transparency of beneficial ownership and control of legal persons and legal arrangements.
- Refocus NPO sector AML/CFT controls in keeping with the FATF standards and the NGO review findings to avoid disrupting the legitimate activities of NPOs and better target TF risk mitigation.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

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

Technical Compliance Ratings

AML/CFT Policies and coordination

R.1	R.2
PC	LC

Money laundering and confiscation

R.3	R.4
LC	LC

Terrorist financing and financing of proliferation

R.5	R.6	R.7	R.8
LC	C	LC	LC

Preventive measures

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

Transparency and beneficial ownership of legal persons and arrangements

R.24	R.25
PC	PC

Powers and responsibilities of competent authorities and other institutional measures

R.26	R.27	R.28	R.29	R.30	R.31
PC	LC	PC	LC	C	LC
R.32	R.33	R.34	R.35		
LC	PC	PC	PC		

International cooperation

R.36	R.37	R.38	R.39	R.40
LC	LC	LC	LC	LC

MUTUAL EVALUATION REPORT OF BANGLADESH

Preface

This report summarises the AML/CFT measures in place 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 the AML/CFT system, and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 11-22 October 2015.

The evaluation was conducted by an assessment team consisting of:

- Mr Christopher Ng Ming Yew, Deputy Senior Counsel and Deputy Public Prosecutor, Special Duties Unit, Criminal Justice Division, Attorney General's Chambers, Brunei Darussalam (legal expert)
- Ms Dolon Sarkar, Senior Policy Advisor, Ministry of Justice, New Zealand (legal expert),
- Mr Syahril Ramadhan, Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK) Indonesia (Financial/Regulatory expert),
- Mr Xu Qipeng Anti-Money Laundering Bureau, Peoples Bank of China (financial/regulatory expert),
- Mr Anil Ramteke, Joint Director, Directorate of Enforcement, FIU India (FIU/law enforcement expert),
- Ms Socheat Hem, Director, Compliance and Cooperation Department, Cambodia FIU (Financial/FIU expert),
- Ms Michelle Harwood, Executive Officer, APG Secretariat.
- Mr David Shannon, Principal Executive Officer, APG Secretariat.

The report was reviewed by Ms Lia Umans from the FATF Secretariat, Mr Alvin Bermido, from the Anti-Money Laundering Council Secretariat, Philippines (legal), Tengku Ahmad Ruzhuar Tengku Ali Malaysia – Securities Commission (financial), Syed Mansoor Ali, Director, Financial Monitoring Unit, Pakistan (financial/FIU), Cathy Williamson, Principal Legal Officer, Legal, Governance and Compliance AUSTRAC Australia (financial).

Bangladesh previously underwent an APG Mutual Evaluation in 2008-09, conducted according to the 2004 FATF Methodology. The 2009 evaluation report has been published and is available at www.apgml.org.

CHAPTER 1. ML/TF RISKS AND CONTEXT

1

44. Bangladesh has a population of 160 million and is one of the most densely populated countries. At the local level, the country is divided into divisions, districts, sub-districts (upazila), unions and villages. Law making and enforcement is done at the national level.

45. Bangladesh is a parliamentary democracy divided into the executive, legislative and judicial branches. The President is head of state, is selected by members of the parliament and has the power to appoint members of cabinet and judiciary. The Prime Minister is the chief executive and selects and heads of the Council of Ministers (the cabinet). Bangladesh has a unicameral parliament known as the Jatiyo Sangsad which consists of 300 members elected for five year terms plus 50 reserved seats for women which are allocated to parties in proportion to their overall share of the vote. The last election occurred in January 2014 with the Awaami League winning approximately three quarters of the seats in parliament. The election was however boycotted by most opposition parties. The next election is scheduled for 2019.

Economy and financial sector

46. The currency of Bangladesh is the Bangladesh Taka (BDT). This report has used the exchange rate of 77 BDT to 1 US\$ for the purpose of currency conversion.

47. Bangladesh's gross domestic product (GDP) in FY 2015 was BDT 15,136 billion (US\$ 197 billion). The three major sectors contributing to GDP are agriculture (15.9%), industry (30.4%) and services (53.6%). Inflow of remittance from Bangladeshi foreign workers was US\$ 15.3 billion in financial year 2015 (7.7% of GDP). Gross national income (GNI) per capita was US\$ 1,314 in FY15, reflecting a steady upward trend driven by GDP growth of over 6% p.a. for over a decade. Bangladesh has a liberal stance on foreign investment and a consistently improving trade-GDP ratio (34.2% in FY15), reflecting further integration into the globalised trade. Total banking sector assets grew by 14.97% p.a. over the five years up to 2015.

48. Bangladesh is an emerging economy that has now achieved lower middle-income status. The latest Bangladesh Development Update notes declining inflation, rising reserves, contained fiscal deficit and stable public debt (World Bank). While Bangladesh has a very significant export sector and remittance from overseas foreign workers, a significant amount of business is domestic.

49. As of 30 June 2015 there were 56 banks operating in Bangladesh with total bank deposits of BDT 7463 billion (US\$ 97 billion). Six were state-owned commercial banks (SOCBs) which represent approximately 25-30% of industry assets. 39 were domestic private commercial banks (PCBs) including 31 conventional private commercial banks and 8 Islamic banks. PCBs hold approximately 60-65% of industry assets. Four were government-owned specialized banks (DFIs) and 9 were foreign commercial banks (FCBs) which collectively comprise approximately 10% of industry assets.

50. There are two stock exchanges. The Dhaka Stock Exchange is the larger exchange with a market capitalization of BDT 3259.3 billion (US\$ 42 billion). The Microcredit Regulatory Authority has licensed 697 microfinance institutions and 297 are operating with temporary permission. There are 77 insurance companies regulated by IDRA, 31 life and 46 non-life. There are 31 NBFIs (finance companies) regulated by BB.

Court systems

51. Although founded on the principles of the common law system, the laws of Bangladesh take a statutory form, enacted by the legislature and interpreted by the Supreme Court. Laws may be codified or contained in separate, stand-alone statutes. The judicial system is comprised a three adjudicative bodies, the higher judiciary (the Supreme Court), lower judiciary (subordinate courts such as the District and Magistrates Court) and specialized tribunals established pursuant to statute, such as the special tribunals constituted to hear ML cases.

52. The Supreme Court of Bangladesh comprises of the High Court division and the Appellate division. There are presently 82 Judges in the High Court division which has both appellate and original jurisdiction. Its appellate jurisdiction is conferred via different statutes including the Code of Criminal Procedure and the Code of Civil Procedure, amongst others. The Appellate division of the Supreme Court comprises of the Honourable Chief Justice along with 7 Judges. The Appellate division is a constitutional court with no original jurisdiction. It has jurisdiction to hear and determine appeals from judgments, decrees, orders or sentences of the High Court division as well as judgements and orders of specialised tribunals. An appeal to the appellate division lies as of right.

53. The subordinate Courts in Bangladesh are generally created and governed (powers and functions) by statute. They are divided into two broad classes, the criminal courts and the civil courts. Within each class, tiers of courts exist to hear cases. In the criminal jurisdiction, criminal courts generally are divided into Courts of Sessions, Courts of Metropolitan Sessions, Special courts/tribunals, Courts of Metropolitan Magistrates and Courts of Magistrate. The Courts of Magistrate are divided into Executive Magistrates and Judicial Magistrates. Judicial Magistrates consider criminal matters in the lower courts.

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

54. Findings from the previous MER, Bangladesh's assessments of risk and reports from the media, academia and NGO studies indicate a number of the main ML and TF risks faced by Bangladesh. The underlying levels of domestic proceeds-generating crime are relatively high, with corruption and bribery and related offences of public sector fraud generating the largest share of proceeds of crime. Fraud, cyber-crime, tax evasion, smuggling, human trafficking and people smuggling also generate significant proceeds. Bangladesh is vulnerable as a transit route for illicit goods, in particular gold smuggling, drug smuggling, wildlife trafficking, etc.

55. Bangladesh has generally not been a destination for illicit flows from foreign predicate offences, although there are cases of illicit cross-border flows of funds being moved for laundering. Involvement of non-resident Bangladeshis in some ML cases is noted.

56. Bangladesh TF threats are chiefly from domestic terrorist groups, with an upswing in terror attacks in the recent past. Bangladesh does not appear to have been a source for funding or recruiting foreign terrorist groups. Both ISIL and AQIS have made public pronouncement indicating an intention to target Bangladesh, but evidence indicates that few Bangladeshi nationals had been recruited to join ISIL or AQIS at the time of the onsite visit. Similarly there was no evidence of large-scale financing for foreign terrorist fighters.

57. The consequences of ML and TF in Bangladesh are both evident and serious. The corrosive effects of profits from large-scale endemic corruption and related profit-driven crime have

undermined governance and development in Bangladesh over many years. While there have been many successes against terrorist groups in Bangladesh in recent years, continuing problems with domestic terror groups and emerging risks from trans-national terror groups indicates the consequences of TF in Bangladesh.

Scoping of Higher Risk Issues

58. Bangladesh has conducted two NRAs and a number of sectoral risk assessments which are considered at IO1 below. The 2015 NRA identified five high risk threat areas (corruption, fraud, forgery, human trafficking and smuggling (drugs, gold, etc.)) and the four highest risk sectors (banking, NBFIs, real estate and jewellery sector) and a number of key geographic areas for ML risk. The NRA identified domestic proceeds as the predominant ML threat, with laundering of proceeds occurring domestically and outside the country.

59. There are significant terrorism threats and associated TF risks in Bangladesh. These were lightly covered in the public NRA, but were assessed through inter-agency processes coordinated in the Cabinet Division including a wide range of LEA and intelligence agencies. Information provided on the focus and scope of TF-related assessments and interviews with LEAs and intelligence agencies highlight their understanding of the dynamics of TF risks facing Bangladesh.

60. Corruption remains a very significant risk in Bangladesh. Corruption is endemic across the Bangladeshi economy, although significant efforts are being made in relation to prevention and detection of corruption. Recently identified risks include corruption in state-owned commercial banks and other state owned enterprises and embezzlement in the expenditure of public funds (procurement tenders, external audit). Bangladesh authorities, in their efforts to combat corruption, recognise that corruption influences and is connected with a range of other predicate offences and has a key role in facilitating ML and evading detection/sanction.

61. Bangladesh is a destination and trans-shipment point for illegal drugs with particular vulnerabilities noted from long porous borders with India and Myanmar and proximity to both the 'golden triangle' and 'golden crescent' regions, with drugs ultimately bound for markets in Europe and North America. Domestic narcotics markets in Bangladesh predominately involve methamphetamines, phensidyl (codeine-based cough syrup) and cannabis. Bangladesh has been used as a transit country for narcotics and most recently cocaine shipments using air and sea ports.

62. Bangladesh has faced significant insider trading / market manipulation risks. A major stock market crash in January 2011 was characterised by significant levels of market manipulation and insider trading. Involvement of domestic PEPs in the sector is a feature. Approximately 80% of investors in the stock market are individuals, with institutional investment remaining low due to investor concerns with market instability. A contributing factor to the 2011 price bubble in the market was driven, in part, by heavy investment by Bangladeshi banks well in excess of prudential limits. Foreign investment has been historically low and most foreign investors are non-resident Bangladeshis. Following the 2011 cases, Bangladesh has reformed the legal and institutional framework covering the sector, but AML/CFT supervision is yet to substantially commence.

63. Smuggling of goods, including gold is a significant risk for Bangladesh. Smuggling of gold into Bangladesh has been detected at a high rate since 2013 and is assessed as related to trans-shipment of smuggled gold to India. Other smuggling risks include arms, cigarettes, foodstuffs, livestock and wildlife. In many of these instances, as in other parts of Asia, trans-national organised crime networks are behind the local trade.

64. Human trafficking and people smuggling are significant risks in Bangladesh. Bangladesh is noted as a source, transit and destination country for human trafficking for forced labour and commercial sexual exploitation. People smuggling of migrants and asylum seekers risks include shared cross-border issues with Myanmar. Bangladesh authorities recognise these risks and note the involvement of both domestic and trans-national organised crime groups in the human trafficking / people smuggling trade in Bangladesh. Traffickers working this sea route are estimated by the United Nations High Commission for Refugees (UNHCR) to generate up to \$100 million a year. Bangladesh authorities view the risks of human trafficking as more significant than those from people smuggling. Rohingya populations are vulnerable to threats from trafficking and involvement in other crime types through the influence of organised crime groups.

65. The main terrorism / militant activities in Bangladesh in recent years have been perpetrated by domestic terrorist groups. Authorities indicate that the domestic groups operate chiefly within Bangladesh with relatively small-scale funding derived through micro-financing methods. Bangladesh has not, in general, been a source of TF for foreign terrorist groups and has managed to contain the threats of recruitment of foreign fighters from Bangladesh to join foreign terror groups, in particular ISIL, Al Qaeda and affiliate terror groups. Some commentators note indications of a number of the domestic terror groups having trans-national links, however none of the domestic terror groups in Bangladesh have declared their allegiance to ISIL or AQIS. The government continues to investigate, but to date has not found any connection between domestic and trans-national terror groups including AQIS and ISIL or financing from Bangladesh to those groups.

66. Both ISIL and AQIS have made a number of public pronouncements that they are targeting Bangladesh and Bangladeshis. These threats have not translated into attacks in Bangladesh or involvement of large numbers of Bangladeshis in their terror activities as foreign terrorist fighters.

67. Bangladesh authorities have assessed religious educational sectors for recruitment and TF risks. Bangladesh has a very large government-regulated madrasa sector and a large self-regulated Qwami Madrasa sector. Authorities have sought to engage with these educational sectors to promote integration, and to contribute to strategies preventing possible radicalisation. Authorities have considered all recent Bangladeshi terror cases and have concluded that in practice there have been relatively few cases of students of such educational institutions implicated in terror groups or plots and no correlation between particular educational sector and terror activities. The Qwami Madrasa sector is not state funded and the bulk of funding to the sector is through domestic charitable collection. Press reports and statements from the sector's self-regulatory organisations indicate that Qwami madrasahs receive some foreign funding, however no the madrasa sector institution is registered with the NGOAB to receive foreign funding and the authorities have not identified any cases of foreign funding to the sector. The assessment team notes some contradictions in these risk findings.

Materiality

68. In general terms Bangladesh is not a major international centre for financial services, or a centre for formation and registration of corporate vehicles or arrangements. Bangladesh has low levels of incorporation of legal persons, perhaps reflecting the higher tax treatment of corporates as opposed to natural persons.

69. The size of the informal economy is significant and considerable efforts continue to be made to document the economy and bring employment, transactions and remittance into the formal sector. The economy remains significantly cash-based with a large informal sector and/or shadow economy,

although there are increasing trends towards formalisation and transparency in the economy including remittance. Of 160 million people, only 1.1 million pay income tax.

70. Bangladesh has pursued a strong policy focus on financial inclusion to support continuing movement from informal cash-based systems to formal transaction-based economic activity. These have included significant extending banking services, but particularly micro-finance institutions (MFI) which had grown to over 24 million by the end of 2014. The table below indicates sharp upward trends of key financial inclusion indicators.

Development of Financial Inclusive Indicators within short span of time

Financial Inclusion Indicators	2009	2015	Growth
No. of bank branches per 1000 square km	55	72	30.91
No. of deposit account per 1000 persons	270	481	78.15
No. of deposit account per 1000 adult persons	725	943	30.07
No. of mobile financial services account per 1000 persons	44 (May'13)	221	402.27
No. of no frill accounts (in million)	9.63 (May'13)	15.4	59.92
No. of School banking accounts	187000 (March'13)	1034954	453.45
No. of MFI members (in million)	-	24.77 (June'14)	-
No. of MFI borrowers (in million)	-	19.42 (June' 14)	-

71. Bank-led mobile financial services (MFS) have grown sharply and include roles in domestic transfers, in particular disbursement of inward foreign and domestic remittances and payment of utility bills which have added to financial inclusion. Since 2013 MFS have registered growth of over 400% with 221 accounts per 1000 persons in 2015. A 'no-frills' bank account ("the 10 Taka account") for the farmers was launched in 2010 and reached 15.4 million in 2015. These facilities assist disbursement of financial aid, social security, etc.

72. A recent World Bank study (Migration and Development Brief, April 13, 2015) found that Bangladesh is one of top ten remittance recipient countries in the world. In the past, a significant part of this remittance used to inflow through informal channels but a range of BB initiatives has seen significant improvements with formal transfers. BB estimates that a great majority of remittance is now received formally.

Structural Elements

73. A number of policies of improving transparency and accountability beyond AML/CFT add structural elements that support AML/CFT efforts. Bangladesh has pursued widespread policies of digitization for government sectors, including local government, land records, sub-registry data, tax, and digital lodgement for imports and exports. Bangladesh initiated an electronic government procurement (e-GP) system in 2011 to allocate public funds more transparently and improve ways to do business with the private sector and bolster corruption prevention

74. Preventing and combating corruption is a national priority for Bangladesh, which is reflected in the priorities of the ACC. Bangladesh authorities and many independent commentators continue to identify that cross-sectoral corruption is a high risk issue and one which influences the low levels of inter-agency trust. The ACC has prioritised investigating: illicit flow of money; land revenue and leases; bribery (finance, assets and services including banks and other financial institutions (FIs); illegal accumulation of assets; corruption in construction, communications, development projects and issuing of licenses; and breaking oath and abuse of power.

75. The context of local and national politics in Bangladesh contributes to cyclic political instability, a relatively high level of politically motivated violence and related rule of law challenges. The functioning of key political institutions influences structural elements relevant to AML/CFT.

76. Bangladesh's vibrant media often plays a significant role in public accountability for governance and the identification of risks and specific instances of financial crime. Often media reports are a catalyst for the ACC or BFIU to commence enquiries, including in relation to large corruption and ML cases. Journalists appear in court as an interested member of the public to seek freezing orders in matters where the authorities did not do so. In recent times there has been a move to curtail some freedoms of the media, including closing of a number of social media outlets, however the media remains vibrant overall.

77. It is also noted that the intensity of media reporting of investigations and the willingness of government sources to publicise details of matters at early stages of enquiries and investigations may undermine effective judicial outcomes. This practice publicises LEA and judicial interventions in a way which may lead to tipping off suspects and allow them to obscure evidence and assets.

78. Independent commentators indicate that the rule of law in Bangladesh is low. The Rule of Law Index 2015, (the World Justice Project¹) ranked Bangladesh 93 out of 102 countries in overall rule of law. Corruption, fundamental rights, regulatory environment and civil justice were rated particularly low in the Index. The judicial sector has been criticized for insufficient independence from government and assessments note challenges arising from the courts' lack of resources, long court lists, inefficient procedure and low salaries for judges.

Independence of the judiciary and the rule of law in Bangladesh

As part of the challenges with rule of law in Bangladesh, commentators have been critical of the lack of institutional independence of the judiciary from the executive.

Whilst the Constitution of Bangladesh requires an impartial and independent judiciary, the judiciary has been, in various ways, ultimately accountable to the executive branch of government. Article 95 of the Bangladesh Constitution provides that the Chief Justice is to be appointed by the President and other judges appointed by the President after consultation with the Chief Justice. However, Article 48(3) requires the President to take the advice of the Prime Minister on such matters. Since the fourth amendment to the Constitution in 1974, the President makes all lower court appointments through the MLJPA.

The final ruling by the Supreme Court Appellate division in the *Masdar Case (2001)* considered a question of separation of the judiciary from the executive and provided for 12 directives to the government to separate the judiciary from the executive within 2 months. The government is yet to support firm frameworks for their implementation.

Parliament enacted an amendment to the Code of Criminal Procedure in 2009 which confirmed the constitutional requirement for the appointment of subordinate court judges through the Supreme Court. This is yet to be wholly implemented.

In relation to the subordinate courts, Judicial Magistrates are appointed by the Judicial Service Commission ('the JSC'). Whilst the JSC is headed by a judge of the appellate division, the executive

¹ WJP Rule of Law Index 2015. World Justice Project [ONLINE] Available at: <http://www.worldjusticeproject.org>.

branch retains significant influence over its decisions and their implementation.

The executive, through the MLJPA, retains strong influence over the subordinate judiciary through adjudicating on aspects of new appointments, postings, transfers and promotions in particular through the MLJPA's responsibility for the allocation of funds for judicial appointments and postings, which in turn involves the Ministry of Finance in the process.

Finally, many cases are cited in the media of contempt of court charges being over-utilised in cases involving criticism of the judiciary or its decisions.

79. The Judicial Administration Training Institute (JATI) is a positive development for training of the judiciary in Bangladesh, including in relation to financial crime matters.

80. Factors such as a non-digitised court system for the filing of claims and complaints continue to be impediments to the timely resolution of matters in the judicial system. The significant delays in matters progressing before the courts are, in part, caused by the ability of litigants to appeal small administrative matters and delay processes, including by having trials adjourned part heard.

81. Bangladesh has prioritised action to reduce the backlog of pending cases and has increased the number of lower courts and appointed additional judges and prosecutors. In 2014-15, 17 justices were appointed to the High Court Division of Supreme Court and 5 judges have been appointed to 5 newly formed lower courts. 1589 public prosecutors of different ranks were appointed to different district courts in 2014-15, compared to 300 in 2013-14. In 2016 Judges' salaries were increased at least two-fold as a further development in anti-corruption efforts.

82. The findings at I07 regarding severe shortages of resources and a lack of a separate independent prosecution service should be noted. The AGO plays a role in many key prosecutions, however it lacks sufficient resources. Independence of the AGO is restricted with oversight over most if not all of its functions by the MLJPA. The Rules of Business 2006 require the Law and Justice Division of the MLJPA to be consulted before involving the government in a criminal or civil proceeding instituted in a court of law and whenever proceedings are instituted against the government. No Ministry is to consult the Attorney General except through the Law and Justice Division. They are also responsible for appointment and terms and conditions of service of Attorney-General and key posts in the AGO as well as public prosecutors, special prosecutors and legal advisers to all statutory corporations and bodies.

83. Bangladesh has a very vibrant NGO and NPO sector, however any NGOs receiving foreign financing are subject to very stringent controls.

84. The enforceability of contracts and transparency of processes for business in Bangladesh is low, although transparency is improving. There are very lengthy time periods for enforcement of contracts and significant costs being incurred as a percent of total recovery.

85. Transparency is improving in the tax system, and while the numbers of persons paying tax is low. Bangladesh has one of the lowest tax-GDP ratios (9-10 per cent) in South Asia. Bangladesh has increased incentives to increase tax compliance and the online system is increasing overall tax take.

86. The assessment team assessed the impact of Bangladesh's voluntary tax compliance (VTC) mechanisms on AML/CFT compliance. The scheme was introduced in 2012 to enable taxpayers to declare their previously unreported income with an additional penalty. An inter-agency committee was formed to analysis the declared amounts under the VTC, including for suspicions of financial

crime. The committee did not find any suspicious deceleration. 355 tax payers disclosed income under the scheme over the last three years and paid tax equivalent to US\$ 4.6 million on US\$ 85 million declared income. NBR did not find that repatriation of any amount from outside the country that has been declared under VTC.

87. Involvement of PEPs in the ownership and management of FIs (banking, securities, insurance, etc.) is a key structural factor. This has an influence on the risk profile and the effectiveness of AML/CFT controls.

88. Prudential regulation of the banking sector has shown improvements, particularly with regulation and supervision of the private commercial banking sector which is wholly regulated by Bangladesh Bank and is progressing towards implementation of Basel III controls.

89. There are, however, a number of structural issues and key prudential performance indicators which reflect weaknesses, including with AML/CFT controls, in particular with governance of the state-owned commercial banking sector. That sector is not subject to proper independent prudential regulation by BB, with the Finance Ministry functioning as the owner of the state-owned commercial banks, including appointing board and management. The challenge is that the BB is not wholly independent of the Finance Ministry which creates some limitations on supervisory powers and full implementation of core principles in that sector, including AML/CFT controls on market entry fit and proper and risk management.

90. The weaknesses in governance of state-bank commercial banks have a direct impact on AML/CFT in Bangladesh. The size of the sector (approx. 20% of the commercial banking sector) and the continuing model of regulation and levels and non-performing loans (consistently 20-30%) indicate continuing risks of large-scale fraud and corruption in the sector.

91. Following a large number of market manipulation cases culminating in 2011, Bangladesh established a Special Judicial Tribunal in early 2014 for speedy disposal of capital market related cases, but the tribunal did not commence its functions until June 2015. At present 17 criminal cases of market manipulation are pending before the tribunal and six (6) cases have been disposed of by the Special Tribunal. Four were contested and two were tried in absentia. Convictions were recorded in four of the six cases. All four convictions are at the appeal stage. BSEC also lodged two criminal cases in court against five persons for market manipulation during 2010-2011, but these matters are ongoing. No asset tracing or freezing actions were taken in relation to these 23 cases.

92. BSEC has taken over 600 enforcement actions for market misconduct over the last 5 years. These have been taken against issuer companies, stock-broker / dealers, authorized representatives, directors, merchant bankers, chartered accountant firms, credit rating companies and others for violation of securities related laws.

93. Bangladesh's economy is characterized by very high levels of inward remittance. Risk assessments and typologies of ML and TF in Bangladesh have not identified particular risks from these inwards flows, however outward capital flight and associated outward flows of domestic proceeds of crime remains an issue. The assessment team notes risks from the ability to obscure illicit transactions amongst the huge flows of inward remittance. Very few cases have been identified by Bangladesh or foreign authorities where inward movement of proceeds of crime were mingled with incoming workers' remittance flows.

94. There is a particular context to the tendency to mask remittance and the movement of capital in cross-border trade payments/ finance movement of goods. Bangladesh maintains restrictive

currency controls on outgoing capital accounts and some restrictions on current accounts. These offer a context for evasion of currency controls, but also tax evasion and other financial crimes. It should be noted that there have been sharply increasing use of formal channels for incoming foreign exchange remittance in recent years and liberalisation of foreign direct investment.

Background and other Contextual Factors

95. Bangladesh authorities, in particular the ACC and BB, have put very significant resources into awareness raising amongst the public and the financial sector on grass-roots efforts for anti-corruption and the importance of AML/CFT measures as overall building blocks for a stronger financial sector.

Overview of AML/CFT strategy

96. Bangladesh has pursued a strategic approach to improving its AML/CFT system since the last MER in 2008, which is part of a broader set of strategies to deepen governance and improve conditions for economic growth and development. This includes public and private sector governance reforms, financial inclusion, increased transparency and other reforms

97. Bangladesh's National Strategy for Preventing ML and Combating TF 2011-2013 gave particular focus to a number of priority areas which allowed Bangladesh to complete its FATF International Cooperation Review Group (ICRG) Action Plan and progress a wider range of AML/CFT reforms. With the conduct of the second NRA in 2015, Bangladesh published the 2nd National Strategy for Preventing ML and Combating TF 2015-17 to set medium term targets and action agenda to strengthen the capacity of all stakeholders and to improve the effectiveness of the AML/CFT system. In addition, the government has a broader zero tolerance strategy of combating terrorism, including elements of TF. Finally, Bangladesh has actively pursued policies to combating the financing of proliferation in concert with regional partners.

Overview of the legal & institutional framework

Agencies responsible for AML/CFT implementation

Agency	Responsibility
Ministry of Finance (MoF)	The Finance Ministry is the lead policy agency and leads AML/CFT coordination. The Finance Minister chairs the National Coordination Committee. MoF is the owner of the state-owned commercial banks and is responsible for implementing market entry fit requirements and proper on the sector.
Ministry of Law, Justice and Parliamentary Affairs (MLJPA)	MLJPA is the lead agency for legislative drafting, judicial appointments (trial courts), the AGO and administering and resourcing the AG and the courts. MLJPA has a network of Registrars and Sub-registrars for registrations and administration of documents of transfer of movable and immovable property.
Prime Minister's Office (PMO)	The PMO has a coordinating role in relation to elements of counter terrorism and oversight of government work in relation to pursuing proceeds of crime.
Anti-Corruption Commission (ACC)	The ACC is an independent authority tasked with preventing, investigating and prosecuting corruption. The ACC was, in practice, the sole LEA responsible for investigating and prosecuting all ML cases until October 2015.
Bangladesh Financial	The BFIU is the national central agency for receiving, analysing and disseminating STRs and other reports relating to ML and TF and related

Intelligence Unit (BFIU)	<p>predicate offences. BFIU also conducts asset tracing and temporary freezing of accounts.</p> <p>BFIU is the primary regulator and supervisor of AML/CFT measures in Bangladesh. It is located within the Bangladesh Bank but is functionally independent of it. BFIU is the Secretariat to the NCC.</p>
Attorney General's Office (AGO)	The AG comes under the MLJPA and provides legal advice to Government and represents the government in matters on appeal. The AGO has a right to join any case on behalf of the government. The AG (with the MOHA) is designated as a central authority for MLA, excluding extradition.
Ministry of Home Affairs (MOHA)	The MOHA is the lead policy agency for law enforcement matters. The MOHA is a designated central authority for MLA and the sole competent authority for extradition. MOHA is the implementing ministry for making domestic terrorist designations under the ATA.
Bangladesh Police	The Bangladesh Police is within the MOHA and is responsible for investigating most criminal matters, including terrorism and TF, although not corruption. The Bangladesh Police has been authorised to investigate ML since October 2015. The Criminal Investigation Department (CID) and the Dhaka Metropolitan Police have important roles in investigating ML and TF.
Rapid Action Battalion (RAB) – part of the Bangladesh Police	The Rapid Action Battalion of the Bangladesh Police has a role in investigating and combating crime, including intelligence gathering, seizures of arms, ammunitions and explosives, apprehension of armed gangs and other general assistance to LEAs. The RAB reports direct to the Minister of Home Affairs.
Bangladesh Police Special Branch (SB)	The Special Branch of the Bangladesh Police has a role in intelligence and counter-intelligence, including in relation to threats from profit driven crime and terrorism. The SB reports directly to the office of the Prime Minister.
Dept of Narcotics Control (DNC)	The DNC operates as an investigation agency to combat drug trafficking and abuse. DNC has been authorised to investigate ML since October 2015.
Ministry of Foreign Affairs (MFA)	MFA diplomatic channels are, at times, used for MLA. MFA has a role in coordinating the implementation of targeted financial sanctions against TF and PF.
National Board of Revenue (NBR) – Tax	The NBR is the tax administration authority in Bangladesh. It drives law and policy setting for tax and customs related matters. It also investigates taxation and customs offences and related ML offences.
Border Guard (BGB) & Coast Guard (BCG)	BGB and BCG act at the border to prevent trans national crime such as smuggling, human and drug trafficking. Neither has been authorised to investigate ML.
NBR – Customs	Customs is responsible for revenue collection and investigating and prosecuting customs offences and has been authorised to investigate ML since October 2015. Customs implements the cross-border cash declaration regime.
Bangladesh Bank (BB)	<p>BB comes under the Finance Ministry and is the central bank of Bangladesh responsible for licensing, prudential regulation and supervision of banks, remitters, money changers and financial institutions (NBFIs).</p> <p>The BB oversees fit and proper testing for market entry and governance and conducts AML/CFT supervision. BB houses and supports the BFIU.</p>
Insurance	IDRA is responsible for the regulation and supervision of the insurance

Regulation Authority (IDRA)	industry. IDRA has been allocated AML/CFT supervisory responsibilities since 2015.
Micro Credit Reg. Authority (MRA)	The MRA regulates and supervises micro-credit organisations. micro-credit organisations are NPOs which also register with another authority.
Registrar of Joint Stock Companies and Firms (RJSC)	RLSC is under the Commerce Ministry and registers and administers basic ownership formation of legal persons and the ongoing supervision of lawful administration of relevant entities.
Securities Exchange Commission (BSEC)	BSEC is under the Ministry of Finance. BSEC regulates and supervises the capital market, including AML/CFT supervisory responsibilities since 2015.
NGO Affairs Bureau (NGOAB)	The NGOAB is a regulatory authority under the PMO to regulate all NGO and NPOs which receive foreign funding.

98. Bangladesh divides criminal procedure for investigations into enquiry and investigation stages. Statutes govern the different investigation powers and oversight by agencies and the courts at each stage.

99. Bangladesh has enacted and amended legislation to combat ML and TF. The MLPA and the Money Laundering Prevention Rules 2012 (MLPR) consolidated the previously existing legislation and brought numerous FIs, DNFBPs, capital market intermediaries and NGOs into the reporting regime. The legislation once again changed in October 2015 with the passing of the Money Laundering Prevention Ordinance 2015 (MLPO). The MLPO was confirmed as an act of parliament in November 2015. All references to the MLPA throughout the report reflect the amendments made by the MLPO in 2015. Key changes in the MLPO largely reflected recommendations in the 2009 MER.

100. The ATA was enacted in February 2009 and ATA Rules ('ATR') were issued in 2013. The ATA criminalises terrorism and TF and provides a basis to freeze terrorist assets. The ATA and rules provide for targeted financial sanctions against proliferation of WMD.

101. Since the last MER Bangladesh has instituted a high level NCC for AML/CFT with a number of working groups. A range of coordination structures which are described at Rec. 2 and IO1.

102. The MLPA 2015 instituted key institutional changes including designating LEAs as responsible for investigating ML cases associated with their predicate offences, giving AML/CFT supervisory roles to BSEC and BB and providing for the BFIU to become more independent of the BB.

Overview of the financial sector and DNFBPs

103. Banking is the most dominant sector of the Bangladesh economy, through its direct share of financial services (including almost all remittance) and its ownership of various non-bank ROs.

Financial institutions and regulators

Types of Financial Institutions (FIs)	Number	Primary regulator
Banks (all types)	56 (8079 branches)	
State-owned commercial banks	6	BB (MoF is the owner)
Specialised development banks	2	BB (MoF is the owner)
Private commercial banks – domestic	39 (3602 branches)	BB
Private commercial banks	9	BB
Non-scheduled banks	4	BB
Non-bank financial institutions (finance companies)	31 (167 branches)	BB
Merchant banks (investment banks)		BSEC (or BB for wings of commercial banks)
Bank-operated mobile financial services	19	BB
Bangladesh House Building Finance Corporation	1	MoF
Investment Corporation of Bangladesh	1	MoF
Stock exchanges	2	BSEC
Asset management companies	17	BSEC
Stock brokers / dealers	386	BSEC
Merchant banks	55	BSEC
Insurance	77 (Branches: 8669 Life; 4200 Non- Life)	IDRA
MVTS	19	BB
Micro finance institutions	697	MRA
Registered cooperative banks	Not reported	BB
Credit unions	Not reported	Cooperatives Registrar
Cooperative societies	1107 (central) 163,438 (primary)	Cooperatives Registrar
Portfolio manager	10	BSEC
Money changers	227	BB

DNFBPs and regulators

DNFBPs	Number	Regulatory Authorities
Real Estate Developers	1,198	RAJUK, CDA, KDA, SDA, Ministry of Housing and Public Works, and all respective Local Govt. Authorities, National Housing Authority
Real Estate Agents		
Dealers In Precious Metals or Stones	415	Local Administration, Local Govt. Authorities,
Trust and Company Service Provider		Ministry of Law, Justice and Parliamentary Affairs, Registrar of Joint Stock Companies and Firms
Lawyer, notary, other legal professionals		Ministry of Law, Justice and Parliamentary Affairs, Bangladesh Bar Council, Tax Bar Association,
Accountants	2500	ICAB, ICMA

Overview of preventive measures

104. All FIs and DNFBPs as defined by the FATF are covered as reporting organisations (ROs) and subject to AML/CFT preventive measures under the MLPA, MLPR, ATA and ATA Rules. Until 2015, the MLPA and various enforceable circulars governed the obligations for ROs. In 2014 and 2015 the BFIU issued Master Circulars to the banks, money changers, insurance companies, DNFBPs, NGOs, the securities sector and non-bank financial institutions (NBFI). These circulars were issued pursuant to s23(1)(d) of the MLPA and carry sanctions for non-compliance. As such they constitute enforceable means as required by the FATF standards.

105. No sectors have been exempted from AML/CFT controls. Additional sectors of NPOs and real estate developers have been included as ROs. The inclusion of NPOs under the MLPA definition of ROs goes beyond the FATF standards and extends full AML/CFT obligations pertaining to FIs on small civil society groups regardless of their risks.

Overview of legal persons and arrangements

106. Bangladesh is not a prominent jurisdiction for establishing and operating legal persons and arrangements. There were relatively few companies active in Bangladesh relative to the size of the economy and population. The level of formal ownership of Bangladesh legal persons by foreigners is low. A relevant factor is that the tax treatment of companies is higher than natural persons and trusts do not enjoy particular tax advantages. Fewer than half of the RJSC registered companies have an NBR tax payer identification number (TIN). Only natural persons may be directors.

107. The Companies Act governs the formation and management of legal persons in Bangladesh and the RJSC administers and maintains the registration of legal persons. RJSC lacks monitoring and verification powers and human resources and systems to support transparency. RJSC lacks powers to sanction non-compliant legal persons.

108. Additional controls cover registered foreign companies, including permission requirements from both the Board of Investment (BOI) and the BB and registration with the NBR for tax purposes. The most common foreign companies are from the United Kingdom, United States of America, Italy, Republic of Korea and the Peoples Republic of China. Approximately 3,500 companies involve domestic and foreign ownership.

RJSC registration of legal persons

Entity	Number registered (as of 31 August 2015)
Private companies	136,599
Public companies	1,998
Foreign companies	351 (294 of these are limited by guarantee)
Branches of foreign companies	1382
Trade organisations	1,006
Societies	13,594
Partnership firms	40,538
Total number of entities registered	194,086

109. There were no legal obligations for companies to hold beneficial ownership information or for such information to be disclosed to or registered with the RJSC. The concept of beneficial ownership is not covered by Bangladesh's trust law.

110. Trusts controlling immovable property were required to register trust deeds with the RJSC and with sub-registries. Compliance with such requirements appears to be low. Bangladesh law allows for the recognition of trusts formed in other jurisdictions, but they are obliged to disclose their status to the NBR if they earn revenue. NBR did not have consolidated figures of trusts paying tax.

111. Bangladesh has a system of religious trusts and related religious trust boards formed under statute, which included requirements for all religious trusts deeds to be registered. In practice, there appears to be a large number of *waqfs* which are not registered as compliance and government oversight are weak. Statistics on the registration of religious trusts are not well kept, but authorities' report 21 *Hindu Karta* (Hindu trusts instruments) and 20,600 *waqfs* (Islamic trust instruments). Institutions registered under the Waqf Administrator include 10,000 mosques, 500 madrassas (religious education institutions), 10 orphanages and 5 charitable dispensaries. Amongst the registered *waqfs*, 11,560 are public and 2,260 are private. Other charitable trusts exist in Bangladesh and there are no requirements for registration and no regulatory oversight body.

Overview of supervisory arrangements

112. Registration and licensing of FIs and DNFBPs, including fit and proper controls, is undertaken by the various sectoral regulators and Statutory Regulatory Orders (SROs). These include BB, BSEC and IDRA. The Ministry of Finance (MOF) is the owners of the state-owned commercial banks, rather than the regulator, but the BB is not independent of the MOF. BB does not have full powers of fit and proper market entry over the state-owned commercial banks.

113. AML/CFT regulation and supervision is undertaken by the BFIU. At the time of the on-site visit AML/CFT supervision was also undertaken by BB as part of its off and on-site supervision of operational risk. Amendments to the MLPA in October 2015 give comprehensive AML/CFT supervision responsibilities to the other sectoral supervisors (BB, BSEC and IDRA). This is well coordinated between the BFIU and BB, but further work is to be done to coordinate with BSEC and IDRA.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

114. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The recommendations relevant for the assessment of effectiveness under this section are R1-2.

Key Findings

Bangladesh has conducted two NRAs and a number of sectoral assessments of the financial sector to assess ML risks, which are strengths, but these assessments do not comprehensively cover all ML threats and TF. Information on ML threats is available in a number of other LEA public documents. The scope and quality of TF-related assessments and discussions with LEAs and intelligence agencies highlight their understanding of the dynamics of TF risks. Results of TF risk assessments are not available to guide the private sector.

The development of national AML/CFT strategies is a strength and the 2015-17 strategy sets out a range of reforms, but does not adequately prioritise operational activities to mitigate ML and TF threats, or priority areas for investigation or proceeds of crime actions. Coordination structures are operational and support legal and institutional reforms, but need to further focus on supporting cooperation to target profit-driven crime. Significant challenges remain to overcome trust deficits in a context of high corruption risks.

Recommended Actions

- Conduct more in-depth threat and vulnerability assessments to supplement the NRA, in particular on corruption and ML risks covering areas such as: state-owned commercial banks (corruption, fraud and ML risks); as domestic PEPs (including control of FIs); public sector procurement; state-owned enterprises. Also cover smuggling and trade-based ML.
- Further support systematic identification and assessment of TF risks, including domestic and international threats and through formal and informal channels, and share the findings with relevant stakeholders, including relevant findings with the private sector.
- Supplement the National Strategy by developing further plans of action to focus on operational priorities (supervision, identification of proceeds of crime actions, investigations, prosecutions) to address the identified risks.
- Review the NRA, other risks assessments and National Strategy and prioritise awareness raising to government stakeholders, in particular LEAs, on identified ML/TF risks to support policy deliberations and guide priority setting.
- Consider applying enhanced AML/CFT measures based on proven high-risk areas including regulation and supervision of public-sector banks; market entry and oversight of FIs where domestic PEPs are involved in owning or managing the FI; customers involved in public sector procurement and tendering.

Immediate Outcome 1 (Risk, Policy and Coordination)*Bangladesh's assessments and understanding of its ML/TF risks*

115. Bangladesh has given significant focus to assess and respond to risks since the last MER. Bangladesh conducted its first NRA in 2011 and a second NRA in 2015, which is a very significant

development. The ACC with BFIU and CID were the core NRA group and drew on data, information and case experience from a larger group of 21 stakeholders. The findings of the NRA are generally reasonable, however the lack of focus on considerable identified risks in the securities sector is not supported and there are some weaknesses with the scope and methodology of the NRA.

116. Agency and inter-agency level risk assessments have been undertaken outside of the NRA process which have contributed to the NRA. In addition to the NRAs, sectoral risk assessments have been undertaken by regulators covering banking, securities, insurance and NGO sectors which contributed to the NRA. Bangladesh has commenced DNFBP sectoral assessments. A number of threat areas have been subject to LEA assessments and the findings were fed into the NRA process, including information on ML techniques and trends (domestic and foreign). The government has assessed terrorism and TF risks (including techniques, trends and vulnerabilities) through inter-agency processes and these contributed to the NRA.

117. Private sector stakeholders, independent research and professional organizations and media representatives were involved at different levels of the NRA exercise in discussion sessions. Their views were also compared with opinions expressed in other forums on ML and TF risks.

118. The NRA identifies domestic proceeds as the predominant ML threat, with laundering of proceeds domestically and outside the country. The NRA's identification of five high risk threat areas (corruption, fraud, forgery, human trafficking and smuggling (drugs, gold, etc)) is reasonable.

119. The identification of the four highest risk sectors (banking, NBFi ie finance companies, real estate and jewellery) and a number of key geographic areas for ML risk may not give adequate weight to the findings of the securities sectoral assessment and the large number of very serious cases in the sector. Identifying real estate and jewellery sectors as higher risk than securities is doubtful, given the very few reported cases from the jewellery or real estate sectors.

120. The methodology and approach to conducting the NRA and other assessments of risk was generally robust in identifying and assessing vulnerabilities for ML. The NRA identified vulnerabilities from legal / institutional gaps, legal frameworks and capacities of the agencies involved in AML/CFT, but also elements of geographic, sectoral risk, cross-border elements, etc.

121. The assessment of ML threats showed a number of strengths (see above), but also weaknesses in scope and methodology of the NRA and other assessments. The general areas of threat for profit-driven crime and ML are clearly identified, including the major crime types and some of the vulnerabilities. The strongest discussion of threat in the NRA is on human trafficking, and key trends, criminal actors and geographic risk areas, trans-national elements are considered in some detail. In relation to corruption, the NRA takes a broad approach in describing the underlying drivers in Bangladesh. The ACC Annual Reports also canvas key threat areas. There is little focus on the actors and consequences of those corruption threats, including connectivity with and facilitation of other crime types. The NRA includes a very detailed discussion of many dimensions of fraud threats in the banking sector, and while not naming the Sonali/BASIC cases directly, includes corruption-related frauds in state-owned commercial banks. The NRA does not, however, consider fraud threats beyond banking fraud in any detail. The NRA does not cover drug trafficking, tax evasion or smuggling of goods, including gold smuggling, in sufficient detail. The consideration of illicit capital flight is somewhat confused with stolen asset recovery and does not go to the issue of the overlap between Bangladesh's restrictive foreign exchange capital controls and drivers for remitting legitimate funds.

122. The ACC had not done a stand-alone corruption risk assessment and no risk assessment had been done of state-owned commercial banks. There are very serious corruption, ML and financial crime risks associated with governance failings of state-owned commercial banks and the presence of domestic PEPs as beneficial owners or directors/managers of commercial banks, securities firms and other businesses. These risks are evident from the involvement of domestic PEPs in very large scale frauds on the Sonali Bank and BASIC bank (netting approximately US\$ 1 billion) over a period of 2-3 years. The overlapping prudential and ML risks do not appear to have been well assessed and have been given relatively cursory treatment in the NRA and sectoral risk assessments.

Corruption & ML risks with six state-owned commercial banks

There have been a number of cases of very large scale loan frauds on the state-owned commercial banks in the past five years. Significant involvement of domestic PEPs in the board and management and failings of internal controls and governance is a common factor in these cases.

Sonali Bank case was discovered in 2012 and involved BDT 36 billion (US\$ 467 million) of fraudulent loans. The case of BASIC Bank covered 2010 – 2012 and involving similar frauds worth approximately BDT 260 million (US\$ 337 million). The case of Janata Bank involved embezzlement of BDT 3.92 billion (US\$ 51 million). On each occasion the government has injected the necessary funds to the state-owned commercial banks to continue operating.

123. Very serious risks were evident from public sector procurement, management of state-owned enterprises (for example Biman Bangladesh), pyramid marketing scams, and at-risk-sectors (import/export by domestic PEPs). These are not directly mentioned in the NRA but were included in the ACC Annual Report and in the assessment that led to the NRA.

124. Very serious threats and vulnerabilities of stock market fraud, market manipulation, insider trading and multi-level marketing pyramid investment schemes are included in the sectoral assessment but not considered in the NRA. It should be noted that Bangladesh had pursued a number of prudential and AML reforms in the securities sector aimed at preventing future market manipulation and has taken or commenced a range of LEA responses. These mitigating measures somewhat lower the residual risks in the sector, however the lack of inclusion of inherent risks in the NRA is a gap.

125. Various joint-agency assessments of terrorism and TF threats and vulnerabilities were coordinated by the 21 member Cabinet Division Task Force. Under those processes individual agencies and various joint agency groups assess the nature and scope of terrorism threats, including elements of TF, which were shared between LEAs and security intelligence agencies and to other implementing agencies including BFIU and BB. Bangladesh shared case studies of this process working well, and provided sufficient details to understand the scope topics covered in the TF-related assessments. Interviews with LEAs and intelligence agencies highlight their understanding of the dynamics of TF risks facing Bangladesh.

126. The police Special Branch (SB) demonstrated a sound understanding of the wider dimensions of terrorism and TF risks, including from trans-national terrorism groups. Most government agencies and ministries have an understanding of domestic terror threats. More needs to be done to properly assess trans-national terrorism and TF risks.

127. The NRA however includes only cursory coverage of TF risks, and almost exclusively in relation to potential vulnerabilities arising from legal and institutional gaps and NPOs. The assessment of

NPO risks did not, for example, reference any actual cases of NPOs being misused and how they illustrate the risk profile in Bangladesh.

Terrorism threats – Domestic groups and trans-national threats from AQIS & ISIL

Since 2014, Bangladeshi authorities have arrested a significant number of militants from groups influenced by Al Qaeda. These include JMB, ABT and Harkatul Jihad al Islami Bangladesh (HuJI-B).

Recently the Bangladesh branch of AQIS claimed responsibility for the murders of numerous bloggers and authors in Bangladesh, although this has not been proven. ISIL and AQIS have publicly stated their intention to extend operations into Bangladesh and have claimed responsibility for the murders of foreigners in 2015 in Bangladesh. The government notes that it continues to investigate possible linkages, but to date has not found any specific connection between domestic and trans-national terror groups or financing from Bangladesh to those groups.

ISIL and AQIS pronouncements have not translated into the involvement of large numbers of Bangladeshis in their terror activities as foreign terrorist fighters. None of the domestic terror groups have declared their allegiance ISIL or AQIS.

128. In general, Bangladesh demonstrated a varied understanding of its risks. The work to conduct two NRAs is very positive, and the sectoral risk assessments add significantly to that work. The work to ensure that policy makers and key staff within agencies understand the assessed ML/TF risks is continuing.

National policies to address identified ML/TF risks

129. The July 2015 national AML/CFT strategy is a very significant development, building on the earlier national strategy. The strategy includes high-level commitments from the heads of each relevant agency and reflects the leadership of the NCC, chaired by the Finance Minister. The strategy is strong on priorities to address legal/institutional gaps identified in the NRA and through other processes with a range of priority actions to build capacity, enhance cooperation conduct training and ensure appropriate legal frameworks. More is needed to set out priority agency-level activities and actions to high risk areas. Further work is being carried out at agency level to prioritise their actions to achieve the strategic objectives.

130. While Bangladesh does not have a stand-alone CT or CFT policy document, a number of inter-related strategies and clear policy settings work to implement the 'zero tolerance' policy including through measures to address TF risks. There was evidence of an increasingly well-structured, targeted approach to following the money related to terrorism and a top down expectation in this regard. Resourcing remains a challenge, but the government had recently increased LEA CT and CFT capacity and has sought out capacity building for financial investigations in relation to the key TF threat areas and with all CT cases.

Objectives and activities of competent authorities

131. BFIU was the best case where the objectives, activities and enhanced allocation of resources have supported outputs to mitigate identified risks. This is being done across its core functions including analysis of financial intelligence, asset tracing work and regulation/supervision.

132. The ACC has identified future priorities for addressing corruption, including high risk areas. As the sole LEA responsible for ML investigations prior to October 2015, the ACC had not sufficiently

pursued objectives and activities in keeping with its statutory role or Bangladesh's ML risk profile. The ACC's focus on investigation and prosecution of ML, even in cases of corruption predicates, had diminished somewhat with an emphasis on undisclosed wealth cases (see IO7 & 8).

133. Ahead of the 2015 MLPA amendments LEAs had taken steps to build capacity and prioritise future ML investigations in parallel with predicates. LEAs have not given sufficient focus to international cooperation in keeping with trans-national risks from ML, predicates and TF.

134. Various police agencies have prioritised policies and activities to combat TF risks including risk assessment, intelligence development and investigations. A number of new police structures instituted at the time of the on-site visit resulted in Bangladesh dedicating more resources to combating terrorism, including financial aspects of terrorism. This is a positive development.

135. Resources allocated to the courts for terrorism and TF trials reflect the national priority. It is evident that ATA cases are given the greatest priority and suffer the fewest delays. There is insufficient resourcing for trials of ML and related financial crime.

136. All implementing agencies have established AML wings or teams as structural reforms to give greater emphasis to AML/CFT priorities.

National coordination and cooperation

137. The high-level NCC has a strong statutory base and reflects political level leadership and commitment to AML/CFT efforts. The structure of NCC's accountability to the Cabinet adds to effectiveness and the NCC is reasonably well structured and draws on technical expertise from the BFIU and other agencies for supporting policy development. NCC's focus had, to a large extent, been on building the legal/institutional framework. With the legal/institutional reforms undertaken, more needs to be done to prioritise and oversee implementation for effectiveness. The working groups that sit under the NCC drive forward elements of the work and improve the effectiveness of coordination and cooperation.

138. Operational level coordination between LEAs in relation to ML cases varies. While there had been challenges with operational coordination between ACC and other LEAs, recent reforms have sought to address these issues. Operational coordination is strong in areas of CT and CFT.

139. An important positive addition to coordination structures has been the role of the Prime Minister's Office (PMO) in providing high-level coordination with cases related to political corruption and asset recovery. The utility of coordinating efforts of the PMO were evident in the Tariq and Koko prosecutions and related international cooperation with foreign partners.

140. A number of CT coordination structures help to integrate policies of CT and CFT. The Cabinet Division Task Force aims to strengthen investigation and coordinate activities to counter extremism, terrorism and TF and involves 21 member agencies. National Committee on Militancy Resistance and Prevention (NCMRP) involves 17 agencies. This task force includes CFT elements in its considerations, including outreach to the financial sector on TF prevention.

141. The Foreign Ministry-led UNSCR Working Group operates at working levels to support the implementation targeted financial sanctions. These address both TF and PF.

Exemptions, enhanced and simplified measures

142. The legal and regulatory framework includes certain exemptions or simplified measures based on low risk and which are well supported by risk assessments, including low value transactions through micro-finance institutions.

143. Despite a number of high risk areas, the legal and regulatory framework does not include enhanced measures based on proven high risks. These include: regulation and supervision of state owned banks; market entry and oversight of FIs where domestic PEPs are involved in owning or managing the FI; and customers involved in public sector procurement and tendering.

144. The additional controls on NPOs (inclusion as reporting organisations under the MLPA and intensive controls under the NGOAB) apply the same measures to all NPOs regardless of their risk profile, size, etc. See IO 10.

Private sector's awareness of risks

145. BFIU and BB have done a great deal of work across the country with the private sector, in particular with financial institutions and at-risk DNFBP sectors, to raise awareness of AML/CFT obligations, typologies of ML and TF and a range of related risk issues. BSEC and IDRA have also contributed to efforts to raise awareness of ML and TF risks (see IO4).

146. The 2015 NRA was only made available to the private sector immediately prior to the on-site visit. NRA preliminary results had earlier been shared with the banking sector, but not other sectors. While a securities sectoral risk assessment has been shared, the lack of understanding of risks in the securities sector is a major concern.

147. The private sector lacks information on TF risks. BFIU has provided a number of briefings to banking and other financial sectors on specific risk areas, including sharing information on trends, TF typologies and a number of case studies.

148. There is relatively little detail in the NRA to guide implementation by the private sector, as the NRA is particularly focused on legal and institutional vulnerabilities. The biggest gaps are the absence of detailed publicly available assessment of TF risks and corruption risks.

Overall Conclusion on Immediate Outcome 1

149. Bangladesh has a moderate level of effectiveness for Immediate Outcome 1.

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

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

Key Findings

Immediate Outcome 6

The BFIU functions well with sophisticated systems, increasingly good capacity and skilled and experienced staff to conduct analysis and give intelligence support to financial investigations. BFIU exhibits sound operational analysis, with prioritisation of a number of the high risk crime types and TF; increasingly sophisticated analytical methodologies; and a focus on improving and refining analytical processes and access to information.

Sanitised examples and feedback from LEAs confirmed the quality of the FIU's intelligence products and the FIU's support for operational and strategic level AML/CFT responses by LEAs. Its integrated role as FIU and supervisor gives it a broad perspective and a focus on improving the quality and quantity of reports it receives for dissemination. Improvements needed to ensure greater effectiveness of FIU outputs mostly relate to the need for improved reporting by ROs (see IO4).

Use of financial intelligence is mixed amongst LEAs in Bangladesh, despite the good quality and scope of disseminations. There are some positive areas of cooperation between LEAs in using FIU data for targeting predicates, but generally the use of financial intelligence by LEAs for predicate investigations was weak. Ultimately, LEAs' use of financial intelligence did not adequately reflect the risk profile for predicates and ML.

Cooperation between BFIU and ACC was effective in many cases, but there were a number of challenges with the ACC largely focused on unexplained wealth rather than using BFIU data to target broader financial networks associated with corruption and ML.

Immediate Outcome 7

Bangladesh has not pursued ML investigations consistent with its risks. The number of ML prosecutions (214) has increased, but due to significant delays, the numbers of completed trials was very low (5). The ACC had achieved a number of significant ML and asset recovery cases in relation to former high level office holders and their families. The conviction rate at the time of the onsite was high (80%) in four completed trials. There had been no third party or stand-alone ML convictions.

ACC, as the sole ML investigation agency, had not pursued ML investigations related to predicate investigations by other LEAs and reflected a lack of cooperation between ACC and LEAs to conduct parallel financial investigations for predicate offences beyond corruption to other high risk areas. ACC did not authorise other LEAs to investigate ME and the ACC prioritised unexplained wealth actions over ML investigations.

The 2015 MLPA amendment allowing other LEAs to pursue ML offences is a welcome development, however a number of factors still impede the effective investigation and prosecution of ML offences:

Restricted powers at the enquiry and investigation stage under the MLPA and ACCA; a lack of access

to databases of relevant government agencies; and a lack of a permanent and independent prosecutorial service.

The Courts are severely under-resourced and have a significant backlog of cases pending. Court procedures enable defendants to drag out proceedings over a number of years, including deferring trials part heard. While ACC ML cases are prioritised, they are likely to face increased pressure once other LEAs begin to investigate and prosecute ML offences.

The Attorney-General's Office is severely under-resourced to manage its current workload. The AGO's lack of operational independence from the government means the Office cannot appoint and retain sufficient high quality prosecutors with requisite technical expertise.

Sanctions have been imposed for ML offences for natural persons in the four cases. While a significant amount of fines have been imposed, these have not been recovered.

Bangladesh's pursuit of predicate offences is done as a substitute for, rather than parallel to, ML.

Immediate Outcome 8

Available powers were not used well to target, trace, restrain and confiscate instruments and proceeds of crime in keeping with the risk profile. Confiscation levels are generally low, although confiscations by NBR (Customs & Tax) for smuggling and tax evasion add to effectiveness (approx. US\$ 80 million in the last two years). MLA was not sufficiently pursued to follow proceeds of crime moved out of Bangladesh (e.g. foreign registration of domestic freeze orders).

ACC has pursued confiscation of instruments and proceeds of crime in relation to corruption and related ML with some notable successes. Property of corresponding value was not regularly pursued and ACC need to do more to trace and freeze the widest range assets. ACC is well resourced, but long delays in investigations and trials and little use of MLPA powers at the enquiry stage has undermined effectiveness.

Police application of provisional measures and confiscation of other crime types (drugs, human trafficking, etc.) has been limited to instruments of crime.

BFIU's regular asset tracing and freezing assets held on account has added to effectiveness.

Bangladesh has not sufficiently utilised the outputs of the cross-border case declaration system to target or interdict cash or bearer negotiable instruments at the border.

AGO has strived to provide suitable levels of support to proceeds of crime actions, but given the resource constraints and lack of an independent prosecution service, LEAs have not effectively taken proceeds of crime actions.

Management of restrained assets has not been sufficiently well supported over the course of long trials, which has led to assets held outside of the banking sector diminishing in value.

Recommended Actions

Immediate Outcome 6

- Ensure that the BFIU governance changes maintain a sufficient degree of operational independence and that resources and support from Bangladesh Bank remains.
- Prioritise operational analysis relating to gold and drug smuggling, tax evasion and TF and deepen strategic analysis with ACC, CID, DNC and NBR into corruption, fraud & forgery, customs

and tax related offences, and other key offences in line with risk findings.

- Further extend the BFIU's access to key database including tax, passport and immigration data.
- Prioritise development of financial intelligence related to cross-border offences and deepen analysis of cash declarations and other NBR data.
- Develop typology models for LEAs and other efforts to support their use of BFIU disseminations.
- Deepen engagement between BFIU and LEAs to further enhance BFIU analysis techniques.
- All LEAs should systematically use financial intelligence to target and support financial enquiries for all predicate offences, proceeds of crime and terrorism (including TF). LEAs should:
 - systematically use financial intelligence from the BFIU and through LEA's own processes.
 - monitor use of FIU data by investigation units to prioritise financial intelligence – either via the NCC or other coordination processes.
- ACC should target corruption-related ML and identify networks of persons involved the financial aspects of corruption. ACC should avoid over-reliance on unexplained wealth provisions.
- Reflecting the new ML investigative functions for all LEAs, Bangladesh should strengthen mechanisms for cooperation in financial cases involving numerous LEAs, including by:
 - Further improving engagement between NBR (customs and tax) and other LEAs on priority risk areas
 - Considering a joint agency Task Force model to develop financial intelligence

Immediate Outcome 7

- The MHA and the Chairman ACC should issue binding instructions to all LEAs to prioritise parallel ML inquiries and investigations with predicate offences to target priority areas (e.g. corruption related to public sector procurement & state-owned commercial banks; organised crime involved with drug trafficking and human trafficking; gold smuggling and tax evasion).
- Continue to build the capacity of each LEA's AML units:
 - Develop and implement comprehensive policies and procedures for ML investigations;
 - Develop and implement policies and procedures to ensure effective cooperation between LEAs;
 - Build capacity (both investigators and prosecutors) to support high quality briefs of evidence and conduct of ML prosecutions;
 - Increase focus on international cooperation for investigating and prosecuting ML.
- LEAs should exercise greater caution with the confidentiality of on-going enquiries and investigations to avoid tipping off and asset flight.
- Enhance joint investigations of complex crimes, including parallel ML investigations, trans-national ML and those involving non-bank assets and third party ML of high risk crime types.
- Amend legislation to comprehensively criminalise conduct under the predicate categories of people smuggling, corruption and market manipulation. Amend the ACC Act to provide ACC full investigative powers at the enquiry stage.

- Address structural and resourcing issues of courts / prosecutors to reduce significant delays:
 - Establish a legal and institutional basis for an independent prosecution service and ensure it is resourced and capable to effectively prosecute complex cases and provide specialised advice in freezing and confiscation. Prosecutors should be trained in ML and TF and appointed on the basis of merit with impartial panels overseeing their selection.
 - The independent prosecution service / AGO should be separately and suitably funded to ensure adequate resources in keeping with the very high workload.
 - Better support and ensure the operational independence and resourcing of the courts to address delays with trials. This could include judicial independence in relation to resources, budgets and appointment of judges and clear rules on completion of commenced trials.
- Improve court and prosecutorial procedures to streamline the conduct of criminal trials, including ensuring trials are not deferred part-heard.
- Ensure specialist technical support is available to prosecutors and judges, including training through JATI, for the conduct of ML prosecutions and related proceeds of crime actions.

Immediate Outcome 8

- Ensure all LEAs give the highest priority to tracing, freezing/seizing and confiscating proceeds of crime, including in cooperation with foreign counterparts.
- Establish standard operating procedures and act expeditiously to freeze assets at the enquiry stage to ensure that property which may become subject to confiscation is not dissipated before prosecution. This will require specialist teams and appropriate training and capacity building.
- LEAs should further prioritise asset tracing investigations, including coordinating with and using the BFIU's extensive powers and expertise.
- Amend the ACC Act to provide full provisional measures at the enquiry stage and the MLPA to cover property of corresponding value.
- NBR (tax) should coordinate with BFIU & LEAs to deepen tax-related proceeds of crime actions.
- NBR (Customs) and BFIU should support greater compliance with cross-border cash reporting to ensure a greater number of declarations captured.
- LEAs should consider making use of MLPA s.17(2) non-conviction based confiscation powers.
- AGO should be given resources to work closely with all LEAs to guide their use of provisional measures early in the enquiry of profit driven crimes.
- LEAs should focus efforts on restraint and confiscation for high risk crime areas such as human trafficking and seizing and freezing the widest range of property and instruments, including through international cooperation requests for foreign jurisdictions to freeze assets.
- ACC and Bangladesh Police should develop and resource comprehensive asset management protocols to ensure the value of confiscated goods is preserved and maintained. Prosecutors should seek court orders that provide more detail in the powers and duties of the asset manager.

Immediate Outcome 6 (Financial Intelligence ML/TF)

General frameworks

151. The BFIU is located in the BB, with separations from the host agency in its functions, systems, IT infrastructure and access controls. The BFIU operates with sufficient operational independence and autonomy to be free of undue influence or interference. The Deputy Governor of Bangladesh Bank is the Head of the FIU, with the FIU's General Manager being responsible for the direct management of the FIU, including dissemination. The October 2015 amendments to the MLPA resulted in the BFIU becoming independent of the BB. BFIU will still be housed and supported by the BB and an independent Head of FIU is to be appointed by the BB Governor. The appointment had not been made at the time of the on-site visit.

152. BFIU had 59 staff at the time of the on-site visit, but required further resources. BFIU's staff were highly committed and performing to a high standard, but there are significant resource demands on the BFIU from its supervisory, regulatory and other functions. Sufficient staff are available for the core functions of receipt analysis and dissemination. The demands on the BFIU to support ongoing LEA investigations will increase with the reallocation of ML investigative responsibilities from late 2015 and the commencement of supervision of DNFBPs.

153. BFIU's information security, access controls and governance of systems, staff and processes were shown to be robustly implemented. These are independent of the BB ICT security systems. BFIU has key point installation (KPI) security status which results in enhanced physical security.

STRs received and requested by competent authorities

154. BFIU conducts analysis on reports, including STRs, CTRs, foreign exchange permissions, cross-border cash declarations and complaints (equivalent to suspicious matters) from different sources, including ROs /the general public /the media / other government agencies. Most ROs report via the secure online goAML portal. GoAML is also used for BFIU requesting information from ROs.

155. The FIU has applied significant resources to outreach and awareness raising to increase the levels and quality of reporting and the sectors filing reports. Until 2014 there was a limited scope of FIs reporting STRs and cash transaction reports (CTRs), with the banking sector providing the bulk of the reports. The scope of sectors reporting to the FIU for improved markedly in 2015. The subjects of STRs reported to the BFIU are increasingly aligned to risk profile, although there are a low number of TF-related reports and low rates of reporting by the securities, state-owned commercial bank and real estate sectors. See IO4 for details.

156. BFIU supervision and outreach to ROs has focused on ensuring that ROs include complete, accurate and adequate information relating to the suspicious transaction. The form and level of detail of STRs, appears to be adequate in most cases. BFIU and LEAs insisted that the quality of STRs received is sufficient to support analysis and intelligence development.

157. The number of cross-border declaration reports received by the BFIU is low taking into account the size of the Bangladesh cash economy. CTRs are only received from the banking sector, despite wider obligations. This results in few opportunities for the BFIU to include analysis of cash, including cross-border movement of cash and bearer negotiable instruments (BNIs), in its work.

Operational needs supported by FIU analysis and dissemination

Analysis

158. BFIU demonstrated that it generally applies sound methodologies and sophisticated analytical tools for operational and strategic analysis. BFIU operational analysis identifies specific targets, follows trails of particular activities or transactions, and determines links between the targets and the possible predicate, ML and TF offences. Bangladesh has made good use of technical assistance from foreign partners over a number of years to deepen its analysis capacity.

159. The BFIU works with a wide range of public and restricted access data sets and has wide powers under the MLPA to request any additional information from ROs. BFIU has direct online access to various government and trade-related databases to assist with analysis. BFIU cannot directly access a wider range of tax and customs holdings, but some records are available on request.

160. The Analysis Wing demonstrated a sound approach to prioritizing cases for analysis and adds value to the CTR and STR information it collects. After primary screening some STRs are closed with approval of appropriate authority.

161. BFIU demonstrated that it undertakes tactical and strategic analysis to identify emerging threats for ML/TF and related predicate offences using information from ROs and other parties. BFIU develops strategic intelligence products such as typologies, trends, and behaviour analyses which have been shown to support formulation of policies and priorities.

162. An example of BFIU's strategic analytical output is the findings on multi-level marketing (MLM) businesses in light of the Revnex, Destiny and related cases. In response to these scams and in light of the findings of the BFIU typology studies, the government introduced legislation in 2013 providing for the regulation and licensing of MLM companies and prohibiting pyramid selling in Bangladesh.

163. Prior to and since joining the Egmont Group of FIUs, BFIU has demonstrated a strong track record of cooperating with foreign FIUs and other competent authorities. During the period 2011 to April, 2015, BFIU received 59 requests from, and made 114 requests to, other FIUs.

Dissemination

164. Until October 2015 all disseminations for ML were sent to the ACC, reflecting its sole authority to investigate ML. BFIU has made an increasing number of predicate-related disseminations to other LEAs covering a wide range of suspected offences (see table below).

165. LEAs are connected with BFIU through the goAML web portal. Disseminations are done securely and LEAs submit requests for further information to the BFIU through goAML. LEAs gave consistent feedback that the BFIU provides requested data in a timely way and requests are handled in a confidential manner to protect the integrity of the request.

166. BFIU follows up disseminations to LEAs with dedicated liaison officers and channels of support to encourage ongoing information exchange and assistance for intelligence development and investigations. This follow-up is well supported with the ACC and CID. Feedback from all LEAs indicates that the FIU's responses are timely and of sufficient quality to support intelligence development by LEAs.

Statistics of formal TF related disseminations

	2010	2011	2012	2013	2014	2015	Total
Formal disseminations	1	1	1	2	6	6	17

167.17 formal TF disseminations had been made by BFIU to CID and one to MoHA. While the number of formal TF-related disseminations is low, the majority of instances of BFIU sharing TF related information with LEAs is done through informal approaches and is a regular occurrence. This includes information sharing with security intelligence agencies and LEAs focusing on financial aspects of terrorism, including TF. This adds to effectiveness.

168. Sanitised examples and feedback from LEAs indicate a good quality of BFIU intelligence products being provided to LEAs for ML, predicates and TF. The examples also illustrate the FIU's support for LEAs' operational level responses across a number of high-risk areas and wider ML/TF risks. LEAs confirmed that BFIU disclosures were adequate and provide a basis for investigative targeting and ongoing investigations by providing grounds to conduct investigations, including establishing reasonable suspicion to use investigative powers.

Information flows between BFIU, ACC & CID – ML, predicates and TF

Year	BFIU disseminations based on STRs			BFIU disseminations based on complaints			LEA requests to BFIU for info		Information from ACC/BFIU	Information from CID/BFIU
	ACC	CID	Other LEAs	ACC	CID	Other LEAs	ACC	CID		
2010	16	1	0	44	1	4	48	1	108	3
2011	33	2	3	60	3	3	59	10	152	15
2012	79	0	9	57	11	30	42	6	178	17
2013	32	0	6	32	13	6	25	12	89	25
2014	10	28	17	29	29	6	38	40	77	97
2015	13	53	30	28	31	8	28	31	69	115
Total	183	84	65	250	88	57	240	100	673	272

Case – pyramid investment fraud

Destiny 2000 Multi-Level Marketing (MLM)

Destiny 2000 Ltd was the largest company of the Destiny Group, a multi-level marketing (pyramid) company, registered in 2000 as a cooperative after failing to obtain a banking license. A retired General was the chairman of the group and domestic PEPs were involved as owners and directors. Over 5 million distributors joined the cooperative. The group sold shares of non-existing projects in the 'Destiny Group'. Investments were worth over US\$500 million, with many victims of the fraud.

STRs, media reports and BB interventions led to detection of the frauds. BFIU's work and ACC investigations resulted in over 533 bank accounts of Destiny officials being frozen. In 2012 BFIU had frozen 443 accounts of 37 institutions related to Destiny. 37 companies and 15 persons were charged in relation to the frauds. Only 14 STRs were received by the BFIU in relation to the MLM. 10 of these were reactive STRs once the names of accused persons were publicised.

STR disseminations and utility of the STRs for the ACC

Year	CTRs rec'd	STRs rec'd	Cross-border declaration (NBR to BFIU)	STRs to ACC	Accounts frozen by BFIU	Accounts frozen - Court Orders	ACC predicate inv. based on STR	ACC ML investigations based on STR	ACC ML prosecutions based on STR
2010	2,330,716	77	2840	16	54	5	0	0	0
2011	3,180,785	185	3358	33	124	7	0	4	0
2012	3,386,701	305	2239	79	379	23	0	3	1
2013	2,937,630	482	2015	32	541	13	0	2	1
2014	3,481,619	815	2174	10	77	7	0	1	1
2015	3,135,628	1186	952	13	187	3	0	4	1
Total	18,453,079	3050	13,578	183	1362	58	0	14	4

Dissemination and utility of STRs for predicate investigations by other LEAs

Year	CTRs received	STRs received	Cross-border cash declarations (NBR to BFIU)	Disseminations to LEAs		Accounts frozen by BFIU	CID predicate investigation on receipt of BFIU information
				CID	Other		
2010	2,330,716	77	2840	1	0	54	1
2011	3,180,785	185	3358	2	3	124	2
2012	3,386,701	305	2239	0	9	379	
2013	2,937,630	482	2015	0	6	541	
2014	3,481,619	815	2174	28	17	77	28
2015	3,135,628	1186	952	53	30	187	31
Total	18,453,079	3,050	13,578	84	65	1362	62

Use of financial intelligence and other information

169. The development and use of financial intelligence by the ACC for ML enquiries and investigations was not in keeping with the risk profile. ACC is the largest recipient of FIU disseminations and the cooperation between the FIU and ACC is strong. ACC has been a regular user of BFIU information in support of ongoing cases. However, ACC has, in recent years, largely focused on unexplained wealth matters rather than using BFIU data to conduct more comprehensive financial investigations of predicate offences and parallel ML offences (see IO7).

170. Since the MLPA amendments in late 2015 all LEAs are authorized to directly investigate ML and they have established AML Wings to receive BFIU disseminations, to develop their own financial intelligence, and to conduct ML investigations. This is a very positive change and should see a greater uptake of BFIU data and cooperative use of financial intelligence to follow the money.

171. Regarding terrorism and TF, BFIU has regular engagement with LEAs and security intelligence agencies to share information relevant to intelligence probes. This is at a stage prior to formal dissemination, which also occurs. The working relationship between the BFIU and LEAs is productive at the stage of targeting financial investigations related to terrorism, including TF (see

IO9). LEAs consistently highlighted the value of BFIU data in CT and TF investigations. BFIU referrals of intelligence and BFIU support to LEAs for TF is a positive contribution but the statistics indicate relatively little formal dissemination. Of the 17 TF-related disseminations to LEAs, four have been investigated by CID without finding TF links and three are still ongoing.

172. Use of financial intelligence for predicate offences is mixed amongst LEAs and ultimately does not systematically reflect the risk profile. ACC, CID and all other LEAs need to make major improvements in the use of financial intelligence in support of predicate investigations. The recently established AML Wings and new ML investigation powers will add to this.

BFIU disseminations relating to predicate offences, 2010-2015

Predicate Offences	Disseminations. ²
Corruption & Bribery	87
Fraud & Forgery	103
Embezzlement	18
Human Trafficking	21
Drug Trafficking	12
Smuggling	9
Kidnapping/Abduction	47
Extortion	11
Counterfeiting of Currency	5
Murder	13
Dowry	1
Sexual Exploitation	6
Smuggling of Currency	11
Tax Crime	3
Total	347

173. There has been an increase in the number and significance of predicate investigations by the CID using BFIU intelligence over the last two years. As an example, in 2014 & 2015 BFIU disseminated 17 cases relating to kidnapping and 15 relating to human trafficking which added intelligence to CID's ongoing investigations. For some high risk predicates the uptake has been low (eg drug smuggling) and in some cases LEAs did not prioritise responses to disseminations.

174. As discussed in IO8 the BFIU has demonstrated particular strengths in its role in asset tracing at the intelligence stage prior to enquiries and in parallel with LEAs' investigations. BFIU's findings on asset tracing, including frozen accounts are promptly handed on to LEAs. There is a need for LEAs to make greater use of such BFIU data in support of predicate investigations.

175. LEAs initiate parallel financial investigations to predicate investigations only to some degree. In those cases they do seek information from the BFIU.

176. NBR, including Customs and a range of other LEAs develop their own financial intelligence in support of financial investigations of predicates. Customs Intelligence Department of NBR has increased information sharing with the BFIU beyond cross-border cash declarations. In 2015 BFIU received 5 cases from Customs intelligence related to fake currency seizure, cocaine seizure and gold seizure. In 2014 NBR provided information of 56 gold seizure cases and 9 currency seizure cases,

² There is some duplication in stats when LEAs seek BFIU information relating to both ML and predicates

and in 2015 NBR provided information on 29 gold seizure cases and 6 foreign currency seizure cases. BFIU's cooperation with Customs is increasing and has shifted from a focus on compliance with declaration systems to sharing broader financial intelligence aimed at following the money.

Cooperation and exchange of information/financial intelligence

177. The BFIU demonstrated that it shares financial intelligence, to some degree, with supervisory authorities to assist their work. This included sharing information on risk and STR reporting with the BFIU's supervision wing as well as the BB and BSEC to assist them to target risk-based supervision. This could be developed more systematically to include other agencies.

178. There is an opportunity for greater intelligence sharing between BFIU and the NBR (tax). BFIU's analysis would benefit from greater access to NBR tax data.

179. A positive development for intelligence sharing was the recent formation of a new ML Case Monitoring Committee between BFIU, NBR (including Customs) and CID to deepen operational level cooperation including intelligence sharing, taking into account the threats from gold and human smuggling etc. BFIU has made four disseminations to LEAs regarding gold smuggling. NBR has sent a small number of cases to BFIU for information.

180. BFIU shares information and intelligence through the NCC and its working committees and through the Cabinet Division Task Force on CT and CFT in relation to assessing risks and setting national strategies. BFIU's strongly positive contributions to the NCC are set out at IO1.

181. BFIU and LEAs increasingly communicate through goAML, which helps to ensure confidentiality and integrity of information exchange. Confidentiality of intelligence work and enquiries is a challenging area for Bangladesh, given the propensity for current enquiries and investigations to be discussed in the media (see section 1 & IO 7).

Overall Conclusion on Immediate Outcome 6

182. Bangladesh has a moderate level of effectiveness for Immediate Outcome 6.

Immediate Outcome 7 (ML Investigation and Prosecution)

General legislative and institutional frameworks

183. All categories of predicate offences are now within the scope of the ML offence. However, within some categories there are gaps with the coverage of some predicate offences. These gaps include key risk areas of smuggling of migrants and market manipulation, which is significant given the risk profile.

184. The MLPA, MLPR and ACCA provide some specialist powers for ML and financial investigations.

185. Until October 2015 the ACC was the only agency designated to investigate ML cases, and despite the power to do so, ACC had never acted to delegate investigation powers to any other LEA in any case until mid-2015. The ACC has a dedicated AML unit, but resources were not available to give any priority to the investigation of ML cases that were not part of an ACC investigation. Prior to mid-2015 the ACC had never investigated ML associated with predicates pursued by another LEA. Consequently the ACC was the sole agency investigating ML with very low rates of investigations and prosecutions, taking into account the ML risk profile of Bangladesh.

186. The National Strategy 2015-17 and the 2015 MLPA amendments allowing all LEAs to directly investigate ML provides a basis to significantly increase the number of ML investigations and prosecutions in Bangladesh. LEAs can now utilise powers contained in the MLPA to complement the powers available under their respective statutes (the Code of Criminal Procedure, Customs Act, Narcotics Control Act, Companies Act).

187. Expert ML prosecution capacity is lacking. There is no independent prosecution service and LEAs rely on panel lawyers for prosecutions. The AGO has filled some of the capacity gaps to assist with prosecutions, but the AGO's resource constraints renders this challenging.

188. The judiciary in Bangladesh is severely lacking in resources and capacity. Court and prosecutorial procedures are long and easily drawn out. In all cases except one, successful ML prosecution has only been possible in absentia with a preponderance of foreign evidence.

ML identification and investigation, including parallel investigations

Money Laundering Enquiries and Investigations - 2009 - June 2015

Year	ML enquiries	ML enquiries disposed	ML investigations (FIR)	Funds involved in ML cases ³ (million BDT)	ML cases final reports	ML charges	ML convictions	ML case acquittals
2009	1	-	2	6,523,	-	2	-	-
2010	56	3	19	716	2	4	-	-
2011	67	6	35	1,567	3	6	1	-
2012	80	11	132	896	11	64	-	-
2013	81	9	66	90,199	10	36	2	1 ⁴
2014	89	20	20	7,366	13	50	-	0
2015	26	27	11	726	4	52	1	0
Total	400	76	284	US\$ 1.4 billion	43	214	4	1

ML and Corruption

189. In the period immediately following the last MER, the ACC had a number of significant successes with investigating ML, including very high profile cases associated with high-level corruption. These were proactively identified, or commenced with the assistance of foreign partners. A number of those investigations remain before the courts, given the complexity of evidence and the significant delays with the judicial process.

190. Up to the time of the onsite visit, the majority of recently commenced corruption enquiries and investigations were initiated through media reports, individual complaints and BFIU dissemination reports. The ACC has undertaken some analysis of high – risk areas for corruption, which has led to

³ 'money involved' relates to the estimated total amount of the alleged offending

⁴ In July 2016 the Bangladesh High Court overturned the 2013 acquittal and convicted Mr Tarique Rahman of ML charges and sentenced him *in absentia* to 7 years.

a proactive focus on tackling bribery and fraud in the public sector. Between 2010 and 2015, the ACC filed 39 'trap cases' (where the offender is caught on the spot at the time of receiving bribe) based on its own financial intelligence analysis. In addition, the ACC has deployed officials in 11 government organisations with particular risks to proactively identify and investigate corruption cases.

191. While ACC is responsible for investigating and prosecuting both corruption and ML offences, it has primarily focused on prosecuting predicate offences (corruption). In particular it has focused on using the unexplained wealth offences in the ACCA (section 26). Under these provisions, the ACC sends the suspect a notice requiring their submission of a statement of assets and liabilities to the ACC. For example, when large-scale ML cases have been identified, ACC has often charged for breaches of unexplained wealth provisions but has not gone on to investigate or possibly charge for ML offences, despite relevant criminal conduct being identified.

192. ACC has tended to pursue unexplained asset declarations in the majority of cases involving alleged offending by officials, politicians and their associates ahead of, and often in lieu of, financial investigations, including for ML. This appears to be regardless of the seriousness of the complaint or the scope of financial intelligence from the BFIU. ACC has received many complaints of corruption and high-quality disseminations from the BFIU which included value-added financial intelligence.

193. ACC's prioritisation of unexplained wealth declarations over financial investigations may be due to a certain efficiency of s.26 ACCA, however the overuse of these tools poses problems: Firstly, the process of such declarations essentially to decide on the target first and then look at their financial trails at a relatively superficial level, rather than a financial investigation leading to a range of possible targets and offenders as well as further evidence of ML. Secondly, these provisions give prior notice to the persons being targeted, which may tip off targets and allow assets and financial evidence to be dissipated. Thirdly, the use of the provisions narrows investigators' options for action. ACC had not charged ML based on unexplained wealth predicate offences. Fourth, ACC had not taken steps to restrain property ahead of an asset declaration process when there was a suspicion of ML.

194. From the data and discussions with the ACC it is evident that there is a large backlog of matters dealing with unexplained wealth declaration processes. It is noted that the vast majority of corruption complaints were handled using asset declaration powers and that a further majority resulted in the suspect being cleared.

Unexplained wealth statistics - 2011 - 2013

Description	2011	2012	2013	2014
Total number of unexplained wealth investigations	97	84	65	33
Number of investigations completed	32	29	22	46
Number of persons charged	29	20	12	23
Total value of property attached/seized (2011 - 2015)	Approximately US\$ 13 million			
Total Value of property confiscated (2013 - 2016)	Approximately US\$ 1 million			

Parallel Investigations

195. While ACC was, in practice, the sole agency undertaking ML investigations until late 2015, it did not focus on ML risk areas other than corruption. Joint ML investigations involving other LEAs were not undertaken. ACC did not pursue ML investigations of predicates investigated by other LEAs, either in parallel or following completion of predicate investigations, reflecting a lack of political will

for parallel ML investigations for predicate investigations other than corruption. For example, NBR (Customs) seized 156 kilograms and separately seized 150 kilograms of gold. Both cases involved concealment in Biman Bangladesh aircraft. Whilst the investigation into gold smuggling ensued, parallel investigation into ML were not pursued.

196. A joint taskforce comprising of BFIU, ACC and CID officials established to identify and prioritise investigation of ML offences in high-risk areas was not able to overcome this lack of trust. Bangladesh provided three examples of joint investigations during the on-site visit, but analysis of these suggests they were undertaken by individual agencies. The team found a lack of communication and information exchange between the ACC and other LEAs at the time of the onsite visit. This was in contrast to the regular exchange of information between BFIU and the ACC.

197. In mid-2015 the ACC referred nine cases to the CID for investigation of both predicates and possible ML. Two cases are being prosecuted under the MLPA and one for the predicate offence only. Six matters were still at the investigation stage.

198. An example of a lack of action on predicates is the series of share market scams and market manipulation cases associated with PEPs that have been investigated by the BSEC and a special tribunal. Despite the large scale of the fraud and allegations of corruption, the ACC had not undertaken parallel ML investigations. ACC indicated that it is waiting for BSEC to complete its investigation and for the predicate offence to be proven before it considers any possible ML investigations. Since the on-site, 6 out of 17 cases by the BSEC submitted have been disposed of by the Special Tribunal, resulting in four convictions and monetary penalties being imposed. However the ACC has not commenced any ML investigations in those cases. Given the passage of time, it is likely that any financial investigations into the proceeds of crime may be significantly inhibited.

199. The National Strategy 2015-2017 and the reallocation of responsibilities for ML investigations in the MLPA (October 2015) support a greater focus on investigating and prosecuting ML offences in the future, both as a stand-alone offence as well as in conjunction with predicate offences. Joint investigation provisions were included which should provide a basis for more effective cooperation. The National Strategy 2015-2017 also includes establishing dedicated ML Prosecution Units in all the LEAs and committing sufficient human and technical as well as required infrastructure resources to those units. The National Strategy includes an implementation deadline for this action of December 2015.

Case study – Progress of complex ML investigations - BASIC Bank

Following media reports and initial inspection, BB identified 62 STRs and significant fraudulent loan advances and referred the matter to the ACC in July 2013. The allegation concerned a large misappropriation of funds amounting to approximately US\$ 451 million. The ACC formed a 4 member team of BFIU and ACC officials. The ACC initiated five unexplained wealth enquiries under s26 ACCA. Following the enquiry, the ACC commenced 56 investigations against 27 bank officials.

As of October 2015, the ACC was yet to appoint an investigation officer. To date no assets have been attached or frozen. Despite BFIU efforts to investigate, no monies have yet been uncovered in bank accounts that were able to be frozen under BFIU powers.

Despite a Parliamentary Standing Committee monitoring progress, there have been extensive delays in the investigations. Investigations have uncovered large amounts of money being sent to a foreign jurisdiction, however at the time of the on-site no requests had been made to that jurisdiction for cooperation, whether formally or informally.

Operational impediments to effective ML investigations and prosecutions

200. ACC's ability to receive and verify timely and relevant information was hampered due to a lack of direct access to the databases of relevant government organizations. ACC can obtain records based on request, but processes are lengthy.

201. The ACC has only limited powers at the enquiry stage to seize assets or evidence, or to arrest people both at the enquiry and investigation stage. The provisions of the existing ACCA or MLPA do not allow the enquiry officers to conduct search and seizing of such documents and arrest personnel at the time of enquiry.

202. There is a lack of confidentiality surrounding on-going investigations conducted by all LEAs, but particularly in relation to ACC section 26 and 27 notices. Media publicity of ACC interviews can prejudice ML investigations, tip off potential targets and lead to the dissipation of assets and evidence. For example, in the Hallmark-Sonali bank scam, there was widespread media coverage regarding the specific people the ACC was investigating almost a year before some of them were issued with unexplained wealth notices.

Prosecutorial capacity

203. Challenges with prosecutorial capacity undermine the quality and timeliness of prosecutions. In the absence of a dedicated independent prosecution service, each LEA appoints panel lawyers on a case by case basis to prosecute predicate offences and ML cases. There are significant challenges in developing specialist prosecutorial capacity for financial crime. There are various conflicts of interest in this arrangement which do not appear to be well managed (panel lawyers may maintain their private practice of defence work on similar matters). The panel lawyers system has not been demonstrated to deliver the capacity or specialist knowledge to support this need which will continue to increase over time with the 2015 MLPA amendments and expansion of the number of LEAs investigating ML.

204. AGO has strived to contribute specialist capacity to support prosecutions of financial crime including ML, but the AGO is seriously under-resourced in relation to its extensive current workload (administrative and civil matters, prosecution support, special tribunals, appeals and international cooperation). The AGO will need to continue the provision of legal advice to the relevant agencies prosecuting and investigating ML including representation at court especially for matters on appeal. The AGO is not independent of the MLJPA (see Section 1 for further discussion).

Court capacity

205. The Courts face very serious capacity constraints leading to long delays. The 2014 Supreme Court Annual Report noted 209,551 criminal cases were pending before the High Court (58% of all pending cases). A lack independence from the executive branch of government exacerbates capacity challenges (see section 1). The delays in timely case disposals are likely to be further exacerbated under the MLPA amendments.

206. There are 29 Special sessions courts with 11 Special Sessions Court Judges appointed to hear ACC corruption and ML cases. The courts are struggling with the current workload with an average of 1,500 cases pending at each court. Ten new judges were appointed to the High Court in February 2015 (raising the total number of judges to 97) and while this will assist in reducing the current backlog of cases to some extent, more judicial appointments will be required to appropriately

manage the Courts' current and future workload. Five out of the 11 judicial posts in the Appellate Division of the Court have remained vacant since 2013.

207. A respondent's ability to challenge section 26 and 27 notices at the High Court hinders the ACC's ability to effectively identify and investigate ML offences. Once a challenge is submitted, which the team was informed (both by ACC prosecutors and judges) occurs in the majority of cases, the ACC cannot investigate the matter further until the application is heard and decided by the Court. This leads to delays in investigations and enables the dissipation of assets and evidence.

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

208. Investigation of ML was not in keeping with the risk profile. The general absence of ML investigations by ACC or any other agency for ML associated with the high risk offences beyond corruption (drugs, smuggling, human trafficking, fraud, tax offences) demonstrates the fundamental gaps with effectiveness. The lack of ML and financial investigations related to significant threats from drugs and human trafficking is particularly concerning. Customs has conducted financial investigations for some smuggling matters, particularly with gold smuggling cases, but the intelligence gained in these operations was not being adequately used to commence domestic ML investigations prior to the amendment to the MLPA in October 2015. NBR disseminated a number of gold-related cases via the BFIU which prompted ACC enquiries.

209. Whilst Bangladesh has provided statistics for the investigations of key predicate offences, the statistics for corresponding ML investigations paint a poor picture. Whilst Bangladesh has not provided a breakdown of the relevant predicate offences for all ML investigations, discussion with authorities indicate that none relate to human or drug trafficking or smuggling goods.

210. There is an over-emphasis on Foreign Exchange Regulation Act (FERA) breaches and associated ML, reflecting a lingering belief that dealing with funds which have been exported in breach of strict foreign exchange controls is a key ML risk.

Types of ML cases pursued

211. ML cases pursued so far include both domestic and trans-national elements and include self-laundering and involvement of third parties. The figures for ML investigations demonstrate no convictions for third party laundering or stand-alone ML offences. There are three ML investigations ongoing which involve international cooperation and proceeds of foreign offences relating to matters with Singapore and Malaysia.

212. Two of the four ML convictions obtained to date were for significant corruption cases and related fraud and forgery, and tax evasion. One case involved illegal remittance business. In all cases except one, ML prosecutions were in absentia with a preponderance of foreign evidence.

Case Summaries – Completed ML Prosecutions

The Faruk case

Following an STR reported by a local bank, BFIU analysis and asset tracing and ACC investigations identified the owner of a Hajj agency in the United Kingdom who had been defrauding his clients. BFIU froze funds held on account. The Special Court tried the case *in absentia* and found Mr Faruk guilty of ML & sentenced him to 7 years imprisonment. Approx. US\$310,000 was confiscated.

ML conviction + an acquittal - Tarique Rahman and Giasuddin Al Mamun

This case involves corruption and ML allegations against Mr Tarique Rahman (the son of the former Bangladesh Prime Minister) and his colleague Mr Al Mamun. The court found a bribe was paid by the Chairman of a construction company related to a contract to build a power station in Bangladesh. Funds were paid to accounts in Singapore and laundering included returning funds to Bangladesh.

In November 2013 Mr Al Mamun was convicted of ML and received 7 years imprisonment and a fine of BDT 400 million (US\$ 5.2 million). No confiscation order was made. Mr Tarique Rahman was acquitted of the ML charges. The ACC filed an appeal which was on-going at the time of the onsite visit.⁵

ML conviction - 'Koko' Arafat Rahman - the Siemens case

In 2008 the ACC charged Mr Arafat (Koko) Rahman, the son of a former Prime Minister, with ML related to bribes received from two foreign companies, Siemens and China Harbour Engineering Company to help them win government contracts. An MLA request from Singapore noted they had frozen S\$2.3 million held with a Singaporean company beneficially owned by Koko Rahman. ACC investigations found illegal remittance of S\$3.81 million to conceal the source of his illicit earnings.

In 2011, Koko was tried and sentenced in absentia to 6 years imprisonment for ML and a charge under s109 of the Penal Code and a confiscation order was made against the funds held in Singapore. The US and Bangladesh sent a joint MLA request to Singapore, resulting in the funds being ultimately returned. In November 2012, S\$ 2.04 million was returned and on 26 February 2013 a further US\$ 956,387 was repatriated to Bangladesh by the Singaporean authorities.

ML conviction - the Patel case

In 2009, the ACC charged Mr Patel with ML following his arrest with BDT 218,000 (US\$ 28,000) of proceeds from operating illegal MVTS (hundi) from Bangladesh to India. Mr Patel was convicted for ML associated with foreign exchange control offences and sentenced to 10 years imprisonment, fined BDT 4,360,000 (approx. US\$ 56,000) and the proceeds of the illegal Hundi were confiscated.

Effectiveness, proportionality and dissuasiveness of sanctions

213. The courts applied a range of sanctions for ML offences to natural persons in the four convictions obtained. No legal persons had been convicted. Three of the four convictions involved trials *in absentia*. While the fines imposed in the four ML convictions have been significant (BDT 404 million (approx. US\$ 5.3 million) in total) and are theoretically dissuasive, at the time of the on-site the fines had not been recovered and prison sentences had not been enforced except in the case of Patel who was tried in person. It is not clear if there are current extradition proceedings for those convicted in absentia.

214. The very low number of convictions in itself demonstrates that Bangladesh's overall approach to sanctioning ML is not dissuasive.

Overall conclusion on Immediate Outcome 7

215. Bangladesh has a low level of effectiveness for Immediate Outcome 7.

⁵ In July 2016 the Bangladesh High Court overturned the 2013 acquittal of Mr Tarique Rahman on ML charges and sentenced him *in absentia* to 7 years imprisonment.

Immediate Outcome 8 (Confiscation)

Legislative and institutional framework

216. The legal framework provides a clear basis for the authorities to restrain and confiscate property and instruments of crime. The MLPA and the ATA provide for conviction and non-conviction based confiscation for ML and TF. Since October 2015 the MLPA extends these powers to LEAs when conducting parallel financial investigations to the predicate. The MLPA provides wide provisional powers prior to the commencement of a prosecution, with the exception of property of corresponding value, but the ACCA's similar powers are limited at the enquiry stage. BFIU's temporary freeze powers only apply to assets held 'in account' by reporting entities, ie with banks, NBFIs, insurance and stock brokers.

217. Powers in the MLPA are supplemented by confiscation and administrative actions available to other LEAs. The Customs Act, Narcotics Control Act, Criminal Procedure Code and the Income Tax Ordinance all provide mechanisms for LEAs investigating predicates to confiscate property involved in criminal activity, including instruments of crime, in most cases without a conviction for ML.

218. In relation to cross-border movement of currency and BNI, Bangladesh requires written declarations for amounts over US\$ 5,000 for foreigners and over US\$ 7,000 for locals when entering the country. There are strict currency export controls and BB permission is required for most outgoing movement of funds (FERA). The BFIU receives copies of all declarations in hard copy and stores them in a database. Cross-border declarations, in practice, remain focused on FERA compliance.

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

219. Confiscation is pursued as a policy objective to some extent with notable successes noted in relation to gold and drug smuggling and tax evasion. However, confiscation has been primarily focussed on depriving criminals of the instrumentalities of crime. Overall, LEAs had not acted promptly to freeze property as a priority beyond the instruments of crime. Property of corresponding value was rarely frozen. The focus on instruments was also evident in relation to confiscation for both ML and TF offences. IO7 found that the ACC had not pursued freezing orders at early stages, which undermined the ultimate success of confiscation. Bangladesh demonstrated experience of obtaining international cooperation in cases involving assets moved out of Bangladesh (see IO2).

220. In practice, the policy objective to use the MLPA's wide powers to freeze and confiscate property related to all predicate offences and ML has not been implemented well. Prior to the October 2015 MLPA amendments, the ACC had to grant permission to other LEAs or directly take proceeds of crime action for predicate offences under the MLPA.

221. As the only agency investigating ML, the ACC used its powers to freeze, seize and confiscate on a limited basis and chiefly in relation to corruption predicates. This left other LEAs to rely on the powers available to them under their respective legislation to confiscate mainly instruments of crime. NBR has taken a more systematic approach to using customs, tax and foreign exchange regulation statutes to implement policies to restrain and confiscate property related to those offences. With the amendment to the MLPA allowing the respective LEAs to investigate ML, it is expected that amounts confiscated should increase.

Freeze Orders obtained from the Court by the ACC

Year	Cases freeze orders sought	Debit restriction orders	Amount involved in BDT	Amount involved (US\$ equivalent)
2014	7	7	2,80,00,000	363,000
2013	13	13	20,00,00,000	5.5 million
2012	23	723	250,00,00,000	32.4 million
2011	7	25	90,00,00,000	1.2 million
2010	5	640	426,52,57,432	55.4 million
Total	55	1408	7,083,257,432 + 116 motor vehicles	US\$ 94.8 million

222. BFIU takes the widest approach to tracing and freezing property that might become subject to confiscation in relation to predicate or ML offences. Between 2010 and 2015, the BFIU has frozen 1361 bank accounts to the value of BDT 2,220,086,139 (US\$ 28.8 million), 8 accounts held with NBFIs to the value of BDT 20,700,000 (US\$ 268,831) and 6 accounts held with the Stock Market to the value of BDT 7,650,000 (US\$ 99,350). In all these cases the temporary BFIU freezing funds were continued under court orders obtained by LEAs.

223. Whilst the BFIU exercised its powers to freeze accounts to a total approximate value of US\$ 29,200,468 between 2010 and 2015, the ACC sought 55 freeze orders from the Court between 2010 and 2014 for all predicate offences (see table). The significant rise in freezing actions in 2012 relate to the Destiny case, which alleges a multi-level marketing company registered defrauded a large number of investors to the sum of approximately BDT 33 billion (approx. US\$ 450 million).

224. Between 2010 and 2015 Bangladesh only confiscated a total of BDT 233,687,724 (approx. US\$ 3 million) relating to three ML matters only. This is despite the fact that authorities sought confiscation in 55 matters. Three of the successful confiscation matters involved funds restrained and returned to Bangladesh by foreign partners.

ML cases where ACC pursued confiscation related to foreign predicate offences

No. of cases	proceeds of crime seized/frozen	Proceeds of crime confiscated	compensated to victims, shared or repatriated
3	US\$ 732,000 equiv.	US\$ 3.1 million equiv.	US\$ 3.1 million equiv

Corruption and related ML

225. Recovery of proceeds of corruption offences retained domestically has been extremely low. See IO 7 for discussion of an over-reliance on unexplained wealth actions instead, which has the effect of giving notice to potential accused before restraining action is taken.

226. ACC did not proactively pursue provisional measures and confiscation, including at the earliest opportunity, particularly in high-risk corruption cases. The MLPA has wide ranging provisional measures but the ACC largely relied on the BFIU's more limited freeze powers at the enquiry stage, and generally only took ACCA or MLPA freeze actions later in the investigation. The ACC has taken freezing and confiscation action in relation to unexplained wealth charges. Between 2011 –2015 the ACC seized/attached an amount equivalent to US\$ 13 million. Approximately US\$ 1,000,000 was confiscated between 2013 – 2016 resulting from unexplained wealth charges pursuant to s27(2) of the ACCA.

227. ACC does not pursue confiscation as a matter of policy, which is illustrated by the Sonali/Hallmark case outlined in the box below. In this case, ACC was conducting an enquiry and assets tracing probe into the Deputy General Manager of the Hallmark group and discovered significant assets under his ownership or control as 'unexplained wealth'. The subject of the investigation died whilst still under enquiry. However the ACC chose not to pursue any action against the funds resulting in a significant windfall of proceeds to the beneficiaries of the deceased person's estate.

228. Given the focus by the ACC on charges for unexplained wealth (29 in 2011, 20 in 2012 and 12 in 2013) the assessors would have anticipated confiscation arising from these matters, however Bangladesh did not provide any statistics for confiscation in un-explained wealth matters.

229. Delays in managing investigations and cumbersome operational processes (see IO 7) has led to delays in obtaining freeze orders providing opportunities for assets to be dissipated.

Case study: Sonali-Hallmark Case (currently under trial)

Bangladesh Bank supervision in 2012 of a branch of the state-owned commercial bank, Sonali Bank, identified evidence of corruption-related fraud on behalf of the Sonali banks client, the Hallmark Group and related fictitious companies. Supported by the BFIU, the ACC investigated actions of companies including Hallmark Group, on allegation of embezzlement of approx. US\$ 454 million.

The ACC formed a six-member investigation team and after enquiry, 38 cases were filed with 35 charge sheets. 8 main accused persons were arrested including the Chairman of the Hallmark group. ACC did not pursue asset tracing and provisional measures during the enquiry or investigation. BFIU did, however, freeze 258 bank accounts equivalent to US\$4.2 million whilst the ACC investigated. The High Court division confirmed the freeze orders.

During the investigation stage, the High Court division passed an order restricting the sale or transfer of all assets of the group. However, this application was made to the Court by an interested advocate of the High Court division (an investigative journalist) and not the ACC.

The ACC pursued with-notice unexplained wealth provisions in this case, rather than asset tracing investigations and *ex parte* freezing orders. ACC served s26 ACCA 'wealth explanation' notices on the Chairman of Hallmark who failed to submit statements on time and was charged under s26(2) of the ACCA which provides a penalty for a failure to submit the written statement. Five other officers of the Sonali bank have been required to make a wealth declaration.

Case study: BASIC Bank case (at enquiry stage)

The allegation refers to a large misappropriation of funds amounting to approx. US\$ 451 million. BB identified significant corruption-related fraudulent loan advances and referred the matter to the ACC in July 2013. There have been extensive delays in concluding the investigation and bringing the matter before the courts. The ACC initiated five unexplained wealth enquiries under s26 ACCA. Following the enquiry, the ACC lodged 56 FIRs against two bank officials.

As of October 2015 no assets had been attached or frozen. Investigations have uncovered large amounts of money being sent to another jurisdiction however at the time of the on-site no attempts to make requests, whether formally or informally to that jurisdiction had been initiated.

Gold and drug smuggling & other customs offences

230. Customs is increasingly seizing prohibited goods, with very significant seizures and confiscation of gold. Customs has seized 1877 kg of gold (with a value of approx. US\$ 70 million) in the last two years. Customs also seized four aeroplanes used in gold smuggling, which remain in the custody of the airline and will need to be presented to the authorities should they be confiscated. Customs has also seized the equivalent of approximately US\$ 5 million in foreign currency, 27,414 cartons of cigarettes, and approximately US\$ 1.25 million of illegal medicines. Customs regularly exchanges information with foreign partners in relation to these seizures and related trends.

Seizures of Gold by NBR in 2014 & 2015

Year	Gold seized	Gold confiscated	Value of confiscated gold
2014 & 2015	1877kg	1877kg	Approx US\$ 70 million

231. The Department of Narcotics Control (DNC) has also had some success in seizing proceeds of drugs and instrumentalities of crime. The DNC has not pursued asset tracing investigations and taken action to restrain or confiscate proceeds of crime beyond instruments.

Proceeds & Instrumentalities of Crime seized by DNC vis a vis Drug Offences

Article Seized	2010	2011	2012	2013	2014
Monies seized (BDT)	879,129	1,233,014	1,148,493	2,640,389	982,116
US\$ equivalent	US\$ 11,400	US\$ 16,013	US\$14,915	US\$ 34,290	US\$12,053
Conveyances / vehicles	76	74	62	66	60

Tax evasion

232. NBR has established an international tax wing to develop intelligence and investigations against cross-border tax crimes. NBR has a central intelligence cell that aims to detect tax evasion. NBR established a separate transfer pricing cell in 2015 and its data forensic laboratory commenced in 2015, which has cyber forensic facilities and will be used to track and analyse electronic transactions and records. Other LEAs are encouraged to work with NBR where appropriate and consider the use of joint taskforces involving NBR staff which would add value to investigations and asset tracing.

233. NBR has the authority to freeze assets on the grounds of mis-reporting of taxable income. NBR had three freeze orders in place totalling approximately US\$ 3.5million. NBR has demonstrated some effectiveness in investigating and prosecuting tax evasion offences, with almost 100 cases prosecuted to date. Details of actions taken with assets in these cases were not provided.

234. Customs realised the equivalent of over US\$ 15 million in additional taxes related to smuggling and other tax offences in recent years. Bangladesh did not provide details on number of related investigations and assets frozen or the exact timeframe of these actions.

Human Trafficking

235. Bangladesh did not demonstrate data of confiscations of instruments and proceeds of human trafficking. The large amounts of wealth amassed by those criminals operating in the border areas of Bangladesh and India/Myanmar remain elusive from the authorities.

Market manipulation

236. As noted in section 1 regarding recent BSEC efforts, six of the 17 criminal cases pending before the Special Judicial tribunal have been disposed of. It is not clear that any instruments or proceeds of crime had been restrained for possible confiscation. No assets are under restraint in relation to the two criminal cases against five people BSEC has filed in the High Court Division.

Pyramid investment fraud – Destiny 2000 Multi-Level Marketing (MLM) case

STRs, media reports and interventions of the Bangladesh Bank led to detection of frauds in the the Destiny Group of Companies. Destiny 2000 Ltd was the largest company of the Destiny Group, a multinational multi-level marketing company, first registered in Bangladesh in 2000 as a cooperative after failing to obtain a banking license. A retired Lt. Gen. Harun Ur Rashid was the chairman of the group and a number of other domestic PEPs were involved as owners and directors. Over 5 million distributors joined the cooperative. The group had also sold shares of other non-existing projects in the 'Destiny Group'. The pyramid investments were worth over \$500 million over a number of years.

BFIU asset tracing and ACC investigations resulted in over 533 bank accounts of Destiny officials being frozen. BFIU had earlier frozen 443 accounts of 37 institutions of Destiny and its allied concerns in 2012.

A large number of investors / distributors were involved as victims of the investment fraud. 37 companies and 15 persons were charged in relation to the frauds. Before, during and subsequent to the investigation of Destiny and its group of companies 14 STRs were received by the BFIU in relation to the MLM. 10 of these were reactive STRs once the names of accused persons were publicised.

Asset management

237. LEAs are responsible for managing restrained assets under conditions set by the Court. LEAs lack of appropriate and comprehensive systems to manage seized or attached assets. There are no clear rules or procedures for managing these assets. LEAs rely on the criminal procedure code provisions and Police Regulations, which do not provide guidance on managing the assets themselves. No training on asset management is provided to officers. Whilst authorities informed the team that the restraint of real property does occur, there were no details provided of any cases in which real property has been managed and how the authorities have dealt with the various complexities that accompany the restraint of such assets. Effectiveness is undermined by a lack of a centralised asset recovery and asset management capabilities.

238. Whilst the Court has the power to set conditions on the asset management, the current practice is not clear. Bangladesh could not provide examples of conditions that Courts have placed on the management of assets in the past. Additional guidance from the Courts may assist the authorities to more effectively manage assets.

239. NBR (Customs) and BB cooperate well to manage seized gold. Customs demonstrated effective asset management processes in releasing four restrained aircraft to the airline pending confiscation at which point the airline would be required to hand them over to the authorities. This is a cost-effective and pragmatic approach to asset management. Gold and other precious metal seizures are managed through Customs giving over custody to BB which manages such assets until the disposal of the case.

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

240. The ACC has pursued confiscation in three cases related to foreign predicate offences and proceeds located abroad. Despite these notable successes, the approach has not been systematically pursued in other matters.

241. In the Chowdhury case Bangladesh is cooperating with the UK authorities in an attempt to give effect to a foreign restraining order with the intention to return funds to the UK. See below.

Robin Chowdhury case (Foreign predicate)

Mr Chowdhury, a Bangladeshi national and UK resident engaged in fraudulent mortgage applications whilst resident in the UK and transferred proceeds of crime to accounts in Bangladesh. He was arrested by UK police in 2011 and charged with several offences including ML. The UK investigation uncovered the fact that Chowdhury had transferred funds into the name of his wife, father, uncle and brother in law and had invested the money in real estate and stocks within Bangladesh. The total fraud in the UK amounted to approximately 3 million GBP. He received a 10 year term of imprisonment in the UK and served time in custody. In 2015 the UK made an MLA request to Bangladesh to recover laundered funds (approximately GBP1.1 million is identified in Bangladesh). Bangladesh took steps to freeze the monies held in the accounts of Mr Chowdhury pursuant to the MLA request. Final orders have yet to be given in relation to confiscation.

242. In the Faruk matter (see IO 7), upon his conviction for ML in Bangladesh, the court ordered confiscation of BDT 23,632,330 (approx. US\$ 307,000). Following confiscation Bangladesh returned the confiscated funds to the UK pursuant to MLA requests using the UNCAC. In the Arafat Rahman matter, following his conviction *in absentia* on corruption and ML charges the Court issued a confiscation order. Bangladesh sought MLA and was successful in receiving Singapore's cooperation in enforcing the confiscation order. Singapore returned approximately US\$ 3 million under the UNCAC on condition of spending repatriated money in corruption prevention activities (see IO 2).

Restraining and confiscating assets relating to terrorism and TF

243. Whilst the government's zero-tolerance stance on terrorism was reiterated throughout the mutual evaluation, this was not reflected in the amount of assets confiscated for TF or terrorism beyond instruments of crime. Seizures / asset freezing in terrorism cases that relate to persons acting on behalf of designated entities are all done under S.20A of the ATA, which is the mechanism to implement UNSCR 1373 asset freezing. This is discussed further at IO10.

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

244. Taking into account the very large cash economy, porous borders and regional trade and economic context, the system for declarations / permissions of currency or BNI is not generating a significant number of reports and does not seem to operate in a way that documents the cross-border movement of cash and BNI. This may reflect the restrictive currency controls and a lack of trust in border enforcement procedures.

245. Customs seized foreign currencies equivalent to US\$ 5,148,051 between 2013 and 2015. Bangladesh did not provide examples of these seizures leading to further investigations of ML, TF or predicate offences beyond FERA violations.

246. Customs' focus on cross-border cash controls appears directed on detecting and restraining funds related to breaches of the FERA. It appears that travellers declaring significant sums of cash are not actively questioned by Customs authorities or subject to any follow-up enquiries. While Customs provides all cash declaration forms to BFIU, it does not provide any indications to BFIU regarding declarations of potential interest. Nor are declarations of significant sums actively reviewed, investigated, or profiled by BFIU once received. Physical cash declarations are manually entered into the BFIU database which leaves room for human error.

247. The overly strong focus on FERA obligations and outbound movement of funds appears to reduce the vigilance paid to incoming movement of cash. Given the trans-national TF risks faced by Bangladesh, and the substantial number of citizens working overseas, it is at substantial risk of an inflow of illicit funds from persons in foreign countries who might seek to fund local terrorist cells and activities. Bangladesh's heavily cash-based economy represents particular risks for this type of illicit fund flows. LEAs do not appear to be investing serious effort in mitigating this risk.

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

248. As indicated above, the application of provisional measures and confiscation is not consistent with the risk profile or even with the conduct of the predicate investigations and the ML investigations undertaken.

Overall conclusion on Immediate Outcome 8

249. Bangladesh has a low level of effectiveness for Immediate Outcome 8.

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

250. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The recommendations relevant for the assessment of effectiveness under this section are R.5-8.

Key Findings

Immediate Outcome 9

Financial investigations of terrorism and related TF investigation and prosecutions are incorporated into broader CT strategies and given priority, with recent increases in available investigative resources and allocation of scarce judicial resources reflecting that high priority.

Bangladesh's significant TF threats and the context of those threats appear to be generally understood by investigative authorities. Bangladesh has focused on domestic groups and was giving increased focus to groups with trans-national elements, including foreign financing for JMB and emerging issues with financing ISIL and AQIS. These later areas need further emphasis and the issue of financing foreign fighters is a small but emerging issue requiring increased attention.

The numbers of financial investigations related to terrorism and TF and TF prosecutions is generally reflective of the risk profile. It is notable that investigations have further to go to target significant financing or to adequately reflect international cooperation.

While training has been provided to numbers of LEA staff and prosecutors on TF, there had been a lack of dedicated LEA units to investigate financial aspects of terrorism, including TF. Progress was being made to address this at the time of the onsite visit.

There were two TF convictions recorded at the time of the onsite visit, with a large number of ongoing prosecutions and investigations. TF prosecutions are reasonably well supported and prosecution of terrorism and TF offences is given the highest priorities by the courts, which results in far fewer delays than the general court systems.

Bangladesh's focus on terrorism prevention and de-radicalisation has added to efforts to prevent and combat TF.

Immediate Outcome 10

Bangladesh has a comprehensive legal and regulatory framework in relation to targeted financial sanctions (TFS) against terrorism. Cases of asset freezing under TFS have involved very small amounts and have mostly occurred when active LEA investigations have confirmed a match with a 1373 designated entity, rather than as a result of proactive implementation of the TFS regime by ROs. There are very few cases of freezing property owned or controlled indirectly by proscribed entities, whether 1267 or 1373.

The application of 1373 mechanisms to designate terrorist groups appears to reflect the scope of domestic terror threats. Bangladesh has effectively considered a case and designated under its 1373 mechanism with the proscription of ABT in 2015. Despite receiving 1373-related foreign requests, Bangladesh has not always comprehensively considered designation based on foreign requests. Bangladesh has not approached other countries to give effect to the designation of six Bangladesh terror groups proscribed under the ATA.

Bangladesh has conducted a lot of awareness raising on TFS with ROs. FIs' understanding appeared

to be relatively strong, especially amongst banks, but DNFBPs showed weaker levels of understanding. There is a need for further specific implementation guidance on TFS risk elements to key sectors. Most banks have systems for checking accounts and transactions, but DNFBPs and smaller FIs rely on manual checking.

AML/CFT controls on all NPOs go well beyond the FATF obligations and may disrupt legitimate NPO activities while still not addressing the risks. The detailed controls on the NPO sector primarily focus on funds coming into Bangladesh. Purely domestic NPOs are subject to few effective regulations for registration and transparency and registration and monitoring obligations are not well implemented.

The recent NPO sector review has comprehensively assessed the sector, but TF risk elements are not sufficiently detailed and appear to contradict the NRA findings. Large scale NPOs working in high risk zones (eg. border areas with Myanmar) are guided by LEAs and the BFIU to some extent on risks, which is a strength.

NGOAB oversight does not target mitigating TF risk and there is some duplication in oversight and supervision between the NGOAB controls and the AML/CFT controls. Concern exists in the NPO sector as there are a large numbers of NPOs that have not been subject to oversight to support mitigation of TF risks. BFIU has undertaken some risk-based supervision of NPOs, but the resources available to support this work are not adequate.

Immediate Outcome 11

Bangladesh has a comprehensive legal and regulatory framework for TFS against proliferation. Coordination structures are in place between agencies to develop policies and guide implementation of measures to combat WMD proliferation financing through the UNSCR committee chaired by MFA.

Banks have increasingly good awareness of TFS obligations. Supervision of obligations is taking place amongst banks, but implementation needs to be deepened beyond the banking sector and further supported with improved systems-based checking, additional guidance and continuing supervision. Bangladesh has identified a number of sectors exposed to Iran and DPRK trade and entities and has taken priority actions in relation to specific cases. While no assets have been frozen, vigilance measures have led to interventions which support effectiveness.

Recommended Actions

Immediate Outcome 9

- To further support 'top down' prioritization of following money trails behind terrorism, MHA should issue a binding instruction requiring the LEAs to commence a parallel financial investigation in every CT case.
- Consolidate the assessments of TF risks (IO 1) including domestic and cross-border terror threats (e.g. AQIS, JMB, ISIL, etc.), to further prioritise TF investigations.
- Prioritise LEA intelligence development, including cooperation with security intelligence agencies, to target terrorist financiers in parallel with CT cases. This should include prioritised international cooperation and also include a focus on informal channels. SB, BFIU, Customs Intelligence and other agencies are crucial partners in the targeting stage.
- Integrate domestic and international information sharing in supporting ongoing assessments of risk relating to foreign terrorist fighters and ISIL-directed or affiliated actors to ensure effective targeting of CFT intelligence and investigative responses.
- Further build TF capacity of investigators and prosecutors, including with international cooperation.

Immediate Outcome 10

- Prioritise the active use of the TFS framework under UNSCR 1373 to support ROs to identify matches and freeze the assets indirectly owned or controlled by the entities proscribed under ATA and assets controlled by 1267 entities.
- MHA should issue instructions to LEAs and other authorities and conduct training on tracing and freezing, under S.20A of the ATA, property controlled, directly or indirectly, by the six proscribed organisations.
- MHA should comprehensively consider foreign request to designate under 1373.
- Make unilateral requests to other countries for consideration of the names it has proscribed to address the identified risks, e.g. India.
- Consider proposing to the UNSCR 1267 committee designations for domestically proscribed groups which meet the criteria under UNSCR 1989.
- Conduct further supervision and outreach to all ROs to increase their compliance with TFS requirements, especially in relation to entities indirectly controlled by proscribed entities.
- Issue guidelines on how to mitigate risk, including the potential risk of assets related to the Al Qaida / ISIL sanctions being present in the Bangladesh
- Use the NPO sector review and TF risk information to produce a comprehensive assessment of those NGOs that match the type of NPO vulnerable to TF.
- Refocus AML/CFT controls on NPO sectors to avoid disrupting the legitimate activities of NPOs and better target TF risk mitigation. Expand the resources available to ensure oversight on a risk sensitive basis of high risk NPOs
- Include the NPO sector in the development and refinement of guidance and any future obligations to support more effective implementation is targeted.
- Share further risk information with the NPO sector to support their TF risk mitigation work.

Immediate Outcome 11

- Issue instructions to LEAs and other authorities on tracing and freezing, under S.20A and the UN Act SROs, property controlled designated entities under Rec 7 and issue specific guidance on risk elements to key sectors (ports, shipping, etc.) to guide vigilance and implementation.
- Conduct further supervision and outreach to non-bank financial sectors and DNFBPs to increase their compliance with TFS regulation and improve implementation of beneficial ownership (IO4) for effective sanctions checking
- Issue guidelines on freezing assets related to DPRK and Iran Continue to implement the UNSCR working committee Communication Strategy to raise awareness of the general public and related investigation agencies and improve the mechanism to inform ROs of updates to the UN lists

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

251. There was a large number of terrorism prosecutions from 2010 until the end of 2015. 224 terrorism cases lodged with the court by the CID and of these, 137 cases resulted in terrorism

charges and 31 cases remained under investigation. Prosecution is complete for 27 cases and 109 terrorism cases remain under trial.

No of persons involved in Counter Terrorism cases (2010 – 2015)

Cases filed	No of Accused	No of Accused Arrested	Accused fugitives	Accused in the charge sheet	Bail granted
224	1113	879	234	991	40

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252. Reflecting the number of CT cases, the number of TF-related enquiries (preliminary investigations) has been significant with 224 TF-related enquiries commenced since 2010. Of these, 23 have led to an investigation being opened. 201 TF enquiries were closed as evidence of TF was not found. Fifteen of the 23 financial investigations led to TF charges since 2010 and 18 were under trial or charge sheeted at the time of the report, with five awaiting trial. After trial one case was acquitted and two were convicted of TF. Four of the TF cases relate to Hijbut Tahrir Ulaya Bangladesh, eight to JMB, two to Hamza Brigade (HB) and one to Rohingya Solidarity Organization (RSO). Most of the 23 cases relate to financing a terrorist organisation designated under the ATA.

Status of TF cases

Cases enquired	Cases Investigation	Charge sheets pending trial	Under trial	Awaiting trail	TF Convictions	Acquittals
194	23	13	5	5	2	1

Cases where a TF Conviction was obtained

Case-1: Two persons convicted

In February 2011 the RAB arrested two persons who were members of proscribed terror group JMB with materials related to radicalisation, bomb making and JMB training. A case (Salanga Thana, Case no. 12 dt. 11/02/2011) was filed under section 7, 8 and 9 of the ATA 2009 and two persons were charged. After trial each of the accused were found guilty and sentenced to 6-year imprisonment and a fine of BDT 10,000 (US\$ 130)

Case-2: One person convicted

In March 2011 the RAB arrested a JMB follower (Mr. 'X') and located a JMB training centre and seized weapons and explosive materials. A case (Kazipur Thana, Case no. 10 dt. 10/03/2011) was filed under section 7, 8 and 9 of the ATA 2009. Mr. 'X' was convicted by the court for TF and sentenced to 4 years 6 months imprisonment and a fine of BDT 4000 (US\$ 52).

253. From details provided of sample cases, the amounts involved in financing the designated entities and terrorism plans / activities were not large. Authorities indicate a range of different types of TF have been subject to enquiry and investigations, although the vast majority of conduct focused on domestic terror financing, generally reflecting the nature of the threat in Bangladesh authorities had observed. MHA, CID and other agencies stressed the very small scale nature of TF, but assessors consider that financing of the large-scale terrorist networks subject to arrest in recent years is not wholly explained. While intelligence enquiries had considered the issues, there does not appear to have been criminal investigation of providing or collecting funds for foreign terrorist causes or for sending funds outside of Bangladesh.

254. Offences under the ATA are tried by a Session Judge or Additional Session Judge who may hear such matters in addition to other crime types. Although there are significant delays in the general and specialist courts (see section 1 of this report), in practice trials of ATA offences are well resourced and given the highest priority by the courts and the AGO, including additional prosecutorial support. The ATA provides that a special tribunal can be constituted for ATA offences (s.27), but this has not yet occurred.

TF identification and investigation

255. Investigating terrorism and TF comes under the MHA. The various national task forces for combating terrorism and TF have generally worked well to support joint agency targeting of financial aspects of terrorism, including TF (See IO1). All police agencies, including the RAB, are designated investigating authorities for terrorism and TF cases and are active in developing intelligence. Special Branch, RAB Intelligence and other security intelligence agencies play key roles in CT and TF related intelligence to identify possible TF investigative targets. SB focuses on intelligence and pre-intelligence with officers and 'assets' spread across 72 units nationally and beyond. SB develops and, in some cases, shares intelligence on security threats, especially in relation to terrorism. They focus both on domestic and external threats, including operational or financial links outside of Bangladesh.

256. LEAs, supported by intelligence agencies and the BFIU, have a reasonable view of terrorism threats and elements of related financing, including a recognition of threats from foreign sources, vulnerabilities from foreign foundations, etc. There is an opportunity for SB and CID to coordinate more closely to ensure that terrorist financiers are targeted by CID and that comprehensive financial investigations of identified terrorist groups and terrorist plots are well targeted.

257. LEAs indicated that the TF techniques identified in terrorism cases is non-institutional with members of the proscribed organizations donating small amounts of money as membership fees for their activities. CID noted that in a few cases funds were raised through proceeds of criminal activities including robbery and hijacking. LEAs and intelligence agencies have focused on financial threats from foreign terror groups that may be targeting Bangladesh and possible foreign financing for domestic terror groups, including JMB.

258. In a number of cases, it appears that persons arrested on terrorism charges had a role in financing or organizing material support for terrorist groups. In the majority of cases the police did not proceed to a financial investigation due to the absence of money trails on TF activities other than self-funding.

259. The TF enquiries that had progressed to the investigation stage related to financing domestic groups. LEAs have not yet progressed to this stage for TF of terror groups with trans-national elements, including reported foreign financing for JMB and emerging issues with financing ISIL and AQIS, although authorities report increasing numbers of preliminary investigations and intelligence enquiries in those areas.

260. Bangladesh has pursued international cooperation in a number of CT and CFT cases, albeit at an agency to agency level. BFIU demonstrates effective cooperation in support of investigations in this regard. International cooperation between LEAs on the financial aspects of these enquiries and investigations had improved, with recent LEA cooperation with a number of key jurisdictions in keeping with the risk profile. LEA cooperation with India on JMB-related enquiries and with the UK on foreign fighters were notable positive developments. MLA had not been sought in relation to any financial investigations associated with TF or CT investigations.

261. Bangladesh has pursued terrorism cases in relation to attempted recruitment of foreign fighters. Investigations indicated that while certain arrested terrorists have indicated their support for foreign terror groups, no direct connection was found with these organisations. Recruitment of foreign terrorist fighters was a relatively small and new phenomenon in Bangladesh and LEAs and the BFIU had made financial enquires and intelligence probes into related cases, which added to effectiveness.

Jamaat ul-Mujahideen Bangladesh (JMB)

JMB was responsible for nationwide coordinated bomb blasts across Bangladesh in 2005, but actions by the government in the period shortly after that time largely curtailed the organisation. A number of recent events indicate a resurgent threat from JMB. Two suspected JMB members were killed in an explosion in India (West Bengal) in October 2014 while militants were assembling an IED. India subsequently arrested 9 persons with JMB links in late 2014 and publicly noted the existence of jihadi training centres in West Bengal, Assam and Bangladesh.

In early 2014 JMB operatives ambushed police and freed two JMB members, two of whom had been sentenced to death and one of whom was an explosives expert. Bangladesh authorities arrested 18 JMB in July and November 2015, including the explosives expert and discovered 25kg of explosives.

In November 2015 ISIL publicly praised the jihadi credentials of JMB. Authorities indicate that intelligence agencies and LEAs closely monitor and assess these international connections, but no direct link has been found and ISIL has sought to inflate its threat in Bangladesh.

262. In late 2015 a number of cases had focused on funding foreign terrorist groups which may have a presence in Bangladesh or which directly threatened Bangladesh, including ISIL and AQIS. The assessment team stresses that more needs to be done to investigate cases of financing related to foreign fighters or ISIL-directed or affiliated actors. There has clearly been a further upswing in such enquiries since the onsite visit.

263. Regular informal information exchange between BFIU and police and intelligence agencies takes place in relation to TF risks and potential enquiries and investigations. BFIU data is also received formally and informally to support TF enquiries opened in parallel to terrorism enquiries.

264. BFIU referrals of STRs and other intelligence and BFIU support to CID has been a positive contribution to financial investigations of terrorism and TF cases. While the official statistics indicate relatively little information exchange, CID works very closely with BFIU and BFIU provides all necessary cooperation to facilitate their inquiries and investigations into financial aspects of terrorism. In the last five years 17 formal disseminations have been made by BFIU to LEAs (8 from complaints and 7 from STRs). All cases were subject to LEA enquiries. Outcomes reported from these BFIU formal disseminations included TF charges in one case, seven ongoing cases and seven cases where final investigation reports have been submitted prior to charges being laid.

265. LEAs apply the full range of investigative powers to investigate financial aspects of terrorism, including TF enquiries and investigations.

266. Most LEAs had established CT units which included responsibilities for TF investigations. There are two dedicated CT units of the Detectives Branch of the Bangladesh Police (Dhaka Metropolitan Police (DMP) and CID) which include trained financial investigators. The CID has a dedicated squad for CT investigation which includes six senior staff and 15 investigating officers. Dhaka Metropolitan Police established a substantial (500 + officers) CT unit in October 2015. There is some variation of

TF investigation capacity between the various CT wings of the LEAs and further specialist financial investigation capacity building is needed.

267. Bangladesh Police has participated in a range of capacity building and training programmes for investigators working on CT and TF investigations. These have included both domestic and international training sessions conducted by bilateral and multilateral partners. Financial investigator training modules are included as part of detectives training course. Over 200 investigators and over 160 prosecutors have been trained on CFT issues. 29 prosecutors have participated as ‘train-the-trainer’.

TF investigation integrated with -and supportive of- national strategies

268. The Bangladesh government confirms that combating TF, including through investigations, is seen as a key part of its strategy of ‘zero tolerance to terrorism’.

269. Results of financial investigations have contributed to the identification and designation of terrorist organizations under the ATA. The 2015 designation of ABT is a positive example of financial intelligence and evidence adding to the case for a UNSCR 1373-related designation.

270. Bangladesh has prioritised the use of ATA tools to target terrorist financiers and conduct financial investigations with many terrorism cases. Bangladesh pursues a number of integrated implementation strategies to combat terrorism, with a particular focus under the MOHA and a range of coordination structures driving the efforts to combat terrorism and its causes.

Effectiveness, proportionality and dissuasiveness of sanctions

271. To date the prosecution of three TF cases involving four persons have been completed. Three people were convicted with one person acquitted. No legal persons have been charged for TF. Bangladesh was unable to provide evidence where terrorism prosecutions have included conduct of TF or where identified terrorist financiers were subject to convictions for terrorism charges

272. The prison sentences awarded in the cases of TF conviction indicate effective application of proportionate and dissuasive sanctions. Very low monetary fines were applied as part of the sentence on conviction. .

Other use of criminal justice or regulatory measures to disrupt TF

273. Given the context of terrorist risks and the security and law enforcement roles of the CID/SB, a number of the objectives of IO 9 are being achieved to some extent, by employing other security, rehabilitation and criminal justice measures to disrupt TF activities.

274. While Bangladesh has not yet criminalised recruitment or travelling in furtherance of terrorism and related financing in keeping with UNSCR 2253, it is apparent that ATA s.17 (c) and 17 (g) would allow the government to designate persons based on the conduct contemplated in UNSCR 2253. Section 17 (c) covers any person who ‘assists in or encourages committing terrorist activities’ and 17 (g) covers any person who ‘is involved in terrorist activities in any other ways’.

275. Bangladesh has successfully used other criminal justice and administrative measures to disrupt terrorist organizations, and terrorist acts before they occur. Bangladesh has pursued a number of approaches including educational reforms in religious and educational institutions and preventive measures to address root causes of radicalisation, etc. These are supported by SB and other

authorities. Elements of these strategies add to efforts to prevent TF including counter-narratives to radicalisation, and seeking to respond to terrorism proportionately with due process, etc. SB undertakes prevention strategies (identifying radicalisers, supporting counter-narratives) and surveillance including online (websites/blogs) and block radicalising websites.

Overall conclusion on Immediate Outcome 9

276. Bangladesh has a substantial level of effectiveness for Immediate Outcome 9.

Immediate Outcome 10 (TF Preventative Measures and Financial Sanctions)

Implementing targeted financial sanctions for TF without delay

277. TFS pursuant to UNSCR 1267 and its successor resolutions are implemented on Bangladesh's own motion (automatically). Under the ATA and ATR, all FIs and DNFBPs as well as NGOs are obliged to freeze assets of 1267 and 1373 listed entities as soon as they are designated by the UN, or by Bangladesh in the case of 1373 designees. As per the provision of the ATR and directives of BFIU, all the ROs are responsible to preserve the updated list in electronic form and run a regular check including transactional review to ascertain whether they are maintaining any relationship with a listed person or entity. If any match found by an RO, they must immediately freeze the account or transaction (temporarily) and inform the BFIU within a working day with full particulars pending a confirmed freeze order being issued.

Designations

278. At the time of the on-site visit three Bangladesh-related organisations were included in the UN Al Qaeda list. Pursuant to UNSCR 1373, Bangladesh has proscribed six (6) domestic terrorist organizations under Section 18 of ATA, 2009. The proscribed organizations and year of proscription are: Sahadat-e-Al Hikma Party Bangladesh (2003), Jagrata Muslim Janata Bangladesh-JMJB (2005), Jama'tul Mujahidin (2005), Harkatul Jihad Al Islami (2005), Hijbut Tahrir Bangladesh (2009) and Ansar Ullah Bangla Team (ABT) (2015).

279. Bangladesh has shown that it can effectively consider a case and make designations under UNSCR 1373 with the proscription of ABT in 2015. Bangladesh makes UNSCR 1373 designations under the ATA through the MoHA 'Proscription and Enlistment Committee', based on reasonable grounds as per the standard. The Committee collects and considers intelligence and evidence whether the person or entity should be proscribed and publicly listed in the schedule of ATA. Coordination structures are in place between agencies for proscription and to guide policies and implementation (UNSCR committee at MFA).

280. Bangladesh has, through the operation of its UNSCR committee, responded to foreign requests to check for the presence or financial involvement of certain persons and entities designated by those countries under 1373. This has included financial regulatory and LEA checks.

281. Bangladesh has received requests from foreign countries to proscribe under 1373 and freeze assets at the rate of approximately one per year. The operation of the National UNSCR Committee joint agency mechanism to consider such requests has not always worked well to ensure that close consideration of the requests has been given. Bangladesh does take steps to determine whether the persons or entities own or control any assets in Bangladesh, but it is not clear that Bangladesh closely considered the case for designation in the absence of assets being identified.

282. BFIU spontaneously searches its holdings in cases where persons or entities with a connection to Bangladeshis are designated in another country. Once such case involved a foreign citizen of Bangladeshi origin who was designated by another country. However BFIU does not check its database regularly for matching with 1267 and 1373 designations and their beneficial owners.

283. Bangladesh has not made requests to other countries for consideration of the names it has proscribed, but is actively considering doing so. Bangladesh has not reviewed or delisted organizations under 1373 designations.

284. Bangladesh has not provided sponsored or co-sponsored any 1267 designation proposal to the UN and has not considered applying for delisting of any UN-designated entity.

Freezing actions taken

285. No assets for 1267 designated persons or entities have been frozen since the last MER. Less than the equivalent of US\$ 70 is frozen in 4 accounts of UN designated entities with a connection to Bangladesh. It is noteworthy that the long standing freeze actions have not been subject to legal challenge. This largely reflects government actions to ensure that Bangladesh remains free of the presence of Al Qaeda or Taliban affiliated persons and entities.

286. 1267 designees have not applied for access to the few funds frozen in Bangladesh. As such, Bangladesh does not have experience with applying to the UN 1267 Committee to obtain necessary approvals for access to funds for basic and extraordinary expenses for designated individuals. While the ATA Rules follow the international standards for access to funds for basic and extraordinary expenses, additional implementing guidance within the UNSCR Committee would assist decision making on how much the basic and extraordinary expenses will be granted. The authorities indicated an intention to deal with this on a case by case basis taking into account relevant UNSCRs.

287. The application of asset freezing measures in relation to the 1373 designated groups has been weak and not in keeping with the risk profile. Bangladesh reports a total amount of BDT 1.13 million (approx. US\$15,000 equivalent) has been frozen pursuant to S.20A of the ATA (ie controlled by 1373 designated entities), but statistics are contradictory. Despite comprehensive asset freezing provisions being available since 2009 against the ATA designated domestic groups, the bulk of frozen funds frozen have been done under 1373 freeze mechanisms in the context of LEA investigations which identified a connection between an individual and a designated entity, thereby triggering administering freezing actions under ATA s.20A. No freezing actions were evident pursuant to ROs finding a match.

288. While Bangladesh claims that TFS freezing provisions are used in every case of a financial investigation of persons associated with a designated entity, no statistics were provided relating to the many recent arrests of JMB members. The few statistics Bangladesh was able to provide indicates very limited use of these provisions. The assessment team doubts the regular use of TFS to freeze funds in recent years.

Assets frozen for persons acting on behalf of 1373 designated organisations

Year	1373 designated entity	Property seized / frozen under 1373
2009	Hijbut Tahrir Bangladesh	US\$ 2500 equivalent frozen
2010	-	-
2011	JMB	books, mobile phone, a gun, 8 hand bombs
2013	Hijbut Tahrir Bangladesh	14 leaflets
2013	Hijbut Tahrir Bangladesh	50 leaflets

2013	Hijbut Tahrir Bangladesh	3 banners, 300 stickers, 1300 leaflets, 41 magazines
2014	Hijbut Tahrir Bangladesh	US\$ 1,500 equivalent, 2L of petrol, 36 glass containers, 1kg phosphate-like chemicals
2015	Hamza Brigrade(HB)	US\$ 166,493 equivalent frozen

289. Although the ATA includes a provision for freezing assets indirectly owned or controlled by a person or entity proscribed under ATA, there is little evidence of TFS being applied to freeze the asset indirectly owned by the proscribed person or entity particularly for immovable assets such as agricultural land.

290. It is worth noting that five of the six 1373 designated entities were scheduled under earlier versions of the ATA which had fewer asset freezing provisions. At the same time, the earlier designated terror groups were subject to a range of law enforcement investigations prior to new asset freezing powers coming into force in 2009 and 2012. LEA actions against those groups may explain, to some degree, the relative lack of asset freezing for the earlier listed groups.

Implementation by ROs

291. One challenge for implementation by ROs is the lack of risk information on TF available to the private sector, including in relation to possible sanctions evasion by 1373 designated domestic entities and their supporters. No information is provided in relation to the six entities designated under the ATA and the authorities rely on the obligation on ROs to identify persons related to the proscribed organization in publicly available sources. ROs face difficulties implementing sanctions screening in the absence of more detailed public information of related persons.

292. BFIU requires reporting parties to develop systems to ensure that designations, whether 1267 or 1373 are updated. BFIU links its website to relevant UN websites. However there is no direct link to consolidated list website, so ROs are not directly informed to the consolidated list. For domestic lists, BFIU links its website to the updated proscribed terrorist organization. There is no link to the UN consolidated list on other government agencies' websites.

293. There are some mechanisms to inform reporting parties of updates to the United Nations (UN) consolidated list or the domestic designations under 1373. BFIU's website has had a link to the UN consolidated list since October 2015, and includes an outdated list of ATA designations (ie it does not reflect the designation of ABT in 2015). There is no requirement for reporting parties to confirm that they have checked new listings against customers and transactions.

294. Procedures for verifying false positives are in keeping with the standards and the application of systems for clearing false positives demonstrates good operation of list matching in the banking sector. Bangladesh requires ROs to provide the BFIU with reports of preliminary name matches with sanctions lists, which occurs at rates of tens of thousands of potential or partial name matches per annum. The practice is to only refer 'positive' list matches to the BFIU for verification of the positive match while at the same time to immediately freeze the account pending BFIU clarification. BFIU indicates that a small number of such positive match verification referrals are received each year.

295. Supervision of FIs has focused on the implementation of UNSCR 1267/ 1373 resolutions. BFIU monitors TFS compliance across all supervised sectors by system check inspections and special inspections which on-site review sanctions screening solutions for scope of coverage with sanctions.

296. Assessors confirmed the supervisors' views that many FIs implement list-based screening without delay. Of concern is the implementation of TFS by those FIs which have not yet installed

computer systems capable of searching against TFS lists and have not yet been subject to on-site supervision. The Bankers Association has shared an application capable of searching UNSCR 1267/1373 designations with its members.

297. Many training and awareness programs have been provided to FIs sectors by the BFIU on a wide range of AML/CFT obligations, including on TFS and related processes. BFIU issued several Circulars and Circular Letters as well as the guidelines for different ROs to assist them to understand their obligations with TFS.

298. Reflecting the relatively lighter levels of training delivered to DNFBP sectors, the awareness of DNFBP on the implementation of UNSCR 1267/1373 is not sufficient. DNFBP interviewed by the assessors did not seem to be aware of obligations to freeze the asset of person or entity under UNSCR 1267/1373 list.

299. For the general community, outreach is conducted by National UNSCR Implementation Committee. The committee had organized two National Workshops to familiarize stakeholders on TFS, amongst other issues. The Committee has developed Communication Strategy (2015-2019) which it implements to further disseminate the SROs and Guidelines. The Committee plans to organise orientation workshops at the divisional level.

300. It should be noted that the NGOAB screens registered NGOs and those operating such NGOs against the UNSCR sanction lists.

Targeted approach, outreach and oversight of at-risk non-profit organisations

301. Since the 2009 MER Bangladesh has tightened up its supervisory regime of NGO and NPOs and issued a number of directives and circulars such as the PMO Circular of April 2012. With the passing of the MLPA, Bangladesh deemed all NPO and NGOs to be reporting organizations. They are now subject to a strict AML/CFT reporting regime.

302. At the time of on-site visit, the Bangladesh parliament was considering amendments to the amended Foreign Donations (Voluntary Activities) Regulation Ordinance 1982, Foreign Donation (Voluntary Activities) Regulation Rules 1978, and Foreign Contribution (Regulation) Ordinance 1982 which are the main regulation for NGO under NGOAB supervision. NGOAB advised that the amendments will include some provisions on AML/CFT.

Outreach to NPOs on risk

303. Bangladesh's very detailed NGO sector assessment identified TF vulnerabilities relating particularly to those NPOs involved in ideological causes and those receiving foreign funding. The assessment was done by the government without close consultation of the sector, but did robustly identify a number of risk categories of NPOs in relation to the sources of funding (external donors, charitable collection) as well as the activity-based feature of types of NPOs.

304. The risk factors elaborated in the NGO Sector assessment only partly align with the prioritised controls. The NPO sector review considered NPOs functioning in areas such as education and religious affairs as carrying certain risks. However, the controls on NPOs in the MLPA do not apply to the education and religious sectors unless they pursue dual registration with any NGO regulatory authority (eg NGOAB).

305. The NRA and the nearly consistent message from government during the ME on-site was that there is a low residual risk of foreign sourced TF through NPOs due to the NGOAB controls in Bangladesh. The picture of residual risk with NPOs involved in domestic fundraising is less clear.

306. Bangladesh authorities indicate that the NPOs most vulnerable for TF are chiefly under supervision of NGOAB (2,416) and Microcredit Regulatory Authority (696).

307. NGOAB and BFIU have conducted outreach to NGOs aimed at enhancing the knowledge of NGO employees on AML/CFT compliance issues, typologies of misuse of NPOs, and red flags for ML/TF. NGOAB advised that around 50% of their registered NGOs have been covered.

308. It was evident that large scale NPOs working in high risk zones (e.g. border areas with Myanmar) are guided by LEAs and the BFIU to some extent on risks. This is a strength.

Registration and monitoring of NPOs

309. NPOs register under s28 of the Companies Act or other laws and also register with a sector-specific regulatory authority depending on the nature of their activities. NPO sector regulators include the NGO Affairs Bureau (NGOAB), the Microcredit Regulatory Authority (MRA), the Department of Social Services, the Department of Women Affairs, the Registrar of Joint Stock Companies and Firms, BFIU, the Ministry of Religious Affairs, Ministry of Education and others.

310. There were strengths and weaknesses with coordination between domestic regulating authorities and other competent authorities for NGOs registration and oversight. Bangladesh recognised in both the NRA and NPO sector review that centralised monitoring is not being undertaken well.

311. NGOAB screens the UNSCR sanction lists as part of its screening process at registration using automated software. Banks are also advised to apply enhanced scrutiny of transactions involving foreign funded NPOs. NPOs cannot withdraw foreign donations from their accounts without clearance from the NGOAB. NGOAB has also sent to BFIU a list of NPOs which may be at risk of abuse by terrorists and requested BFIU to undertake in-depth analysis.

312. Implementation of basic registration controls of NGOs by agencies outside the NGOAB appears to be weak, and data available on domestic NPOs which do not receive foreign funds is largely out of date and not verified when it is received. However, monitoring by local level officials of NGO projects is more robust and adds to effectiveness.

313. Many of the NGOs receiving foreign donations are subject to very strict regulation and monitoring by the NGOAB and local level agencies, but this is not wholly driven by the TF risk profile. Regulations on foreign funded NPO in Bangladesh aim to ensure proper utilization of charitable funds. The scope of the NPO regulation is much wider than TF risk mitigation.

314. None of the NPOs focused on religious activities are registered with the NGOAB. Religious education institutions including madrassas are not registered with NGOAB. There is a Madrassa Education Board which supervises Madrassas, although the Qwami madrassa sector (approximately 14,000 institutions) is independent of any government regulation.

315. In relation to NGOAB monitoring of NGOs receiving foreign funding, controls extend to MOHA to review NGO's application for registration, the submission of annual project plans, annual reports and audited account records to the regulator for approval and the need to have a central compliance unit that is adequately staffed who meet to discuss AML/CFT issues and strategies. Those NGOs which

are also registered with NGOAB would also report their domestic fundraising in their returns to the NGOAB.

316. NGOAB vetting processes include police checks. NGOAB oversight does not, however, target TF risk mitigation and there is some duplication in oversight and supervision between the NGOAB controls and the AML/CFT controls. There are concerns that many of the controls may disrupt legitimate NPO activities but still not addressing the TF risks.

317. Whilst the legislative framework imposes oversight by the authorities including the MOHA, the local Upazila and district administration authorities and the NGOAB, in practice, the requirements to properly oversee implementation of the wide obligations would require additional manpower, and more sophisticated IT and document tracking systems. This is an issue recognized by Bangladesh in their NRA.

318. Small local charities and community groups that do not receive foreign donations only have to submit annual report and audited accounts to the local level office of Dept. of Social Services.

319. There are indirect controls in relation to charitable collection at the domestic level. Monitoring at the local level of local NGOs is done by administrative agencies, including in relation to fundraising. The definition of NPOs in the MLPA would cover persons or entities doing charitable collection, but it is not clear how the MLPA would apply to those intermediaries if they were separate from an otherwise registered NGO/NPO.

320. BFIU has undertaken very limited risk-based monitoring based on the NPO/NGO sector assessment, but the resources available to support this work are not adequate. Further risk assessments are required to target the few BFIU supervisory resources. BFIU NPO visits focus on whether AML/CFT risk management procedures are in place. Necessary guidance/ instructions are given on the basis of the inspection. BFIU also conducts special inspection to examine whether NPOs are submitting STRs properly, accurately and regularly.

321. BFIU has disseminated two cases of NPOs for suspected involvement with TF to Police and to the ACC for further investigation.

322. Bangladesh should improve its risk-based approach to monitoring so that the authorities can focus their attention and resources on those NPOs most at risk of TF abuse and apply less stringent oversight to the parts of the NGOs carrying fewer TF risks.

Terrorist assets seizure and confiscation (criminal justice measures)

323. Bangladesh did not report any funds frozen outside of those frozen in relation to criminal investigations of 1373 designated entities. A total amount of BDT 1.13 million (approx. US\$ 15,000 equivalent) was identified through investigations of 169 terrorism cases and has been seized based on administrative sanctions under 1373.

Consistency of CFT measures with the overall TF risk profile

324. Bangladesh has implemented UNSCR 1267 in keeping with the risk profile to a fair degree and has taken steps under UNSCR 1373 to designate six domestic terror groups which represent significant threats to Bangladesh. Application of asset freezing measures in relation to the 1373 designated groups has been aligned with LEA investigations of the same groups. Implementation of

sanctions screening has not identified assets or networks of persons holding assets indirectly controlled by the designated entities.

325. Implementation of controls of NPOs does not appear to be wholly commensurate with the TF risks in the sector, including those identified in the NGO sector review. The intensity of the controls does not appear to be driven by the ML/TF risk profile and go well beyond the FATF standards. The implementation of the MLPA obligations is only undertaken in the largest and most sophisticated NPOs and may not be targeted and supervised in relation to TF risk.

Overall conclusion on Immediate Outcome 10

326. Bangladesh has a moderate level of effectiveness for Immediate Outcome 10.

Immediate Outcome 11 (PF Financial Sanctions)

327. Bangladesh's exposure to potential PF is relatively low. Bangladeshi businesses (including ROs) exposure to customers from Iran and DPRK is very low. Both Iran and DPRK have foreign missions in Bangladesh. At the time of the on-site visit, there were 10 joint venture companies with Iran and 4 joint venture companies with the DPRK registered in Bangladesh.

328. Bangladesh has reduced its economic exposure to trade and services with Iranian entities and there is very limited exposure to DPRK entities. Bangladesh has taken a number of steps to assess its exposure to the Iranian and DPRK economies and related trade and finance and there has been a reduction in such connections in recent years. Some Bangladeshi banks previously had SWIFT arrangements with various banks of Iran and DPRK, but these were closed by the time of the on-site visit. The 2015 case of a DPRK diplomat smuggling gold into Bangladesh illustrates elements of exposure to the risks of sanctions evasion (see below), but also Bangladesh's awareness of the risks.

Implementation of targeted financial sanctions related to proliferation financing without delay

329. Bangladesh has a comprehensive legal and regulatory framework for PF-related TFS. Obligations under 20A of the ATA and the ATA Rules automatically transpose UN designations into domestic obligations without any additional steps being taken by Bangladesh authorities.

330. Coordination of policies and actions to support implementation of measures to combat PF is well structured and is working increasingly well to support implementation of TFS and preventive measures. The national UNSCR implementation committee includes of MFA, MOHA, MOF (bank and financial affairs division), MLJPA, and BFIU. Focal points are included from all relevant agencies including Ministry of Commerce, Ministry of Civil Aviation, Ministry of Shipping, MoHA, NBR, MOF, BFIU, and MLJPA. The Committee expanded its range of membership after identifying strategic gaps.

331. As per the provision of the ATA Rules and directives of BFIU, all ROs are obliged to preserve the updated list of designees in electronic form and run a regular check including transaction review to ascertain whether they are maintaining any relationship with a listed person or entity.

332. To facilitate compliance with the ATA Rules, BFIU has provided some limited guidance to ROs. The National Committee on the Implementation of the UNSCRs has also issued guidelines that cover TFS, travel bans and arms embargoes. There is however a lack of specific guidance on risk elements to key sectors (ports, shipping) to guide vigilance and implementation.

333. To identify financial assets or economic resources held outside ROs, the focal point of MOHA forwards the lists of suspected or listed individuals or entities to the Contact Point of all LEAs with a request to identify and trace any property held by designated persons or entities.

Vigilance Measures

334. Bangladesh has implemented a series of vigilance measures which go beyond the standard of R.7 and add to effectiveness. Authorities have demonstrated vigilance over DPRK citizens and legal persons at the point of market entry. LEAs and the BFIU have identified possible threats and scrutinised cases of possible sanctions violations. The case of gold smuggling illustrates outputs derived from vigilance measures at the border.

Case of attempted gold smuggling by diplomatic representative from the DPRK

On 5 March 2015 the first secretary of the North Korean Embassy in Dhaka was stopped by Customs officials at the airport arriving on an inbound flight from Singapore with 27kg of undeclared gold discovered in his luggage. The diplomat was subsequently expelled from the country and the gold was confiscated by Bangladesh authorities.

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

335. No PF-related assets have been frozen since the ATA was enacted. However, case studies illustrate how Bangladesh prioritises the use of vigilance and preventive measures to combat potential PF and sanctions evasion, which adds to effectiveness.

Denying economic and financial services to a DPRK-related UN designated entity

In February 2015 Bangladesh denied entry to a vessel, the MV Zhong DE1, which Bangladesh authorities had received information was owned or controlled by a UN designated entity, Ocean Maritime Management Co of the DPRK. Bangladesh ordered banks in Bangladesh to halt payments associated with the goods being shipped on the MV Zhong DE1.

336. The MV ZHONG DE1 case illustrates how Bangladesh has taken measures to prevent a possible UN designated entity trading with Bangladesh and prevent the Bangladesh financial sector being used to benefit or provide financial services to the same entity. At the time the bulk cargo vessel was pushed back from Bangladesh's maritime boundary, Bangladesh Bank took regulatory action to ensure banks in Bangladesh involved in trade finance for the imported goods stopped payments against the letters of credit for the benefit of entities possibly related to the Ocean Maritime Management Co or any related entities.

337. Bangladesh cooperates with the relevant UN sanctions panels and foreign counterparts to share information on PF risks and implementation of TFS. Bangladesh does not yet have experience with obtaining approvals from the UN for granting access to funds for basic and extraordinary expenses for designated individuals.

338. There is no mechanism to inform reporting parties if there is an update of the UN lists. There is a lack of requirements for reporting parties to confirm that they have checked new listings against customers and transactions.

339. Bangladesh's procedures for verifying false positives are in keeping with the standards and have been demonstrated as working through the TFS related to terrorism. IO10 indicates that there is a degree of defensive freezing.

FIs' and DNFBPs' understanding of and compliance with obligations

340. Assessors confirmed the supervisors' views that many FIs implement list-based screening without delay, though the implementation of TFS by FIs which have not yet installed screening systems is a concern. The Bankers Association is working to share a system to assist all banks to screen for sanctions.

341. Training and awareness programs are being provided to FIs and DNFBPs on TFS obligations and processes. BFIU issued several Circulars and Circular Letters as well as the guidelines for different ROs to help them understand their role and obligations on TFS. DNFBPs' awareness of implementation of TFS is not sufficient. DNFBPs interviewed by assessors did not seem to be aware of their obligations.

342. General community outreach had been conducted by the National UNSCR Implementation Committee, which has organized two National Workshops to familiarize representatives of banks and other FIs with TFS, among other issues. The Committee has developed a Communication Strategy (2015-2019) to further disseminate the ATA Rules, SROs and Guidelines.

Competent authorities ensuring and monitoring compliance

343. Supervision of banks has focused to some degree on the implementation of UNSCR PF resolutions. BFIU assesses an increasing trend of TFS compliance across all supervised sectors by system check inspections and special inspections. BFIU has conducted on-site inspections to banks to monitor the implementation of TFS requirements.

Overall conclusion on Immediate Outcome 11

344. Bangladesh has a substantial level of effectiveness for Immediate Outcome 11.

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

345. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The recommendations relevant for the assessment of effectiveness under this section are R.9-23.

Key Findings

Despite having a good understanding of the regulatory environment and applicable rules, state-owned commercial banks, securities firms and all other FIs and DNFBPs lack a good understanding of the nature and level of their ML and TF risks. Commercial banks are the one sector with a relatively sound understanding of their risks.

The development and application of AML/CFT policies (including group-wide policies), internal controls, and programmes to adequately mitigate the risks is better in private commercial banks but very low across other financial and DNFBP sectors. The application of CDD measures to identify and verify the identity of their customers (including the beneficial owners) and ongoing monitoring is only developed in the commercial banking sector and is overly rules based. Arising from this, the level and quality of detection, STR reporting and overall AML/CFT compliance is not yet at an adequate level. The rate of STR reporting amongst banks is steadily improving, but is not yet evident in other sectors. Ultimately, there are significant unmitigated ML and TF risks across the financial sector and DNFBPs.

Bangladesh's preventive measures generally reflect a high degree of technical compliance with the FATF standards. This provides a good foundation for Bangladesh to implement measures to understand and mitigate risk once sectors beyond the banking sector adopt a risk-based approach. More needs to be done by ROs to transition from a rules-based to a risk-based approach.

Targeted outreach and supervision (including thematic inspections and the application of sanctions) is improving ROs' understanding of obligations and risks. The completion of the NRA and sectoral assessments has supported better implementation of risk-based approaches. Private commercial banks have the highest level of understanding of their ML risks, but there are significant gaps in the depth and scope of that understanding in the absence of TF risk information and guidance.

The level of understanding of AML/CFT obligations and mitigating measures differs between sectors. Supervisors have identified some deficiencies in the application of mitigating measures (also noted by the evaluation team). Key areas include implementation in relation to beneficial ownership, PEPs and the risk-based approach.

Recommended Actions

- Address TC issues including those pertaining to wire transfers, groups and high risk countries.
- Provide more detailed and focused risk guidance on corruption (domestic PEPs, state-owned commercial banks, securities sector, etc), and other high risk areas and on TF.
- Involve LEAs in developing guidance on risks for the various sectors.
- Increase outreach to all sectors on a risk sensitive basis focusing on specific risk issues, rather than general AML/CFT issues.
- Continue efforts to support ROs' conduct of enterprise-level risk assessments for key sectors.

- Regulators should focus on internal controls of ROs and on verification of CDD, identification of beneficial ownership and PEPs, ongoing CDD, and measures to improve the quality and quantity of STRs.
- The role, functioning and reporting of risk management committees, including audit committees and the processes for internal control and Board oversight need to be strengthened.
- Prioritise outreach and regulation of BSEC regulated entities and the real estate sector to support risk-based implementation of AML/CFT controls.
- Ensure agents of mobile banking deepen their implementation of relevant controls and issue guidance on the ML/TF risks of bank-led mobile banking sector.
- Raise awareness of ML/TF risks and AML/CFT obligations in the DNFBP sectors.

Immediate Outcome 4 (Preventive Measures)

Background and context

Preventive Measures and guidelines

346. The MLPA, MLPR, ATR, various BFIU circulars and the most recent Master Circulars set out principles and obligations of the full set of preventive measures required under the FATF standards. The Technical compliance with preventive measures is generally high, which provides a solid foundation for AML/CFT preventive measures. Guidelines on prevention of ML/TF were issued for banks, NBFIs, capital market intermediaries, money changers, insurance companies, DNFBPs and NPOs prior to November 2013, but these guidelines are focused on rules-based rather than risk-based approaches. BFIU issued a risk assessment guideline for banks and NBFIs to assist with enterprise level risk assessments.

347. BFIU is the AML/CFT regulator for all ROs and has issued almost identical enforceable guidelines to each sector setting out in detail the requirements contained in the MLPA and ATA.

Risk-based exemptions or extensions of preventive measures

348. Real estate developers were identified as higher risk in the NRA and have been included as ROs, which adds strength to the AML/CFT regime. Micro credit organisations were assessed as low risk due to the nature and average values of their lending business and the intensity of their oversight. Based on this they have been exempted from certain CDD obligations.

Understanding of ML/TF risks and AML/CFT obligations and application of risk mitigating measures

349. Private commercial banks have the highest level of understanding of their ML risks, but there are gaps in the depth and scope of that understanding in the absence of detailed risk information and guidance. Even amongst banks there is not a good awareness of the various elements of key risks, including corruption and tax evasion. State-owned commercial banks, securities firms and all other FIs and DNFBPs lack a good understanding of the nature and level of their ML and TF risks. The NRA recognizes that the banking sector performs a key gatekeeper role for a number of other sectors. Banks control the largest market share but also carry the greatest ML risks.

350. The strengths and weaknesses with the scope and depth of the various assessments of risk are set out at IO1, but a key issue is that a sanitized version of the 2015 NRA was only shared with the

ROs in mid-2015, and banks and some other sectors were involved in information collection on risks as part of the NRA process. ROs lack sufficient information on TF risks and detailed information on corruption risks.

351. The BFIU and BB have conducted significant training, workshops and outreach activities covering AML/CFT obligations, elements of risk and relevant typologies and emerging trends (see IO3 for details). BSEC and IDRA have also made awareness raising efforts in conjunction with the BFIU. Together these actions have helped ROs to increase their awareness of AML/CFT obligations and some elements of risk, which adds to effectiveness. The BFIU's supervision work, including offsite supervision of a number of sectors and targeted on-site supervision of banks and NBFIs, has found a gradual improvement in awareness amongst banks, especially foreign commercial banks, of ML/TF risks and AML/CFT obligations.

352. The risk-based approach (RBA) for banks and NBFIs commenced in 2009 but was new for other sectors in 2014 and 2015. While there is evidence of the banking sector moving to a RBA, this is not yet being done in keeping with the findings of the assessments of risk.

353. Banks have been required to conduct enterprise-level risk assessments since early 2015. Offsite supervision and feedback from the BFIU has improved the conduct of such assessments. BFIU notes strengths and weaknesses across the banking sector with undertaking such risk assessments. However, the enterprise risk assessments did consider customer, product, geographic and delivery channel risks in keeping with the risk assessment guidelines. These enterprise level risk assessments add a vital element to supporting the RBA by banks.

354. Banks have continued their practice of risk scoring customers at the on-boarding stage, but this tends to be a mix of rules-based and risk-based elements.

355. The securities sector appears to have critical weakness with understanding of its risks. The securities sectoral assessment led by BSEC and the BFIU is a very positive development and includes good insights on risks in the sector, but it is not clear that the assessment and its key findings are sufficiently well understood across the sector to guide risk mitigation. The securities sector entities follow the NRA's view of risks as low, which contrasts the findings of the sectoral assessment.

356. Outside of private commercial banks, other FIs and DNFBPs generally lack a good awareness of ML/TF risks and the most recently updated AML/CFT obligations. Real estate developers met by the assessment team appear to have some knowledge of elements of ML risks, however, representatives of the legal industry, money changers and dealers in precious metals and jewellery did not. The upcoming work of the BFIU, with assistance from the World Bank, to conduct a sectoral risk assessment of DNFBPs is a good opportunity to deepen awareness of risk in those sectors. Insurers, through the work of BFIU and IDRA and external technical assistance, appear to have a relatively good understanding of elements of ML risk.

357. Bangladesh has provided a number of risk indicators and red flags, which adds to effectiveness. However, it has not provided sufficiently detailed or focused guidance on mitigating specific risks including corruption risks relating to government procurement, state-owned enterprises (e.g. state-owned commercial banks, Biman airlines). There is a need for LEAs to be involved with regulators and BFIU to develop additional guidance and further increase outreach to all sectors on a risk sensitive basis on specific risk issues, rather than general AML/CFT issues.

Application of enhanced or specific CDD and record keeping requirements

358. Bangladesh's comprehensive record keeping obligations are generally well implemented across most sectors. Some sectors have low capacity and many records are only maintained in manual form, which may cause delays with retrieving records. BFIU and LEAs confirmed that ROs were generally able to provide records in keeping with requirements, reflecting sound record keeping.

359. In practice the banking sector's risk-based approach to CDD implementation is overly reliant on checklists of documentation, account opening forms, self-declarations of beneficial ownership and source of funds. There are some weaknesses in verification and ongoing CDD does not appear to be thorough. Further weaknesses are demonstrated in implementing controls over walk-in customers. Overall, CDD controls in the state-owned commercial banks are less well implemented than in private commercial banks. The centralized national identification database helps banks to verify CDD and there is good cooperative work in the sector to support initiatives to assist with verification of identity data.

360. Interviews with banks and other institutions and the findings of on-site supervision show that private commercial banks have a good understanding of CDD and record keeping obligations, and they were able to demonstrate cases where customers were rejected when inadequate know your customer (KYC) information was available. Supervision did, however, identify cases of ROs allowing transactions in spite of incomplete CDD for legacy accounts.

361. A beneficial ownership threshold of 20% is implemented and not varied in relation to risk. Complex structures present challenges and CDD may not be well implemented. Overall, there is little information available on beneficial ownership of legal persons and trusts (see IO5), so CDD on this area is inherently challenging in Bangladesh. It should be noted that Bangladesh is not a major secrecy jurisdiction or one in which many legal persons/arrangements are formed. Both LEAs and the financial sector report that complex ownership structures of domestic legal persons are a relatively small feature in the market. The presence of foreign investors with more complex beneficial ownership may be relatively poorly understood.

362. CDD measures to mitigate risks from higher risk customers and implementation of enhanced due diligence measures are not well supported. The focus is on the previous risk matrix at account opening, PEPs/domestic PEPs and high-risk countries listed by FATF. However this does not seem to result in increased account monitoring and more intensive updating of CDD. Weaknesses in this regard are particularly evident in the securities sector. Real estate developers have some KYC measures in place, but the real effectiveness of KYC and CDD, and how much it helps with STR obligations, is unclear.

363. The wide use of agents in mobile financial services (MFS) and the insurance sector remains a vulnerability for effective KYC and CDD. MFS in particular focus on agents to support financial inclusion, but do so in a bank-led model to support compliance. While agents are used in both MFS and insurance, it is ultimately the responsibility of the respective banks and insurance companies to ensure proper CDD and supervision of banks extends to their internal controls on MFS agents (although not via direct MFS supervision).

Enhanced controls for customers who are politically exposed persons

364. Effectively implementing risk mitigation measures relating to domestic PEPs is amongst the greatest challenge for preventive measures in Bangladesh, given the risks and context. Obligations in relation to Influential Persons (domestic PEPs) (IPs), which is how the MLPO terms domestic PEPs,

are new and the securities sector was only formally covered at the end of the on-site. The securities sector is particularly vulnerable through domestic PEPs being beneficial owners of securities licenses. The issue of domestic PEPs should be of particular concern to FIs due to the high levels of corruption and the influence of domestic PEPs across the economy.

365. Control of domestic PEPs are new, with banks covered in late 2014 and other sectors in 2015. There is a need for further guidance to help ROs identify domestic PEPs. ROs appear to be overly confident that they already know all their domestic PEPs (IP customers), but the definition of domestic PEPs extends to family members and close associates, and this is challenging in Bangladesh. There are contextual factors which may assist ROs to identify PEPs (eg a tendency for many domestic PEPs to seek enhanced service by declaring their IP status). Some banks and other FIs have a system solution to monitor for PEPs and BFIU has taken steps to ensure that the system solution meets the requirements. All other ROs rely on manual checking. There may be over-reliance on systems to identify domestic PEPs, taking into account that the weaknesses with implementation of ongoing CDD and beneficial ownership obligations add to the challenges to identify domestic PEPs.

Correspondent banking and wire transfers

366. Banks interviewed did not highlight any major difficulties in implementing requirements for correspondent banking under the AML/CFT rules and circulars. Based on risk considerations, banks have been off-boarding correspondent relationships with FIs from certain countries.

367. For wire transfers, TC requirements were generally in place but have some gaps. Supervision of banks and MFS of wire transfer controls indicate general compliance. There were some problems with wire transfers identified in relation to beneficial ownership. The assessors have some concerns that the checks appear to stop at the account holder. Post office wire transfers are not yet comprehensively supervised and implementation may not be at the same level as banks. Given the context of very tight currency controls, the concern is that supervision of wire transfers only focuses on outgoing wire transfers.

Targeted Financial Sanctions (TFS) for terrorism

368. The technical compliance elements for TFS meet the international standards (see R.6, R.7 and IO10), and Bangladesh has issued guidance and conducted a lot of awareness raising and outreach to banking and other sectors. In addition, as discussed in IO3, this has been a major area for offsite and on-site supervisory focus. Despite this focus, there is a lack of cases where ROs have identified funds owned or controlled directly or indirectly by a person acting on behalf of a designated person or entity except in the case of LEAs providing direct information. While the context of Bangladesh is a factor, the lack of matches indicates challenges with implementation.

369. Most banks implement list-based screening without delay through automated checking software, although this is not the case with all state-owned commercial banks or smaller banks. Some ROs only keep records in manual form, which is a challenge for screening. A concern is the implementation of TFS by those FIs which have not yet installed computer systems capable of searching against TFS lists. BFIU requires reporting parties to develop systems to ensure that designations, whether 1267 or 1373 are updated.

370. There is a need for further risk information and guidance to ROs to assist them to implement their TFS obligations particularly in relation to the six entities designated under the ATA and persons acting on behalf of the organisations.

371. Routines for verifying positive matches, including escalating matches to the BFIU are well implemented in the banking sector. There have been no instances of a confirmed positive or assets being frozen by an RO in the period in question.

High Risk Jurisdictions

372. The technical compliance elements for additional controls in relation to high risk jurisdictions show some gaps. Bangladesh has issued some guidance and conducted awareness raising and outreach to banking and other sectors. Further steps need to be taken into account to ensure country risk forms part of the risk-based approach.

Reporting obligations and tipping off

373. The technical compliance elements for STR reporting and tipping off meet the international standards, and Bangladesh has issued comprehensive guidance and conducted a lot of awareness raising and outreach on STRs and tipping off. In addition, as discussed in IO3, this has been a major area for offsite and on-site supervisory focus. ROs may file STRs and 'complaints', which are a form of suspicious matter report. The levels of STR reporting are set out below.

STRs reported (by sector) and percentage of STRs included in BFIU disseminations

	2009	2010	2011	2012	2013	2014	2015	Total
Bank (total)	38	77	184	266	474	658	1087	2,784
State-owned commercial banks	0	4	2	0	1	6	28	41
Private commercial & specialized banks	14	40	138	153	209	188	324	1,066
Foreign Banks	22	23	32	109	236	412	417	1,251
Islamic Banks	2	10	12	4	28	52	318	426
Stock Dealer/Broker	0	0	0	0	0	72	31	103
Merchant Banks	0	0	0	0	0	37	28	65
NBFI	0	0	0	0	6	15	30	51
Insurance Company	2	0	0	0	2	1	5	10
NGO	0	0	0	1	0	0	0	1
Money Remitter	0	0	0	0	0	32	85	117
DNFBP	0	0	0	0	0	0	0	0
Total STRs received=	40	77	184	267	482	815	1266	3,131
% of STRs included in disseminations	12%	22%	21%	33%	9%	8%	5%	

TF related STRs & complaints – all from banks

Year	2010	2011	2012	2013	2014	2015	Total
STR	1	1	0	0	2	4	8
Complaints			1	2	4	2	9

374. Overall numbers of STRs seem to be low, taking into account the risk and context of Bangladesh, but they have increased markedly over the last two years. The most pronounced increases have been in 2014 and 2015 with stock brokers and money remitters beginning to report STRs. The scope of sectors reporting STRs was very narrow. The commercial banking sector represents the vast majority of all reports. DNFBPs have not filed STRs. The very low levels of reporting by state-owned commercial banks reflect weaknesses in internal controls within that sector. There were almost no TF-related STRs reported, even in reaction to public CT cases. Some STRs have been filed following onsite inspections.

375. The low numbers of purely reactive STRs does not reflect the relatively high crime rate and the very active reporting of crime by the vibrant media in Bangladesh. There have been few reactive STRs following reporting of large-scale terrorism cases. It does not appear that significant numbers of STRs were filed following the public disclosure of allegations of crime or proven criminal cases. For example, with the recent high profile cases of Sonali/Hallmark and the Destiny MLM cases, a very large number of companies were named in the press as being involved, however this did not appear to significant levels of related STR reporting in the cases of ROs holding accounts for persons associated with the named companies. 21 STRs have been submitted as a result of BFIU on-site inspections.

376. Discussions with supervised ROs indicated that internal controls enable the review of potential STRs for filing with the FIU, but assessors have concerns that overly tight internal procedures applying a higher level of suspicion before filing STRs may be one reason for the relatively low numbers of STRs ultimately reported. BFIU and other regulators should take steps to ensure that ROs implement mechanisms to sweep their customer database and to ensure that ROs understand their obligations to file at a later date, even if there were delays in having monitored accounts.

377. BFIU indicates that the quality of STRs reported is good, having improved in recent years, and provides a reasonable basis for analysis. LEAs consistently indicated that STR data in the disseminations adds to their investigations. As reflected in the table above, the ratio of STRs received compared to those disseminated has been decreasing. The BFIU notes that this can be attributed to application of more sophisticated analysis techniques and closer attention to high quality disseminations with a greater chance of use by LEAs. The challenges with uptake of BFIU disseminations by LEAs do not appear to be driven by the quality of STRs filed by ROs.

378. While Bangladesh is a largely cash-based economy and cash is a feature in all sectors, CTR reporting is not well implemented. Despite obligations covering all sectors CTR reporting is only occurring in the banking and NBF sectors. Statistics indicate that rates of CTR reporting broadly follow the relevant size of each banking sub-sector. The rates of CTR reporting have been quite steady over the last five years and have not changed as awareness of obligations has increased across different sectors, nor as with the advent of online reporting by some institutions through GoAML. The trend of steady reporting of CTRs (approx. 3 million per annum) does not match the context in Bangladesh.

Cash Transaction Reports (CTRs) made to BFIU since 2011

Sector	2011	2012	2013	2014	2015
All Banks	3,180,785	3,386,701	2,937,630	3,481,619	3,500,928
State-owned commercial banks	172107	175413	137647	152568	179,460
Private commercial banks	2181530	2345975	2100596	2495758	2,211,945
Specialised banks	7344	5732	3623	4700	4,842

Foreign banks	199182	150248	95544	82147	59,387
Islamic banks	620622	709333	600220	746446	679,994
NBFI	0	0	0	0	713
All other sectors	0	0	0	0	0

Internal controls and legal/regulatory requirements impending implementation

379. Internal controls have been a key focus of supervision, and controls are generally only well-established amongst private commercial banks, with particular weaknesses identified in the state-owned commercial banks and securities sector. The quality of controls varies across sectors, with the larger ROs having better internal controls. Overall the implementation of internal controls needs improving even in the best performing banks. The lack of supervision of internal controls in the securities sector is a particular concern.

380. BFIU and BB have put a lot of focus on building the capacity, professional skills and networks of ROs' compliance staff. This has been aimed at supporting improving enterprise level approaches to AML/CFT and risk mitigation. Supervision results of ROs (principally banks) demonstrated adequate access to information by the AML/CFT compliance functions (CAMLCO & branch anti-money laundering compliance officer (BAMLCO) and relevant frontline and business staff.

Overall Conclusion on Immediate Outcome 4

381. Bangladesh has a low level of effectiveness for Immediate Outcome 4.

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

382. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The recommendations relevant for the assessment of effectiveness under this section are R.26-28 and R.34 and 35

Key Findings

Bangladesh has controls in place to prevent criminals and their associates from entering the market, although there are gaps in relation to ultimate beneficial owners and directors / management and source of funds and risks from domestic PEPs owning or controlling banks and securities intermediaries. There had been some recent improvements in this area, but fit and proper controls on the board and management of state-owned commercial banks required greater focus. Beyond banks, risk mitigation at market entry was not effective and was too reliant on affidavits. Regulators do not verify data or draw on LEA intelligence and analyse source of funds and beneficial owners.

BFIU and BB were increasingly taking a risk-based approach to prioritise supervision consistent with the findings of risk assessments. BFIU has prioritised banks and plans to follow up with the securities sector. The real estate sector should be prioritised over insurance, reflecting the NRA. DNFBPS are not sufficiently supervised. While there was a priority supervisory response to large bank fraud and corruption cases, not enough focus has been given to systemic AML/CFT risks from state-owned commercial banks.

BFIU requires further resources for supervision and the allocation of supervisory resources should more closely follow risks. Thematic supervision has particularly focused on STR reporting. Allocation of supervisory resources to respond to frauds in the state-owned commercial banks was a strength.

The November 2015 MLPA amendments allocating AML/CFT supervisory to each sectoral regulator provides a basis for further supervisory resources to be available in the future. The work of the committees for joint supervisory cooperation has added to effectiveness, but coordination between BB and other regulators needs improvement, particularly sharing information on fit and proper or cases that have been investigated by other supervisors

BFIU has focused on warning letters and remedial actions to rectify gaps, but these have had relatively limited effect. The overall number and values of fines applied has been low. Actions to identify and sanction illegal MVTs have added to financial inclusion and use of formal channels.

Recommended Actions

- Enhance BB supervisory powers for banks and FIs, including the state-owned commercial banks, to give it full powers to sanction boards (including replacing members) and replace senior managers and make them personally liable with administrative fines; require increased professional standards for internal auditors (certified practicing accountants); and issue direct sanctions against all ROs
- BB, BSEC and IDRA to enhance market entry controls, offsite and on-site supervision on a risk-sensitive basis. This is particularly the case for state-owned commercial banks

- Document the presence of domestic PEPs in the ownership and management of ROs to assist external auditors and supervisors manage risks
- BB should have a direct role in vetting the Board or senior management of state-owned commercial banks for AML fitness and propriety.
- Implement a priority supervision strategy for the state-owned banking sector
 - AML risks posed by the the state-owned banking sector should be given priority treatment by BB, BFIU and Ministry of Finance (as the owner of the sector)
 - Enhance information sharing between supervisors, including on risk information.
- Prioritise securities and real estate sectors after banking sectors as per NRA risks. Risks posed by domestic PEPs in these two sectors should be mitigated to a far greater extent.
- Offsite supervision of DNFBP sectors should be prioritised to provide baseline data.
- Expand resources to ensure supervision of priority sectors, particularly for the BFIU
 - Further develop the AML/CFT supervisory capacities of BSEC and IDRA
- Strengthen the application of remedial actions and sanctions to support risk mitigation outcomes.
 - BB or BFIU should be able to move very quickly to provisionally suspend banking staff / assets / functions / branches without notice and without delay.

Immediate Outcome 3 (Supervision)

State-owned commercial banks - common ML and prudential risks across the sector

The Sonali, BASIC and Janata Bismillah cases (corruption-related frauds totalling over US\$ 1 billion) highlight acute failings of governance (board and management) amongst state-owned commercial banks. These cases indicate continuing ML and prudential risks.

The NRA and sectoral assessments did not consider the risks of ML, corruption and fraud in the sector in any detail, including the roles of PEPs on boards and management. BB has placed full time monitors into the management and boards of all the state-owned commercial banks. The assessment team remains concerned that there is much further to go to mitigate the ML risks.

Bangladesh Bank lacks a statutory basis for full oversight powers for the sector, including the ability to directly sanction the whole board and senior managers. The MOF had delayed acting on recommendations of the BB to sanction compliance failings and the ACC criminal investigations of breaches have not been effective.

The Finance Ministry's role, as owner, in governing implementing fit and proper for the sector has failed to mitigate the risks. BB lacks a direct role in vetting board or senior management and fit and proper controls do not adequately extend to commercial banking experience.

Processes for internal control and board oversight have been shown to be weak and the role, functioning and reporting of risk management and audit committees has failed to identify and mitigate ML risks. State-owned commercial banks do not require their internal auditors to have qualifications of chartered accountants or experience in the commercial banking sector.

Bangladesh lacks a comprehensive strategy (reflecting FATF standards and core principles) to mitigate ML and prudential risks for the sector. While intensive supervision was done in relation to Sonali and BASIC banks, BB lacks a targeted strategy for supervision and special audits across all six state-owned commercial banks. There is a lack of offsite data capture on performance information to support offsite monitoring of ML risks associated with opening credit facilities, level of non-performing loans and breaches in limits or rules and processes across the sector.

In each major case public scrutiny of the banks was the trigger for regulatory action. The assessment team finds that further measures which facilitate opportunities for independent scrutiny is key. At the same time the lack of transparency, connectivity and modern systems within each of the state-owned commercial banks is a major weakness. There is a World Bank supported Financial Sector Support Project which aims to contribute to strengthening the foundations of a stable financial system in Bangladesh by supporting regulatory authorities efforts to monitor improvements of the performance of state-owned financial institutions (SOFIs), and building capacity to improve financial sector supervision and integrity. The authorities are encouraged to use this facility to enhance the effectiveness of the AML/CFT measures for state owned commercial banks.

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

383. All the financial sector supervisors, to some extent, have controls in place to prevent criminals and their associates from entering the market, but DNFBP registration bodies do not have extensive controls. The BB, BSEC and IDRA undertake fit and proper tests on shareholders, directors and controllers of proposed FIs and when managers and directors change.

384. There are risks from domestic PEPs ('IPs' under the MLPA) owning or controlling ROs across the financial sector, especially in banking and securities sectors. For all regulators identification of beneficial ownership behind licenses has been a great challenge. The overall lack of available beneficial ownership information undermines the quality of implementation of market entry controls. Discussions with regulators indicate that they rely on assumptions that few license shareholdings are being held beneficially and rely on verification of identity through eTIN and the national ID. As a result fit and proper checking for ownership held beneficially, or for complex structures of shareholdings (which appears to be rare in Bangladesh), requires major improvements.

385. In 2012 BB invited applications for banking licenses, with 37 applications received and 9 licenses issued; one FI (finance company) application was rejected in 2015. BB issued 636 licenses for Money Changers in 1997-98, but none since that time. BB has issued license to 29 banks for Mobile Financial Service (MFS) and 2 entities as payment system operators. In 2013, IDRA awarded licences to 13 insurance business licenses including six life insurance companies and seven general insurance companies.

Recent Licences issued for capital market intermediaries issued by BSEC:

Type of capital Market intermediary	2013	2014	2015
Stock Dealer	20	15	6
Stock Broker	18	13	5
Depository Participant	24	12	8
Asset management Company	4	0	2
Merchant Banker	6	2	1
Security Custodian	2	0	1

Trustee of debt securities	6	12	10
Fund Manager (trustee)	--	--	1
Total	80	64	35

386. BB demonstrated the sound application of a compliant licensing framework for commercial banks including fit and proper measures to prevent criminals and associates managing or controlling banks and NBFIs. BB collects intelligence reports from government intelligence agencies and BFIU, prior to confirming the appointment of directors/ management. In case of foreigners involved in management of a bank, BB's collection of information relevant to fit and proper is limited to asking embassies of Bangladesh for any adverse news against applicants. In case of new entry BB also sought information from BFIU. BFIU adds to fit and proper checks, including through Egmont channels and commercial CDD databases. Information from foreign regulators is not regularly sought to assist with verification of foreign applicants.

387. For state-owned commercial banks, risk mitigation at market entry is done by the MOF, as the owner, and is not well implemented to address the significant risks in the sector. It is not clear that the MOF has taken sufficient steps to collect intelligence from government agencies, including the BFIU, to ensure fit and proper prior to confirming the appointment of directors/ management of state-owned commercial banks. There have been some recent improvements in this area.

388. For BSEC and IDRA, risk mitigation at market entry is not well supported and its criminal checks on shareholders, directors and controllers are too reliant on self-declaration through affidavits. BSEC and IDRA do not verify data or draw on LEA intelligence or the BFIU to analyse source of funds and beneficial owners. BSEC appeared to underestimate the exposure of ROs to beneficial ownership and control by domestic PEPs.

389. DNFBPs are subjected to licensing or registering process by SROs. However, the licensing and registering process included very few controls to ensure market entry fit and proper controls. No SRO conducts criminal checks as part of its registration or licensing process.

390. Reflecting the very large scope of inward remittance and the previously very large scale of underground banking, Bangladesh has a system to check inward remittances for illegal inflows. Bangladesh also applies strict capital controls on outbound remittances. Bangladesh has taken a range of initiatives to encourage inward remittance through formal channels including introducing mobile banking. These initiatives have contributed to significantly increased levels of formal regulated inward remittance, which is reflected in independent studies. At the time of on-site visit, the numbers of mobile banking accounts were well above that of traditional bank accounts. This policy has been reasonably effective at bringing many people into formal channels and reducing reliance on informal channels such as hundi. World Bank surveys results indicate a very large majority of remittance is now through formal channels.

Supervisors' understanding and identification of ML/TF risks

391. BFIU demonstrated a reasonable understanding of the level of ML risks in sectors it supervises based on the NRA and the more in-depth sectoral assessments, with the exception of DNFBPs. The NRA has identified the most vulnerable sector for ML and TF as being banks, NBFIs, real estate agents and dealers in precious metals/stones. At the time of on-site BFIU has prioritised banks and plans to follow up with what the assessment team considers to be the next most high risk sector (securities). A concern is the need for further focus on risks from state-owned commercial banks, on the securities sector and on TF risks to guide risk-based supervision.

392. BFIU had risk ranked banks and NBFIs based on enterprise risk assessments, but had not done so in other sectors. All 56 banks and 31 NBFIs had submitted risk assessment reports to BFIU, which in turn assessed the assessments and gave necessary directions to the ROs to improve the enterprise-level risk assessments. BFIU uses the findings of the NRAs, sectoral assessment and enterprise-level assessments to identify risk factors relevant to supervision, including high and low risk branches. BFIU's focus with the banks and NBFIs on enterprise-level risk assessments is a very significant development to deepen risk-based approaches within the banking and NBF sector.

393. BFIU's ongoing work, assisted by the World Bank, to conduct a DNFBP sectoral risk assessment provides a good opportunity to deepen awareness of risk in those sectors.

394. The securities sectoral assessment led by BSEC and the BFIU was a very positive development and provides very good insights on risks in the sector, but it is not clear that the assessment and its key findings are sufficiently well understood by the sector to guide risk mitigation. IDRA appears to have a relatively good understanding of elements of ML risk.

Risk-Based Supervision for Compliance with AML/CFT requirements

395. Regular coordination meetings take place between the supervisors (BB, BFIU, BSEC and IDRA) with BFIU inviting other supervisors to discuss specific issues if needed. Coordination has recently focused on supervision and the conduct of the NRA and has not focused on sharing information on fit and proper or cases that have been investigated by other supervisors. BFIU shares information or conduct special audits as needed. In relation to high risk cases (e.g. Sonali and BASIC Bank and the stock market crash) BFIU shared detailed analytical products to assist BB to target supervision in coordination with BSEC. More needs to be done to share and consider risk issues in the planning and allocation of priorities and resources for supervisory actions.

396. Despite the skills and hard work of the BFIU supervisory staff, the available BFIU resources are insufficient to supervise all high-risk sectors. BFIU monitoring wings have 24 staff responsible for thousands of ROs. Even with a more risk-based approach and the MLPA giving BB, BSEC, IDRA enhanced responsibilities for full AML/CFT supervision, the BFIU resources need to be bolstered. Bangladesh intends that BFIU resources will be used to conduct supervision of high risk ROs. This is a welcome strategy to add resources and target interventions to add to effectiveness.

397. BFIU is moving to conduct supervision on a RBA. BFIU selects the frequency and priority of inspection based on categories of risk. BFIU selects more branches for on-site inspection where TF, drug trafficking and human trafficking risks are high. In 2015 nine special inspections were conducted by BFIU in areas with particular TF vulnerabilities. A further six on-site inspections were conducted in areas where prone to drug trafficking and seven in the area with human trafficking risks. BB also uses some risk information from BFIU and other sources to target supervision of the banking sector.

398. The recent risk-based approach to supervision by BFIU has been a strength, with the re-allocation of resources to supervise state-owned commercial banks a notable feature. In response to cases of large scale offending, BFIU and BB reallocated resources and BB has increased surveillance, including placing monitors in all six state-owned commercial banks. BFIU should give even greater focus on systemic AML/CFT risks from state-owned commercial banks in light of the many recent cases. There is also a need to focus more on supervising product risk. Allocation of time and supervisory resources may not accurately reflect risks.

399. BB's prudential supervision includes AML/CFT supervision in the core risk supervision, but this needs to take a more risk-based approach. Some risk inputs are obtained by BB through cooperation with BFIU, but a greater focus on risk information should guide BB's prudential supervision.

400. BFIU and BB offsite supervision adds to effectiveness, with key periodical reports and thematic information being obtained to guide on-site interventions. Offsite supervision needs further development to ensure that all offsite supervision focuses on risk-based concerns. Increased emphasis should be given to risk-based offsite supervision of sectors beyond the banking sector.

401. BFIU has developed its supervision processes to be risk-based, thematic and contingent. More thematic supervision is needed, particularly in relation to risk-based controls that may address corruption, human trafficking, smuggling of gold, fraud and forgery. At the time of on-site visit, thematic supervision had a focus on STR reporting and was largely rules based, but instance of supervision of high risk regions and 'hot spots' in 2015 reflects the emerging RBA. More thematic supervision is relevant to identified risk issues and risk mitigation including domestic PEPs associated with key sectors, FIs exposure to clients involved in public sector tendering and procurement. Supervision should also emphasis on checking the verification stage of CDD during sample testing to identify ultimate BO. Further thematic supervision of TFS implementation is needed with the coordination of UNSCR working committee and intelligence agencies.

BFIU Onsite Supervision

	2011	2012	2013	2014	2015
Bank	187	120	168	203	117
NBFI	19	26	29	38	32
Capital Market	0	0	0	40	35
Insurance	5	21	36	82	65
Money Changer	11	26	44	62	33
Money Remitter	0	3	58	56	27
NPO	0	0	40	0	0

Inspections undertaken by Bangladesh Bank (prudential including elements of AML/CFT)

	2010	2011	2012	2013	2014
Private commercial Banks	1626	1677	1037	1353	1274
State owned commercial banks & NBFIs	646	757	1065	810	836
Specialized Banks - agricultural & SME	0	269	240	260	269
Foreign Commercial Banks, Islamic Banks and NRB commercial Banks	0	0	-	127	143
Foreign Exchange Inspection department.	0	0	44	287	360

402. The frequency, scope and intensity of BFIU and BB AML/CFT on-site inspections of commercial banks was generally considered sufficient. The head offices of each bank were inspected once every year and branches were selected for inspection depending on risk. Risks are assessed based on risk assessments and other inputs from open source and government agencies.

403. The frequency of the BFIU on-site inspections of NBFI for compliance with AML/CFT requirements is considered sufficient. From 2011, all 31 head offices and 144 branches of NBFIs have been subject to on-site inspection. However the scope and intensity of on-site inspections should be strengthened, as no NBFIs received a strong or satisfactory AML rating.

404. There was a lack of focus on AML/CFT supervision by regulators beyond BFIU and BB. BSEC in particular needs to increase its AML/CFT capacity and its prioritisation of ML risk mitigation, given the problems in the stock market. Securities/CMIs are considered a low risk sector for ML/TF in the NRA. Seventy five on-site have been conducted by BFIU. However the selection of audited CMIs is not based on risk. No CMI has submitted a risk assessment report to BFIU as required under the MLPR.

405. BSEC had recently established an AML wing, which includes resources for supervision, and has taken steps to build the capacity of the AML wing. These are positive developments, but offsite and on-site supervision needs to follow. Prior to the October 2015 MLPA amendments BSEC was unable to directly supervise AML/CFT compliance. There is a need for greater awareness within BSEC of concepts of beneficial ownership and ML/TF risk mitigation. Given the levels of banks cross ownership of securities firms, BFIU, BB and BSEC should cooperate to perform group-wise consolidated supervision or at least share information for financial sector groups.

406. Based on the NRA, insurance is considered as a low risk sector for ML/TF reflecting the absence of investment linked insurance products and very few single premium products with low demand and high penalties imposed for early retirement. However from 2011, 209 on-site inspections have been conducted by BFIU for insurance. BFIU indicates that on-site inspection was high in insurance because in 2013 there were 13 new insurance companies licensed by IDRA and BFIU has covered all AML/CFT aspects on the new insurance companies. Also, before 2014 BFIU conducted on-site inspections only in capital areas. There is a concern that the definition of “insurers” in the AMLA does not include insurance undertakings or insurance intermediaries (agents and brokers), although hundreds of agents are operating in the country. IDRA should focus on verifying data on LEA intelligence and BFIU to analyse source of funds and beneficial owners at the time of market entry, and conducting risk-based approach supervision according to NRA.

407. A series of DNFBP member sub-committees with the SROs for relevant sectors serve as focal points for engagement with BFIU on supervisory activities. These sub-committees have been engaged in piloting offsite supervisory compliance questionnaires and related outreach. These initiatives are a good basis to build more intensive risk-focused supervision.

408. No on-site inspections have been conducted on DNFBPs. However after completion of the NRA, BFIU plans to conduct on-site inspections of real estate agents and dealers in precious metals/stones in late 2015 and to conduct more comprehensive on-site inspections of selected real estate agents and dealers in precious metals/stones based on a risk basis in 2016. However for identifying real estate agents and dealers in precious metals/stones, BFIU only obtains the identity of real estate agents and dealers in precious metals and stones based on the available information in the association.

Remedial actions and effective, proportionate, and dissuasive sanctions

Remedial actions

409. BB’s remedial actions in relation to failings in the state-owned commercial banking sector are a strength. The BFIU has also implemented a framework of corrective measures. This includes administrative sanctions (such as supervisory letters, reprimands and warnings, directives and show case for sanctions) and fines.

410. BFIU’s focus is primarily on warning letters and requiring actions to rectify compliance gaps. Warning letters are also directly to the persons responsible for conducting CDD or STR reporting and

is submitted to management's attention. These are followed up on during inspections by both BB and BFIU. This has been a strength and BFIU notes improving compliance, including in relation to STR reporting, CTR reporting and overall CDD compliance. Cases of clear improvements through remedial actions include instructions in relation to the conduct of enterprise risk assessments, self-assessments by banks and STR reporting. Despite the remedial actions applying to other sectors, this has not translated into the same degree of improvement except for STR reporting.

Remedial actions taken by BFIU - 2012-15



Remedial Actions and sanctions for AML/CFT

Types of actions	2012				2013				2014					2015				
	Bank	NBFI	Insurance	CMI/MC/NGO	Bank	NBFI	Insurance	CMI/MC/NGO	Bank	NBFI	Insurance	CMI	MFS/NGO	Bank	NBFI	Insurance	CMI	MFS/NGO
Supervisory Letters	155	35	12	11	124	38	21	26	152	43	25	31	38	143	38	15	22	28
Reprimand / Warning	99	13	9	5	113	18	10	16	129	13	08	09	24	122	7	5	12	34
Directives	120	26	21	29	168	29	36	59	203	38	82	40	62	117	32	65	35	60
Show case for Sanction (Fines/Penalties)	8	2	0	0	32	5	2	2	42	7	3	4	2	48	9	4	5	3
Fines/ Penalties	1	0	0	0	10	01	0	0	13	0	0	0	0	14	2	0	0	0
Revocation of Licence	Nil																	
Removal of Directors	0				9				07					02				

Sanctions

411. Administrative sanctions applied, including the monetary value of fines, is very low, and is decreasing. Sanctions have only been imposed in the banking sector and NBFIs. The rates of STR and CTR reporting, the overall CDD and other compliance has improved in the commercial banking sector. However the decreasing trend for sanctions does not appear to match the context with other sectors.

Sanctions on ROs for AML/CFT breaches – levied by the BFIU

Year	Administrative Sanction	Penalties	Amount (US\$ equivalent)
2012	126	1	US\$641
2013	157	10	US \$8,8461
2014	185	13	US\$70,513)
2015 (to June)	78	7	US\$43,590

412. LEAs, intelligence agencies and financial sector regulators have established a task force to identify and sanction illegal MVTS. The Task Force conducts bi-monthly meetings to carry forward its work. Reflecting outcomes of this work, in recent years, BB has cancelled 400 licences of money changers for misconduct, including a small number for being involved in illegal MVTS.

Cumulative BFIU penalties or fines on various ROs -2005 - 2015:

Organization Type	No. of ROs	Number of Penalty/Fines
Private Commercial Banks	33	38
State owned Commercial Banks	6	11
Foreign Commercial Banks	8	8
Islamic Commercial Banks	7	12
Non Bank Financial Institutions	31	3

413. BFIU has the authority under the MLPR to suspend registration or license of ROs or their branches, service centers, booths or agents for the purpose of closing their operations. License suspensions have never been carried out for AML failings, but actions have been taken into relation to curtailing certain activities, products, etc. Discussions with prudential supervisors during the on-site visit demonstrated that this sanction could not be implemented automatically by BFIU. A further process is required to be conducted by the prudential supervisor, in the event that the BFIU suggests suspension. So far there have been no suspensions enforced.

414. Neither BB nor BFIU are currently empowered to move quickly to provisionally suspend banking staff / assets / functions / branches without notice and without delay in the case of acute risks of ongoing financial crime. This is relevant as the Sonali Bank case saw over US\$ 150 million defrauded in the 3-4 weeks between the first BB inspection and the action by the Finance Ministry to suspend the branch and offending staff.

415. The Sonali and BASIC cases illustrate weaknesses with the application of sanctions. As the sector is owned by the Finance Ministry, fines are not imposed; rather, replacement of senior management and other remedial actions are pursued. Removal of Boards was done by the Finance Ministry in both cases, but there were very serious delays demonstrating BB's lack of proper supervisory powers. The CEO of BASIC Bank was directly replaced by BB following legislative amendments. Recent amendments to the Banking Companies Act now give BB the power to replace the CEO and MD of state-owned commercial banks, but not the board and BB has no powers to make directors and management directly liable for administrative sanctions.

416. BB has used the results of AML supervision of banks and NBFIs to weight the CAMELS rating, which has effects prudential limits. This remedial action does not apply to state-owned commercial banks and has not been applied to ROs beyond banks.

417. In relation to money changers, BB has cancelled 400 licences of money changers over a 10 year period for misconduct, including a small number for being involved in MVTs activities.

Effects of supervisory actions on compliance

418. Joint actions between supervisors and LEAs to identify and combat unlicensed remitters have supported the movement of remittance from the informal to the formal sector. This adds both to AML/CFT compliance and financial inclusion.

419. The ongoing presence of BB monitors in the management and boards of the six state-owned commercial banks adds to AML/CFT compliance in those institutions to some degree. Ongoing ACC investigations of the large scale corruption-related frauds also adds to compliance.

420. No evidence was provided that sanctions have a direct deterrent effect on DNFBPs. Supervisory actions that have been initiated by BFIU and some sanctions imposed, as discussed above, may not be strong enough to have a significant effect on the culture of compliance. There is a long way to go in particular with those sectors that have not been subject to consistent supervision.

421. Submission of STRs has increased as a result of BFIU awareness raising, remedial actions and supervision.

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

422. BFIU, BB, BSEC and IDRA have worked to raise awareness and provide guidance and feedback to the ROs. Various channels are used to interact with the regulated sectors including annual conference, periodic meetings with compliance officers and focused group meetings to discuss and resolve regulatory issues. The statistics below reflect particular attention being given to staff employed in the banking and MVTs sectors. A positive development is increased emphasis on training in the securities sector over the last two years.

Numbers of RO staff involved in BFIU training on obligations and risks

Sectors	2010	2011	2012	2013	2014	Total
Banks	17,472	23,603	24,263	24,265	29,416	119,019
NBFIs	155	75	248	895	1,126	2,499
Insurance	91	410	535	637	995	2,668
Capital Market	16	43	79	439	463	1,040
MVTs	-	1,337	20,571	93,572	156,227	271,707
NGO/NPO	5	2	25	7	45	84
DNFBPs:						
a) Lawyer	-	-	-	50	200	250
b) Accountant	-	-	-	60	140	200
c) DPMS	-	-	-	25	210	235
d) Real Estate Developer	-	-	-	50	300	350

423. BFIU conducts annual conferences for CAMLCOs which is attended by compliance staff and senior management. This is one of the opportunities BFIU takes to spread knowledge and awareness on ML/TF risks identified by NRA and other sector risk assessment and typologies.

424. The conduct of the NRA involved 36 focus-group discussions on ML and TF risks, supervision and socialization of BFIU guidelines. Representatives from the supervisory agencies, law enforcement and reporting parties were present. This added to knowledge of obligations and risks. BSEC, IDRA and NGOAB have conducted training for employees of their regulated entities to promote understanding on AML/CFT.

425. BFIU and ACC annual reports are shared with ROs and include case studies and recent AML/CFT typologies. Recent typologies were made available to ROs via the BFIU website, however sharing specific typologies in relation to high threat (corruption, human trafficking, smuggling of gold, fraud and forgery) and high risk reporting parties (Bank, NBFI, real estate agent, dealers in precious metals/stones and NPO/NGO) is needed for increasing the effectiveness on AML/CFT risk-based supervision.

Overall Conclusion on Immediate Outcome 3

426. Bangladesh has a moderate level of effectiveness for Immediate Outcome 3.

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

427. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The recommendations relevant for the assessment of effectiveness under this section are R.24 and R.25.

Key Findings

Bangladesh has assessed some of the ML/TF risks associated with legal persons and authorities are reasonably aware of the risk. Legal arrangements including the risks posed by *Waqfs* have not been assessed, nor have risks posed by share warrants. There is no information on foreign trusts operating in the country.

RJSC registers basic ownership of companies, however rates of compliance with registration requirements are low. The quality of registered data is not confirmed by monitoring and sanctions for non-compliance with registration requirements are very weak.

There are no legal obligations for companies or parties to a trust to hold beneficial ownership information or for such information to be disclosed to or registered with the authorities.

In cases involving immovable property trust deeds must be registered and LEAs can access such information where it is available. There are no obligations for trustees who are customers of FIs to declare their status.

ROs are legally obliged to conduct CDD to identify beneficial ownership, but doubts remain as to whether such information is available to LEAs and other competent authorities in a timely manner. Bangladesh is able to provide international cooperation on beneficial ownership information.

Bangladesh's steps towards reforming laws to deal with beneficial ownership issues is a positive development and efforts are currently underway to improve legal shortcomings in the area.

Recommended Actions

- Deepen the assessment of risks of legal persons and legal arrangements (including *Waqfs*) and conduct outreach to the RJSC, sub-registrars' offices and Waqf Administrator on AML/CFT risks.
- Prioritize the planned amendment of the Companies Act 1994 and consider amending other statutes (eg the Trusts Act) to require legal persons and arrangements to obtain adequate, accurate and timely beneficial ownership information of beneficial ownership (including of share warrants) and natural persons who exercise ultimate effective control over a legal person or arrangement to competent authorities, including the NBR.
- Increase the capacity and enforcement powers of the RJSC and other competent authorities to monitor and sanction legal persons and arrangements which do not adhere to legal requirements.
 - ensure that persons who breach the required measures are subject to effective, proportionate and dissuasive sanctions.
- Require trustees to disclose their status to all ROs when forming business relationships
- Centralize the current system of registration of trust deed information to facilitate easy access to such information by competent authorities.
- Improve information sharing between RJSC, NBR, BFIU, LEAs and sub-registries.

- Raise LEAs' awareness of powers to lift the corporate veil in AML/CFT investigations.

Immediate Outcome 5 (Legal Persons and Arrangements)

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

428. The RJSC includes comprehensive information on the creation and types of legal persons on its website. Otherwise publicly available information on other types of legal persons and various forms of trusts is predominantly set out in statute.

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

429. Bangladesh authorities demonstrated a reasonable understanding of the vulnerabilities and potential for misuse of legal persons. The NRA assessed ML and TF risks related to the formation of legal persons to some degree and identified a number of limitations that may result in abuse of legal persons for ML and TF purposes. The NRA identified a high potential for legal persons to be misused and exploited by criminals to hide their identities based on the weaknesses identified above. The NRA is however relatively light in its assessment of legal persons' risks. Neither lessons arising from the recent market manipulation cases or share warrants were not addressed in the NRA.

430. The authorities have not conducted any specific assessment on the risks posed in the area of religious trusts. Given the considerable size of the Waqfs sector, a deeper risk assessment is required to analyse and decide what measures are necessary to mitigate such concerns. BFIU has considered statistics concerning the number of STRs received involving legal persons:

STRs received involving legal persons

Year	2011	2012	2013	2014	2015	Total
STRs	24	37	64	41	84	250

431. LEAs appear to focus on natural persons and do not regularly investigate behind the 'corporate veil'. Assessors note the scope and number of cases involving fraudulent loans by corporate customers. Investigations in these matters appeared to centre on employees of these groups and not on any other corporate vehicles used to engage in criminal conduct.

Mitigating measures to prevent the misuse of legal persons and arrangements

432. Bangladesh has made some effort to implement measures to mitigate the risk of abuse of legal persons and arrangements for ML/TF purposes. RJSC had very recently established a system of online registration for companies to support timely and accurate registration. The RJSC had also instituted a system for banks, insurance agents and other FIs to obtain name clearance certificates from the respective regulatory authorities.

433. The RJSC, as the registration authority, checks for compliance with required lodgings for an application to establish a legal person in Bangladesh. The RJSC has introduced a digital signature system to verify information online and has signed an MOU with the Electoral Commission and the National Security Intelligence Agency (NSIA) to increase its verification powers for legal persons and arrangements. At the time of the on-site visit, none of these steps had been fully implemented. The digital signature system remains an optional one for registration, although Bangladesh authorities report that this will be a mandatory component of the registration process in early 2016.

434. RJSC requires legal persons to register basic ownership information and to report changes of ownership. RJSC requires any change of shareholder information to be verified and checked by the RJSC before being approved. Where a legal entity applies for a change of shareholder information, the RJSC will verify first if any annual returns are filed by the company. No shareholder change is allowed if this requirement has not been complied with. No profit disbursement is allowed without prior approval by the RJSC. In practice, RJSC did not conduct any verification of the accuracy of such records or perform regular oversight to ensure that companies are in compliance with their legal obligations. Furthermore, the RJSC lacks the ability to sanction legal entities that do not comply with the requirements of the law or the proscribed forms. As such, the assessment had concerns about the accuracy and currency of records maintained by the RJSC. The central data repository set up by the RJSC suffers ultimately by being a passive and reactive system.

435. At registration, only those who hold 20% of more of shares or controlling interest in a legal entity are required to report to the RJSC. Section 36 of the Companies Act requires annual filing of the number of shares held or have been transferred and the list of all shareholders. A serious gap is that companies are not required to submit a list of members and shareholders until 18 months after incorporation.

436. Bangladesh has taken some administrative measures to mitigate risk including requiring foreign companies to seek permission from the BOI and the BB.

437. Bangladesh has not taken any measures to mitigate the risks posed by share warrants, including capturing the beneficial ownership of share warrants. There is a general lack of understanding amongst authorities as to how these instruments operate and their risks.

438. Lack of manpower and human resources still remains a problem and means that the RJSC is unable to devote the necessary resources to verify that its requirements are being met on a regular basis and to ensure that risk is effectively mitigated. This impediment also means that monitoring and supervision of legal persons cannot occur regularly.

439. The Companies Act does not provide the requisite powers to the RJSC to carry out its functions effectively. RJSC cannot take administrative action against non-compliant legal persons and is not empowered to appoint auditors to conduct audits on companies. A committee has been set up following the findings of the NRA to fast track changes to the Companies Act to address these gaps.

440. For legal arrangements, there is less of an emphasis on measures to mitigate risk. Trust deeds for immovable property are to be registered at the Sub-Registrar's Office and then subsequently approved by the RJSC. The Sub-Registrar's Office does not perform verification functions but merely registers deeds. It is also noted that the Sub-Registrar's Office has no enforcement powers provided to it under any legislation in Bangladesh.

441. NBR requires trustees to declare their status to the NBR and pay tax if they have income, but this is not regularly enforced. Information exchange between the Sub-Registrar's Office and NBR is not well supported. The NBR has been making efforts to improve tax compliance through its Electronic Taxpayer's Identification Number Registration System (eTIN) which has the potential to contribute to transparency of legal persons and arrangements in Bangladesh.

Timely access to adequate, accurate basic and beneficial ownership information on legal persons

442. Process for obtaining RJSC information were previously all manual and very slow, but the RJSC has recently set up an online central repository of company data which is available at its website

www.roc.gov.bd. Basic information is available through the search function, but is limited. More detailed information is available on request. For publicly listed companies, all basic information and directors' information are maintained at the website of stock exchanges at www.dsebd.org and www.cse.com.bd.

Requests by competent authorities for RJSC data

Agency	Number of requests for information				
	2011	2012	2013	2014	2015
BFIU	15	8	23	17	9
LEA	6	19	7	22	13
Regulatory authorities	7	14	12	15	11
Foreign counterparts	0	0	0	0	0

443. While company or trust law does not require companies to collect and maintain or to register beneficial ownership information, comprehensive CDD measures in the MLPA and MLPR improves Bangladesh's system for attempting to identify beneficial owners, as ROs are required to obtain and verify beneficial ownership information via CDD (S17 (4) of the MLPR). ROs include lawyers, other legal professionals and TCSPs who may be involved in forming or managing companies. All other ROs that may be involved in holding or transacting on behalf of legal persons are also required to obtain information concerning beneficial ownership from their customers.

444. It is evident that competent authorities do not regularly request information from the RJSC. LEAs report that they have the necessary powers to access beneficial ownership information where it is held by ROs. Based on the weaknesses highlighted under IO4, it remains unclear whether the beneficial ownership information requested would be available. Despite CDD being a legal obligation, some sectors have reported weaknesses in on-going CDD and transactions being allowed even though CDD is incomplete. This ultimately reduces the reliability of the information that can be sought by law enforcement.

445. LEAs have not shown any successful case examples indicating the identification of any "straw men" or hidden ultimate beneficial owner. Bangladesh authorities report no investigations on any public companies, private companies or foreign companies for any ML or TF offence. Bangladesh did not demonstrate that LEAs regularly use CDD information obtained by ROs to 'lift the corporate veil' when investigating financial crime including ML.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

446. Bangladesh has a decentralized system of registration of trusts under the Registration Act. Registration of trust deeds is carried out by the Sub-Registrar's Office. There are 485 Sub-Registrars in Bangladesh under 61 District Offices. Whilst the obligation to register a trust deed is mandatory for immovable property, it is discretionary for movable property. All deeds in the various Sub-Registrars are indexed together (land deeds, Waqf deeds, trust deeds, etc). For an LEA or the FIU to obtain access to a deed, a separate query has to be made to over 50 Registrars. Timeliness of obtaining information is an issue as after identifying where the deed is, it would take a few weeks, according to authorities, for copies to be provided. Overall, while trusts information is available to a limited extent, the accuracy and timeliness of such information undermines effectiveness.

447. The information required to be included in any trust agreement on trustees, settlors and beneficiaries does not cover the concept of beneficial ownership. Also, whilst TCSPs are subject to

obligations to obtain beneficial ownership information before beginning a customer relationship, there is no similar obligation on trustees to disclose their status to ROs before commencing any business relationship. Another impediment lies in the fact that non-professionals who undertake trust services who do not fall under any categories of ROs or are not registered as ROs appear not be under any obligation to conduct CDD measures.

448. Trusts only have to be registered if an asset is involved, based on requirements under the Registration Act. The Sub-Registrar's Office stated that they do not regularly communicate with the NBR about registration of new legal arrangements. Trustees are also only required to inform the NBR and declare their status if they derive income. Once again, like the situation with companies, the NBR has the potential to do more to pierce the corporate veil and uncover details concerning ultimate ownership of legal arrangements.

449. A potential gap in further identifying beneficial ownership lies in the provisions under Bangladesh's Income Tax Ordinance 1984 whereby Section 163 declares information of tax payers (statements, returns, accounts, documents) as confidential. Whilst this secrecy provision may be lifted by Court Order, this is only in relation to where there is a prosecution for an offence under the ITO 1984, the Penal Code 1860 and the Foreign Exchange Regulation Act 1947, this has the potential to hinder the access of tax payer information which may be related to legal arrangements which may be pertinent during the inquiry or investigations stage.

450. LEAs in Bangladesh generally note that trusts are a complicated area and there is a lack of awareness of how they are formed and operate. As such, there is little focus on legal arrangements in investigations. The ACC has, however, reported that cases have been filed involving trusts but did not provide details concerning them as they were under investigation.

Effectiveness, proportionality and dissuasiveness of sanctions

451. The penalties offered under the Companies Act are not dissuasive and should be enhanced. Sanctions under the CA 1994 are rarely imposed by RJSC, despite widespread non-compliance with filing obligations. The reason cited for this is because Bangladesh suffers from a prosecution system with huge delays. The RJSC lacks power to impose any administrative fines or punishments for breaches. RJSC noted a huge "backlog" of legal persons that have not been sanctioned for non-compliance or breaches of the CA 1994.

452. The RJSC indicates that only about 40,000 companies submit annual returns as stipulated by the law. According to the RJSC's conservative estimate, about 70% of registered entities do not file any annual returns. The RJSC practices a system of notification where they issue notices to registered entities if they do not submit returns for a long period. No information was provided by the RJSC as to what constitutes a long period. RJSC issues fewer than 2500 notices per annum, and less in some years. RJSC has also cancelled the registration of approximately 40 companies per year where wrong information had been provided and all have been private companies.

453. The weakness of sanctioning regimes for legal persons and arrangements increases the potential for its abuse and misuse for ML and TF purposes. Registries and authorities registering trust deeds lack enforcement roles for legal arrangements.

Overall conclusion on Immediate Outcome 5

454. Bangladesh has a low level of effectiveness for Immediate Outcome 5.

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

455. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The recommendations relevant for the assessment of effectiveness under this section are R. 36-40.

Key findings

Bangladesh's legal framework caters for efficient international cooperation proceedings. Bangladesh has given high priority to responding to international cooperation requests and approaches such cooperation in a flexible and open manner. Cooperation with regional neighbours does not sufficiently reflect the risk profile. Recent improvements in cooperation with India are noted.

Bangladesh lacks a policy focus on pursuing international cooperation to tackle trans-national elements of ML, TF and predicate offences. Evidence of formal international cooperation indicates only 17 incoming and 13 outgoing MLA requests over the last five years, with Bangladesh extraditing two persons and making five extradition requests in the last five years. Bangladesh has a number of strong successes with international cooperation on asset recovery. Its efforts to seek international assistance do not reflect the serious risks it faces for ML, predicate offences and TF.

The effectiveness of Bangladesh's formal international cooperation framework is hampered by a lack of clear procedures or guidelines for managing MLA and no system of case management of MLA. The presence of two central authorities increases the potential for requests to be delayed. The AGO, as busiest central authority for MLA, remains under-resourced.

BFIU is well versed in making and responding to international requests for intelligence and supervisory information and is the agency often relied on to pursue international cooperation in ML/TF matters. This reflects the strengths and capabilities of the BFIU. LEAs do not appear to be sufficiently proactive in seeking international cooperation, and international cooperation between supervisory authorities other than BFIU remains limited.

Recommended Actions

- LEAs should prioritise international requests for cooperation from foreign jurisdictions (at enquiry and investigation stages) in keeping with the country's risk profile.
 - Prepare LEA manuals and guidelines on international cooperation
- Designate a Central Authority to coordinate MLA requests and establish clear mechanisms for the prioritization of MLA requests and case management.
- Develop procedures and mechanisms to coordinate and implement the dual central authority functions (and MFA's role with letters rogatory) to ensure seamless requests and responses and the coordinated management of MLA.
- Prepare MLA guidelines for foreign jurisdictions to support their requests to Bangladesh, including options for contact under two central authorities for MLA.
- Provide the AGO with sufficient resources to better facilitate MLA requests.
 - Consider joining Asset Recovery Interagency Network-Asia Pacific (ARIN-AP) to further support the good work on asset recovery
- Prioritise international cooperation between AML/CFT supervisors, including market entry fit and proper, information on risk, supervisory outcomes, and beneficial ownership information.

- Improve statistic collection to better monitor the conduct of international cooperation.
- Consider mechanisms for simplified extradition with neighbouring countries.
- Clarify MLPA 2015 gaps on non-conviction based forfeiture - when a person has absconded or died as well as cases where and has been acquitted and in relation to predicate offences.

Immediate Outcome 2 (International Cooperation)

Background and context

456. Bangladesh has the requisite legal framework for MLA with the enactment of the Mutual Legal Assistance in Criminal Matters Act 2012 and the 2013 Rules. Bangladesh has a formal MLA agreement with India (2010) and two extradition treaties with foreign partners. Bangladesh's legislation allows it to render assistance without any recourse to a treaty and a significant majority of assistance rendered by Bangladesh is absent a formal bilateral treaty through instruments such as the UNCAC and the Commonwealth "Harare Scheme".

457. The AGO has designated an MLA Unit since 2008. All of the officers in the unit have many additional duties in addition to MLA functions. The political wing of MHA is responsible for coordinating requests for extradition. All staff have additional duties in addition to extradition functions.

Providing constructive and timely MLA and extradition

458. Bangladesh approaches international cooperation in a flexible and responsive manner, and has shown the willingness and ability to respond to international requests, even in instances where legal provisions were not wholly present to effect such requests. Bangladesh has shown a willingness to extradite, even in cases of Bangladeshi nationals.

459. Bangladesh has designated two central authorities for MLA, namely the AGO (designated under the UNCAC) and the MHA. In practice, even though two central authorities are designated, the AGO largely deals with MLA requests and extradition is largely dealt with by the MHA. The Ministry of Foreign Affairs (UN Wing) also has a role transmitting incoming letters rogatory to the various Central Authorities.

460. Gaps with people smuggling, insider trading and the bribery of foreign officials as predicate offences to ML are the only technical deficiencies in the legal framework and undermine Bangladesh's ability to provide international cooperation in the widest range of cases of ML and predicate offences. Dual criminality has not generally impeded Bangladesh from providing assistance.

461. From 2010 to 2014, Bangladesh's AGO reported receiving 17 requests for MLA. Bangladesh responded based on reciprocity and through multilateral instruments such as the UNCAC. Of these 17 MLA requests 10 related to corruption offences and 7 involved other predicate offences including cybercrime. Bangladesh reported that the 10 MLA requests pertaining to corruption did not involve seeking assistance on financial aspects of corruption. Meanwhile, the Ministry of Home Affairs reported receiving 21 MLA requests in the form of letters rogatory from India and have responded to 20 requests with one matter still pending. Bangladesh has received 38 MLA requests in total.

462. There are some failings in the processes to ensure that Bangladesh responds in a timely manner and a number of outstanding MLA requests appear to have been 'lost' in the system. There were a

number of anomalies with acquitting MLA requests, which reflect at least poor case management and weak collection of performance data to track MLA and perhaps more significant challenges.

463. There do not appear to be any clear mechanisms in either central authority to prioritize urgent MLA requests, including standing instructions or guidelines to delineate the division of duties between the two central authorities. Bangladesh lacks an MLA case management system to prioritize management of MLA requests within or between agencies. Both central authorities state indicated that the MLA Rules 2013 and Internal Office Procedures governed by the Rules of Business and Secretariat Instructions form the basis of Bangladesh's handling of MLA and extradition requests. While these point towards a work flow of transmission of correspondence and documentation between government departments, they do not specifically pertain to international cooperation matters. There are also no guidelines for countries making MLA requests to Bangladesh.

464. The lack of guidance to requesting states and the possibility of three channels of receipt of MLA requests (diplomatic + two central authorities) have, in practice, been shown to undermine timely responses by Bangladesh. In one case involving requests through diplomatic channels one of the central authorities was not informed of an MLA request which was directed to the other central authority until followed by the requesting jurisdiction. Although this request was ultimately dealt with successfully, it demonstrates that miscommunication can occur and requests may be misplaced, and illustrates the need for written guidance and procedures for the handling of MLA requests between the two central authorities. Whilst the MHA has had few dealings with MLA requests after the enactment of Bangladesh's new legislation pertaining to MLA, it is evident that the potential for confusion exists.

465. Out of 17 requests processed by the AGO, four relate to taking of evidence and witness statements, three pertain to the service of judicial documents and two involve the recovery of property. Bangladesh was also able to provide assistance in terms of video link testimony to a foreign country in one instance. Bangladesh authorities were however not able to elaborate on the nature of the assistance requested in the other eight matters. This would indicate that Bangladesh's statistical collection for MLA is inadequate.

Case study: Niko Resources

In 2009, Bangladesh authorities acceded to a request by the Government of Canada for witnesses to provide evidence via video link in a case involving Niko Resources ("Niko"), a Calgary based oil and gas company, bribing a Bangladeshi Minister through its partner company in Bangladesh, the state-owned gas company, BAPEX. The said Minister was in charge of assessing the compensation Niko should pay to villagers following a 2005 explosion in a rural village which led to drinking water contamination and other damage.

Niko had pleaded guilty during a trial in Canada and was fined CND 9.5 million. Bangladesh provided assistance through digital deposition by the former Minister of Foreign Affairs and Energy Advisor who was serving a prison sentence.

466. Authorities in Bangladesh indicate that they encounter few problems in responding to requests from foreign countries and are able to respond to all requests, but this has not been consistently demonstrated. The AGO notes that some problems are faced when requests are unclear as to the offences which have been committed in the foreign countries, however the AGO was able to demonstrate instances of taking a proactive approach to clarify and provide feedback to the requesting jurisdiction to improve the request. Bangladesh authorities aim to acknowledge receipt

of requests in a short time frame. The AGO indicates that on average most requests take about 2-3 months to complete. The AGO indicates that delays may occur due to the need to collect evidence.

467. The involvement of a special advisor from the PMO in a coordination role in cases involving international cooperation in returning stolen assets has added considerably to positive outcomes in a number of cases involving proceeds of corruption.

468. In practice, the AGO reports a good working relationship with enforcement authorities in the execution of MLA requests received, and this is demonstrated, to some extent, in the cases shared by Bangladesh. All Bangladesh LEAs have designated contact points to work with the AGO on MLA requests.

Case study: Enforcement of foreign asset recovery orders following fraud on Hajj monies

In 2008, London Metropolitan Police (LMP) charged the owner of a travel agency, Mr Mohammed Faruk Ahmed who had falsely claimed to be an authorised agent approved by the Ministry of Hajj of Saudi Arabia, to organize trips to the annual Hajj Pilgrimage. Mr Faruk fraudulently obtained GBP 570,000 from 300 victims and spent part of the cash in casinos and bookmakers and transferred about GBP 250,000 pounds to Bangladesh. In March 2009, Faruk pleaded guilty to charges of fraud and ML and was sentenced to six years imprisonment. GBP 250,000 pounds was frozen by Court Order.

Bangladesh received an MLA request from the UK and was able to recognise the UK Court Order to confiscate funds held in bank accounts in Bangladesh and return monies to the UK.

469. Even with the relatively few MLA requests received, the AGO is under-staffed to support MLA processes. The AGO is also responsible for *ex-parte* applications to court for various forms of assistance requested such as search warrants and production orders. The AGO staff dealing with MLA also have full time responsibilities to appear in court for prosecutions and appeals. Whilst the AGO appears to be coping with the current level of requests made to Bangladesh, there would not be sufficient resources if Bangladesh was to make even a fraction of the MLA requests that may be needed to address the identified risks or if the numbers of requests received were to increase.

470. Bangladesh has extradited two fugitives in the last five years. These extradition requests involved other predicate offences aside from ML and TF and both requests to Bangladesh were made by one jurisdiction. MHA indicated that the shortest timeframe for extradition was about 4 months with the longest extradition process taking about 7-8 years.

Seeking timely legal assistance to pursue domestic ML, associated predicate and TF cases with trans-national elements

471. As of the time of the onsite visit, Bangladesh had made 16 outgoing requests for MLA since 2008, with the majority relating to ML, corruption (10) made by the ACC and the rest for other predicate offences. None of the requests appear to relate to drugs, tax, gold smuggling, capital flight or human trafficking. No MLA requests have been made by Bangladesh for TF matters. Bangladesh authorities report and acknowledge the trans-national crime risk in relation to their proximity to certain neighbouring and regional jurisdictions such as Myanmar (drugs and human trafficking), India (gold smuggling), United Arab Emirates (gold smuggling), Malaysia and Thailand (tax evasion

and human trafficking) but have not made any MLA or extradition requests pertaining to these crime types.

Case study: Bribery involving Arafat “Koko” Rahman

In December 2008, Siemens AG and three subsidiaries including Siemens Bangladesh pleaded guilty to violations of the US Foreign Corrupt Practices Act in connection with bribes paid in Bangladesh and Venezuela to win Government contracts. Investigations revealed that Siemens facilitated bribes by engaging local business consultants to launder bribes and pay off Bangladeshi Officials and family members.

Arafat “Koko” Rahman (the son of the former Prime Minister) was one of the officials paid off because it was deemed that his influence would result in Siemens potentially losing out on business opportunities. It is alleged that Koko and his brother received BDT 197 million (approx. US\$ 3 million) in bribes. Proceeds were laundered via bank accounts in Singapore and held by corporate vehicles incorporated in Singapore, ultimately owned by Koko. A Singaporean involved in setting up the companies and acting as the nominee director / shareholder pleaded guilty in the Singaporean Courts to two counts of failing to report STRs and was fined US \$ 12,000.

In 2009 US authorities initiated a court application to recover US\$ 3 million allegedly obtained by Koko from Siemens from a Singapore-based bank. Bangladesh made an MLA request to Singapore to freeze SGD2.3 million. On 7 April 2010, US Authorities obtained a civil forfeiture order for the assets by way of default judgement.

In order to enforce the US confiscation order, a joint MLA request was issued by the US and Bangladesh concerning monies held in the corporate accounts of a company (Zasz) owned by Koko. Koko and his brother Tariq were prosecuted in Bangladesh for ML. In June 2011, Koko and Tariq were convicted *in absentia* and sentenced to six years imprisonment and a confiscation order was passed for US \$ 2.53 million. In 2012 and 2013 Bangladesh secured S\$2.26 million which has been repatriated to Bangladesh.

472. There is no clear policy imperative to cooperate with foreign partners, including by making MLA requests, to follow the money in relation to trans-national crime, including ML and TF. There are failings in the LEA investigative processes and priorities to ensure that Bangladesh actively seeks MLA. The majority of the requests are made by the ACC and related to older matters, which is indicative of other LEAs agencies not fully utilizing the international cooperation mechanisms.

473. The case study provided in I07 and I08 above regarding the BASIC Bank scandal evidences the authorities’ lack of use of formal and informal channels despite large amounts of proceeds of crime being remitted from Bangladesh. In this matter the authorities were aware of a significant amount of monies being sent to Malaysia, but no formal requests for assistance had been made at the time of the on-site. BFIU had, however, sought and received cooperation from Malaysian counterparts in this matter and shared results with the relevant LEAs.

474. There are no manuals or agency-level procedures for LEAs to work with the AGO or MHA to make MLA requests to foreign partners for assistance in criminal matters at the enquiry or investigation stages. As noted above, the involvement of a special advisor from the PMO in a coordination role in cases involving requests for international cooperation in returning stolen assets added considerably to the positive outcomes in a number of cases involving proceeds of high level corruption cases, but these experiences have not yet translated into agency-level priorities or

regular practices of seeking MLA. In response to this, Bangladesh has stated that there are no challenges in sending MLA requests in their experience. However, the absence of any guidance on how to process MLA across the two central authorities, and the added need to coordinate with the MFA, raises concerns.

475. Out of the 16 requests made by Bangladesh, four related to the taking of evidence and witness statements, two related to the service of judicial documents, two related to recovery of property and one related to the request for attendance of persons for court matters in other countries. No detail was provided by Bangladesh authorities on the nature of assistance requested for the other requests.

476. The AGO has sent a significant number of officers for training on international cooperation matters, but insufficient resources are available within the AGO to raise awareness with LEAs on the laws and procedures available to facilitate international cooperation. Further education of LEAs concerning the importance of pursuing international cooperation at both enquiry and investigation stages and its interplay with AML/CFT issues should be undertaken.

477. For extradition, Bangladesh has made five outgoing requests for extradition in the last five years and have managed to secure two fugitives back from foreign jurisdictions. All cases relate to homicides and none of the requests relate to financial investigations. Bangladesh does not have simplified extradition mechanisms with any of its neighbouring countries.

478. Bangladesh should increase its use of its MLA and extradition systems to make international requests for information and evidence from other foreign jurisdictions in keeping with its risk profile.

Seeking and providing other forms of international cooperation for AML/CTF purposes

479. Bangladesh is a member of a number of multilateral and bilateral agreements and initiatives that support the international cooperation between competent authorities. These include the various South Asian Association of Regional Cooperation (SAARC) conventions and protocols, the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), and various international agreements and bilateral arrangements to combat aspects of trans-national crime. These provide a good basis to support continuing improvements in international cooperation which are evident in recent years.

FIU

480. Bangladesh demonstrated that the BFIU is well engaged in pursuing international cooperation. BFIU has a strong policy focus on pursuing international cooperation for AML/CFT and has resourced its activities to achieve strong outputs for international cooperation. In many cases, the BFIU is used to pursue international cooperation on behalf of other competent authorities. BFIU has been particularly diligent in using the Egmont Group to obtain information. Prior to achieving Egmont Group membership in June 2013, BFIU was already active in making international cooperation requests to other foreign FIUs.

481. BFIU has adequate staff to deal with international requests as well as having a dedicated case management system to respond to and monitor requests. BFIU has a system to prioritize requests and to issue periodic reminders to foreign FIU concerning pending requests. In terms of responding to foreign requests, the FIU normally disseminates the requested information within 30 days.

482. BFIU has made 114 requests to foreign partners since 2010. The majority of such requests pertain to corruption matters (64), ML, fraud and forgery. None of these requests were in relation to

proceeds of foreign offences and no requests were made on TF issues. Out of the 114 requests, five were generated following BFIU's internal analysis whereas the majority was in response to requests by LEAs.

483. Conversely, the BFIU has received 59 requests from foreign FIUs since 2010. The types of offences of which information is requested for include corruption, ML, TF, drug trafficking, human trafficking, gambling, embezzlement and tax and customs duties evasion. BFIU reports that feedback from the countries that request for such information is that the information provided by Bangladesh was beneficial for their analysis and investigations.

484. Feedback from foreign FIUs indicates that the level of cooperation with BFIU appears satisfactory. A criticism is noted that there have been occasions where some requests by BFIU appear to lack the necessary background information for foreign FIUs to be able to respond effectively. A concern was also raised regarding publication of intelligence information, which is also the case with LEAs.

485. Bangladesh has an active approach to formalizing information exchange and international cooperation. BFIU has signed 35 MOU with foreign FIUs since 2007.

486. Overall, BFIU appears to be cooperating effectively with its foreign counterparts. However, given the nature of Bangladesh's risk profile, BFIU can do more to support increased levels of cooperation with those jurisdictions which share the greatest risks. Bilaterally, BFIU should focus on more targeted work to overcome the lack of cooperation with key foreign counterparts that Bangladesh has identified as carrying particular risks e.g. UAE and India for gold smuggling, Myanmar for drugs and human trafficking, Thailand and Malaysia for capital flight, tax evasion and human trafficking.

Law Enforcement Agencies

487. Bangladesh LEAs have had a relatively limited focus on pursuing information or evidence internationally. This also reflects a lack of priority to financial investigations, including those involving foreign intelligence or evidence. Bangladesh has sought to deepen cooperation with other LEAs in the region, but the frequency and intensity of international cooperation does not reflect the risk profile.

488. There also appears to be an over-reliance on informal mechanisms such as the use of INTERPOL and seeking assistance from the BFIU which, while resulting in some beneficial results, is not always a substitute for formal cooperation.

489. Statistics on international cooperation are not well kept by LEAs and do not assist the government to monitor the trends and success of Bangladesh international cooperation to allow it to improve effectiveness.

490. The ACC has made the most international requests to foreign partners on asset tracing and financial investigations / prosecutions. The ACC has had a number of notable successful outcomes from its international cooperation efforts, however these have mostly related to matters which were initiated a number of years ago. Statistics show less international cooperation by the ACC in recent years, which is not consistent with Bangladesh's risk profile. No information was provided by the ACC concerning cooperation with other regional or international anti-corruption authorities or any bilateral agreements to that effect.

491. There is less international cooperation by the Police (CID, DNC and DMP) than the ACC, despite the very wide range of offences under their purview. Whilst the CID for example reports using the INTERPOL I-24/7 to exchange information and reports large numbers of correspondence, there is little information concerning how many requests have been made by Bangladesh or how many have been dealt with successfully. The CID was able to provide information that nine such exchanges involved human trafficking investigations, though no qualitative information was provided on the results of these requests.

492. LEAs and security intelligence agencies cooperate with foreign partners on CT and CFT matters, but more emphasis could be given to these bilateral engagements.

493. The DNC has not sufficiently pursued international cooperation, including on financial matters, in relation to drug related crimes.

494. Some positive developments are observed in the area of border enforcement by Customs and the BGB in terms of outreach and coordination with India on operational matters. Despite this positive development, formal information requests still appear to be lacking. Customs has also participated in operations held under the auspices of the WCO and utilizes RILO for its investigation purposes. Given the identification of threats such as gold, currency and contraband smuggling that commonly occur at Bangladesh's border, Customs should deepen cooperation with foreign counterparts to combat identified trans-national crime threats.

495. The NBR (tax) is active in establishing Double Taxation Avoidance Agreements (DTAA) and has signed 32 such agreements with 12 more agreements to be completed in the near future. Despite the existence of such agreements, the NBR has not used such agreements in any AML/CFT matters.

496. Bangladesh should strongly consider joining the ARIN-AP to improve networking between Bangladesh law enforcement authorities and other regional counterparts and facilitate improved cooperation. This would build on the strong asset recovery work Bangladesh has pursued.

Regulators & Supervisors

497. Bangladesh does not sufficiently seek cooperation from foreign counterparts to check information related to market entry fit and proper and sharing information on risk and supervisory outcomes. This is needed to address ML risks from beneficial ownership of non-resident Bangladeshis.

498. As foreign ownership and control of ROs does not feature heavily in Bangladesh, there has been limited cooperation between regulators and foreign counterparts. Authorities were only able to cite one example of a request for information from Bangladesh to a foreign jurisdiction concerning possible illegal fund transfers of a company in 2012. Bangladesh authorities did not report the outcome of the request.

499. BFIU and other regulators rely on their foreign embassies to collect information from foreign counterparts, including fit and proper information. BFIU uses the Egmont Secure Web to seek information from foreign counterparts on supervisory issues from foreign counterparts.

500. It is not clear that the NGOAB has sought information from foreign counterparts on the funding, control or activities of NGOs registered in Bangladesh.

International exchange of basic and beneficial ownership information of legal persons and arrangements

501. Bangladesh has some experience of exchanging basic information of legal persons through FIU to FIU requests. This information is obtained from the ROs collecting information as part of conducting CDD.

502. Neither BSEC nor the RJSC has received or made any requests for information concerning basic or beneficial ownership information of legal persons. The lack of verification and supervision conducted by the RJSC and the Sub Registrars Offices on beneficial ownership and legal arrangements has the potential to hinder Bangladesh's ability to provide any timely and useful international assistance concerning corporate vehicles being used for ML and TF purposes.

Overall conclusion on Immediate Outcome 2

503. Bangladesh has 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. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2009. This report is available from www.apgml.org.

NATIONAL AML/CFT POLICIES AND COORDINATION

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

2. Recommendation 1 is a new recommendation.

3. *Criterion 1.1* - Bangladesh first national risk assessment (NRA) was undertaken in 2011 and was shared with the government but not with the private sector. The 2011 NRA was prepared by the ACC in cooperation with the BFIU and Police using methodology based, in part, on the APG SIP framework. The 2011 NRA covered ML and TF risks and considered related statistics from the period 2001-2010. The 2011 NRA included few stakeholders, only limited data and analysis on threats facing Bangladesh and relied on a relatively narrow range of prosecutions for predicate offences, ML and TF. The 2011 NRA provided relatively detailed analysis of vulnerabilities arising from statutory, institutional and capacity gaps. The 2011 NRA provided a basis for policies to address a number of legal and institutional gaps, but not a clear basis for guiding priorities of AML/CFT resource allocation and activities to address the key threats facing Bangladesh. A revised NRA was prepared in 2014 - 2015 adopting an expanded methodology and engaging a wider set of stakeholders, including the private sector. The 2015 NRA's methodology was more robust and a greater range and depth of legal / institutional vulnerabilities were identified. Overall the 2015 NRA showed some weaknesses with the identification and analysis of threats, including trans-national ML threats. TF risks were not substantially identified and analysed in the NRA.

4. The NRA reasonably identifies key risk areas, however the information included is generally at a very high level. Sectoral vulnerabilities arising from the threats were not well analysed. The 2015 NRA included a large number of recommendations to government for addressing the legal and institutional vulnerabilities, which provided a good basis for setting statutory and capacity building priorities in the Strategic Plan. The relatively light analysis of threats detracts from the utility of the 2015 NRA for priority policy setting.

5. The 2015 NRA identified key threats from corruption, fraud, forgery, smuggling of drugs and gold, human trafficking. It also discussed a geographic risk analysis for areas most vulnerable for illegal trade, smuggling of drugs, human trafficking followed by sea and land ports for trade based ML through false declarations, under-invoicing, over-invoicing (forgery through letters of credit). The NRA includes few details of these threat areas. The lack of detail on ML risks, in particular from corruption, fraud, state-owned commercial banks and securities sectors, is a major weakness.

6. Terrorism threats and associated TF risks were lightly covered in the public NRA, but were assessed through inter-agency processes coordinated in the Cabinet Division and involving a wide range of LEA and security intelligence agencies. Bangladesh did not provide sufficient details to

understand the scope and topics of TF-related assessments by the Cabinet Division Task Force, but interviews with LEAs and intelligence agencies highlights their understanding of the dynamics of TF risks facing Bangladesh. Findings of these TF-related assessments have not been shared with the private sector.

7. In addition to the NRA, Bangladesh has carried out a number of sectorial risk assessments. This includes an assessment of the banking, insurance, securities, real estate sector and NBFIs sectors. Bangladesh was in the process of conducting a DNFBP sectoral assessment at the time of the on-site visit.

8. Bangladesh has also prepared a number of studies and reports at the sector and entity level which assess some aspects of ML and TF threats, vulnerabilities and consequences and which have contributed to the broader NRAs. The NGO sector review in 2008 and 2015 provided a detailed review of the NPO sector including some inherent TF risks. Assessments of risk have also been carried out with the assistance of Austrac in relation to the insurance sector in 2014 and the capital markets sector of Bangladesh in 2013. A UN Convention against Corruption (UNCAC) Gap analysis was undertaken in 2008 and an UNCAC Peer Group Review in 2011. The MHA publishes an annual report on human trafficking and the DNC publishes an annual trend report on drug smuggling. The BFIU also publishes annual report which encompasses AML/CFT issues. BFIU has produced strategic analysis reports on alternative remittance services and drug trafficking.

9. *Criterion 1.2* - A seven member inter-agency NRA Core Committee was formed in 2013 comprising of officials from the ACC, BFIU and CID to assess ML and TF risks headed by the Director General of ACC. A permanent office was set up in the ACC for this purpose.

10. In relation to TF risk, the National Committee on Combating Terrorism and Financing of Terrorism plays a role in supporting the assessment of TF risk by issuing directions to agencies to investigate identified higher risk areas and report back to the Committee.

11. *Criterion 1.3* - Bangladesh has a policy to update the NRA every two years. The first NRA was drafted in 2011 and the second NRA in 2015 so it appears in practice that the NRA's are in fact updated every 3 – 4 years. The Cabinet Division task force pursues ongoing work to update CT and CFT assessments.

12. *Criterion 1.4* - The NRA was adopted by the NCC by October 2015. The results of the risk assessment were provided to all relevant government stakeholders, with a sanitised version of the NRA provided to non-government stakeholders at that time. Confidential parts of the report are also shared with relevant competent authorities and key findings for particular sectors shared with those sectors.

Risk Mitigation

13. *Criterion 1.5* - Bangladesh reports that the findings of the NRA are the primary basis for the formulation of the National AML/CFT Strategy. The National AML & CFT Strategy Paper 2011 – 2013 pre-dated the 2011 NRA but included most of the recommendations to address vulnerabilities identified in the 2011 NRA. The 2015 Strategy Paper aims to incorporate the findings of the 2011 NRA and the preliminary findings of the NRA through the process conducted in 2014. The 2015 Strategy reflects the vulnerabilities (especially the legal and institutional weaknesses) identified in the NRA and range of measures to address statutory and institutional gaps, but does not use findings of risk to guide policies that apply a risk-based approach to allocating resources and prioritising activities to address the identified threats. Some steps have been taken in line with findings of

risk. With the passage of the amendment to the MLPA in 2015 providing LEAs with the power to investigate ML, those agencies have developed separate AML wings to deal with the ML cases, Further, BFIU has arranged for assistance from the World Bank in relation to supervision of the DNFBP sector on the basis of the identified higher risk that they pose.

14. *Criterion 1.6* - In keeping with the findings of the NRA, Bangladesh has applied reduced CDD obligations in limited circumstances for micro credit institutions regulated by the MRA. This is done through Master Circular on NPOs/NGOs, but does not exempt those FIs from compliance requirements.

Supervision and Monitoring of Risk

15. *Criterion 1.7* - The NRA identified corruption, fraud, forgery, smuggling of drugs and gold, human trafficking as being key risks. It also discussed a geographic risk analysis for areas most vulnerable for illegal trade, smuggling of drugs, human trafficking followed by sea and land ports for trade based ML through false declarations, under-invoicing, over-invoicing (forgery through letters of credit).

16. The NRA identified banks and NBFIs as the sectors that face the highest threats in terms of ML/TF risks but noted that minimal supervision and low implementation of due diligence practices have made DNFB sectors the most vulnerable to ML/TF risks. The highest threats for the securities market & intermediaries were from corruption, insider trading and corporate tax evasion while share trading, margin lending and underwriting services were identified as the most vulnerable products to ML. For the insurance sector, over payment of premiums and an early surrender of contracts for life insurance was identified as being vulnerable to ML. Collusion between agents and intermediaries and other individuals and staff within insurance companies was identified as one of the main threats; fraud in the form of bogus claims is another in the Insurance sector.

17. Bangladesh advised that it has shared these identified risks with FIs and DNFBPs who must incorporate these risks into their own assessments and take enhanced measures to identify and mitigate the risks however the extent of how this has been done is unclear. This is particularly the case for the significant risks faced by state-owned commercial banks and the securities sector.

18. Bangladesh has taken very few steps with the private sector to combat the major identified risks such as smuggling of drugs and gold or human trafficking.

Exemptions

19. *Criterion 1.8* - Bangladesh has not allowed simplified measures for any FIs or DNFBPs to take certain actions in cases of an identified lower risk. Bangladesh has required all banks to prepare a risk assessment to the BFIU, which intends to issue ML and TF risk management guidelines. However this has not yet occurred. The Master Circulars to all FIs and DNFBPs do not contain any details of suggested simplified measures.

20. *Criterion 1.9* - Bangladesh has implemented via legislation (r. 15(g) and 16(c) of the MLPR) a requirement that regulatory authorities and self-regulatory bodies circulate, instruct and motivate their reporting agencies to implement instructions issued by the BFIU. However BFIU supervision of FIs on a risk-based approach is limited to banks.

Obligations and Decisions for Financial Institutions and DNFBPs

Risk Assessment

21. *Criterion 1.10* - Rule 21 of MLPR requires all FIs to conduct periodic risk assessments on ML&TF and send it to BFIU for vetting. The Master Circular issued to banks (28 December 2014) and to DNFBP's on 9 July 2015 and Securities sector in October 2015 do require ROs to conduct assessments (DNFBPs) or self-assessments (banks) both of which need to be sent to the BFIU. Whilst they vary in scope, they generally fall within the requirements of R1.10. However, they do not require banks or DNFBPs to consider the relevant risk factors before determining the level of overall risk and type of mitigation to be applied. They do not suggest that any measures in mitigation of low level risks should be applied.

22. The BFIU has advised that it will share the risks identified in the NRA with FIs and DNFBPs who must incorporate these risks into their own assessments and take enhanced measures to identify and mitigate the risks.

Risk Mitigation

23. *Criterion 1.11* - The Bangladesh Bank has issued master circulars pursuant to s.23(1)(d) of the MLPA and s.15(1)(d) of the ATA. Those sections allow the Bangladesh Bank to issue directions to the ROs necessary for the prevention of ML and TF. A master circular was issued to the DNFBP sector on 9 July 2015, the banks on 28 December 2014 and to the NBFIs on 29 June 2015 and securities sector on 19 October 2015. The master circular issued to the banks requires them to have a procedure approved by the board of directors for the detection and prevention of the financing of terrorism and proliferation. They are required to have clear policies in place to adequately respond to international standards, laws, rules and regulations in Bangladesh. The BFIU Circular dated 9 July 2015 for DNFBPs requires them to have policies and procedures relating to the prevention of ML and TF along with programmes that have regard to the risks and size of their business. The circular enforces a risk-based approach be taken to the identification and mitigation of risk.

24. *Criterion 1.12* - Bangladesh has not allowed for any simplified measures to be taken by FIs and DNFBPs.

Weighting and Conclusion

25. The NRAs in 2011 and 2015 demonstrate an increasingly sophisticated approach in Bangladesh to identifying and assessing risk and providing a basis for risk-based approaches to mitigate the risks. While the assessments of risk undertaken show a number of strengths in identifying priority gaps in statutory and institutional arrangements, there are gaps in identifying and analysing the threats facing Bangladesh (the actors, the crime types, the source and destination of funds). Particular weight is given to the quite general analysis of key threats in the NRA and the major ML risks posed by state-owned commercial banks are not considered in detail. The joint agency assessment of TF risks is a strength, but the fact that these findings are not shared with the private sector detracts from the process.

Bangladesh is rated partially compliant with R.1.

Recommendation 2 - National cooperation and coordination

26. In the 2009 MER, Bangladesh was rated partially compliant with former R.31. Deficiencies noted were that the ACC, the sole ML investigation agency, was not included in coordination mechanisms, there was a lack of effective coordination to implement key CFT provisions and there

was a lack of coordination to support the inclusion of key agencies in AML controls. R.2 contains new requirements for co-operation and co-ordination in financing WMD proliferation.

27. *Criterion 2.1* - Bangladesh had a national AML/CFT Strategy for 2011-2013 and in April 2015 the National Coordination Committee (NCC) approved a national AML/CFT strategy for 2015-2017. The focus of the 2015 national strategy correlates, to a large extent, with the findings of the NRA, particular in its focus on addressing statutory and institutional vulnerabilities. The relative weakness in the NRA on assessing threats is reflected in fewer measures in the strategy on prioritising operational responses to the threats facing Bangladesh. While Bangladesh does not have a stand-alone CT or CFT policy document, a number of inter-related strategies and clear policy settings work to implement the 'zero tolerance' policy including through measures to address TF risks.

28. *Criterion 2.2* - Bangladesh has designated the Bank and Financial Institution Division (BFID) in the MOF to be responsible for developing and coordinating AML/CFT policies. The NCC on AML & CFT sits within the MOF. The Finance Minister is the convener of the NCC and it is primarily responsible for formulating and implementing AML/CFT policies including responsibility for the NRA. A working group assists the NCC comprising of officials from 19 Ministries / LEAs/ Supervisors/ SROs / registering & licensing authorities. The NCC was established in 2010 and is responsible for monitoring the implementation of national AML/CFT strategies.

29. There are a number of additional coordination structures relevant to CFT. The Taskforce for Combating Financing of Terrorism is headed by the Minister of Industries and includes representatives from concerned ministries and various LEAs. There is a security intelligence coordination structure under the PMO between intelligence agencies including SB. The other two security intelligence agencies, NSI (which focuses on foreign intelligence) and DGFI which are coordinated under the PMO.

30. *Criterion 2.3* - The NCC serves as the mechanism for policy makers to coordinate domestically. At the operational level, a Working Committee was established in 2010 and comprises of 23 government agencies. The purpose of the Working Committee is to implement national AML/CFT policies. Each of the 23 relevant authorities has a designated Primary Contact Point for the purpose of coordination, as required by r.5 of the MLPR. In addition, Bangladesh has other mechanisms in place, such as a central and seven regional task forces to enhance cooperation and coordination related to ML.

31. *Criterion 2.4* - The National Committee on the Implementation of the UNSCRs on Combating Terrorism and TF is mandated to monitor the implementation of the provisions of UNSCRs relating to CFT and proliferation of WMD. The Committee is headed by the Foreign Secretary, Ministry of Foreign Affairs and comprises the MOHA, MOF, the MLJPA and BFIU.

32. The ATR require each Ministry to appoint a high level focal point and contact points. The focal points must ensure that the primary contact points are aware of the requirements of the rules. When individuals or entities are designated, the focal points are to circulate the details of the designation to the contact points who must take the necessary actions.

Weighting and Conclusion

33. Weaknesses with national policies prioritising key risk areas such as state-owned commercial banks, securities sector are given particular weight.

Bangladesh is rated largely compliant with R. 2.

Recommendation 3 - Money laundering offence

34. Bangladesh was rated partially compliant with former R.1 and R.2. The 2009 report found that there were significant gaps in the coverage of the ML offence applying to all relevant predicate offences.

35. Since its 2009 MER, Bangladesh has amended its ML offence to apply to all identified designated categories of offences. Section 4 of the MLPA also includes tax crimes (related to direct and indirect taxes) and smuggling in relation to customs and excise duties and taxes as designated categories of offences for ML which meets the new requirements under the 2013 Methodology.

36. *Criterion 3.1* - The definition of money laundering under section 2 of the MLPA incorporates the requirements of the Vienna and Palermo Conventions.

37. *Criterion 3.2* - Section 2(cc) of the MLPA includes all the designated categories of predicate offences for ML, however certain conduct in relation to the smuggling of migrants, insider trading and corruption is not criminalised. Whilst s.2(cc) does include the offence of 'attempting to obtain money or valuable goods giving someone false assurances of employment abroad' the team considers this definition significantly narrows the range of conduct thereby not covering all forms of smuggling of persons. The team also holds concerns with respect to the definition of insider trading and market manipulation. Section (2)(cc)(25) may limit the circumstances in which a person can be charged with market manipulation. Bribery of foreign officials (outside Bangladesh) and private sector corruption (so called secret commissions) are not covered. These gaps are given particular weight, noting the risks and context in Bangladesh.

38. *Criterion 3.3* - Bangladesh applies a list based approach to cover all relevant predicate offences to ML and not a threshold approach.

39. *Criterion 3.4* - Under section 2 of the MLPA, the ML offence extends to any type of property that directly or indirectly represents the proceeds of crime. 'Proceeds of crime' is defined as any property obtained or derived, directly or indirectly, from a predicate offence or any such property retained or controlled by anybody. Property is defined as including tangible, intangible, moveable and immovable property as well as cash and any legal deeds or instruments both in written and electronic format showing title to, or interest in property.

40. *Criterion 3.5* - Section 4 of the MLPA states that proving that property is the proceeds of crime is not dependent on a person being convicted of a predicate offence.

41. *Criterion 3.6* - Section 3 of the Penal Code, 1860 sets out that any person liable, by any Bangladesh Law, to be tried for an offence committed beyond Bangladesh shall be dealt with according to the provisions of this Code in the same manner as if such act had been committed within Bangladesh.

42. *Criterion 3.7* - Under section 2 of the MLPA the ML offence can be committed under many circumstances including knowingly moving, converting or transferring proceeds of crime or property involved in an offence for the purpose of concealing or disguising the illicit nature, source, location, ownership or control of the proceeds of crime. It may also include performing such activities so the illegal source of the proceeds of crime may be concealed or disguised.

43. *Criterion 3.8* - The Evidence Act 1872 sets out the objective factual circumstances that may be taken into account when inferring intent and knowledge required to prove the commission of criminal offences.

44. *Criterion 3.9* - Section 4 of the MLPA sets out the penalty for natural persons. Under this section, depending on the seriousness and magnitude of the offence, a person may be sentenced to a term of imprisonment of four years to 12 years, and impose a fine equivalent to the twice of the value of the property involved in the offence or BDT 1 million (US\$ 13,000), whichever is greater. In addition this, the court may pass an order to forfeit the property of the convicted person in favour of the State that is directly or indirectly involved in, or related to, the ML offence or any of the designated predicate offences.

45. *Criterion 3.10* - Under s.4 of the MLPA, entities found guilty of a ML offence are liable to be punished with a fine of not less than twice of the value of the property or BDT 2 million (approx. US\$ 26,000), whichever is greater. The fine may not be dissuasive. In addition, the entity's registration may also be cancelled.

46. *Criterion 3.11* - Section 2 of the MLPA includes participating in, associating with, conspiring, attempting, abetting, instigating or counselling to commit a ML offence as a ML offence.

Weighting and Conclusion

47. While all categories of predicate offence are covered, some conduct is not criminalised for smuggling of migrants, insider trading and corruption (bribery of foreign officials and private sector corruption). These gaps are given particular weight, noting the risks and context in Bangladesh. In addition, the available monetary sanction is not sufficiently dissuasive.

Bangladesh is rated largely compliant with R.3.

Recommendation 4 - Confiscation and provisional measures

48. Bangladesh was rated partially compliant with former R.3. Bangladesh's 2009 MER report found that laws dealing with tracing, freezing and confiscation of ML and terrorist related funds did not provide comprehensive coverage. Since then, Bangladesh has amended its MLPA, ATA and related rules to address the deficiencies identified. The MLPA allows for non-conviction based confiscation of property in relation to a ML offence – this meets the new requirement under the 2013 methodology. The MLPA also provides protection for the rights of bona fide third parties.

49. *Criterion 4.1* - The MLPA provides for both conviction and non-conviction based confiscation of property directly or indirectly involved in ML. 'Property' under the Act includes tangible and intangible property, cash and all forms of deed and other written and electronic forms of documents. The MLPR enables (a) instrumentalities or proceeds from any instrumentalities used in or intended for use in ML and (b) proceeds of and used in or intended or allocated for use in the financing of terrorism, or (c) property of corresponding value, whether in or outside Bangladesh to be the subject of a s.17 MLPA order to confiscate.

50. The ATA provides a number of bases to confiscate terrorist property, which is widely defined in keeping with the FATF standards at s.2(14C). Section 34(2) provides for non-conviction based forfeiture of terrorist property. Section 35 of the ATA provides for conviction based confiscation of property that is derived from terrorist activities.

51. In relation to conviction-based confiscation, the MLPA enables confiscation in the event of an ML conviction (s.17(1)) or if a defendant absconds after a ML conviction (s.17(3)). Confiscation is available for property of corresponding value for both ML and predicate offences on conviction (s.17(5) and Rule 7 MLPR). Non-conviction based confiscation is available under section 17(2) of the MLPA during an enquiry or investigation for ML only. The evidentiary basis for such a confiscation is not further elaborated in the MLPA or MLPR.

52. The MLPA does not expressly provide for confiscation in the absence of a ML conviction, enquiry or investigation (except in the case of property of corresponding value). In such cases, Bangladesh relies on other statutes including the CCP, ACCA, the FERA and Customs Act for confiscation of property involved with predicate offences. These statutes enable confiscation of goods seized and are generally not reliant on a conviction for ML or a predicate. Confiscation for predicates may be triggered if a ML enquiry or investigation is also open. The framing of the confiscation provisions in the MLPA should be strengthened to give greater clarity to the options available for confiscation.

53. *Criterion 4.2* - The ACC has broad powers under sections 19 & 20 of the ACCA to investigate allegations of corruption which include issuing summons, seeking discovery, taking evidence, request public records and issue warrants. These powers relate to corruption and offences in the MLPA including ML through the operation of section 9(1) of the MLPA.

54. In relation to ML cases involving all other predicate offences, since October 2015 LEAs may use MLPA powers and powers contained in their respective legislation for tracing assets pursuant to ML and the associated predicate offences. The MLPA and the MLPR however, do not contain the specialised powers set out in the ACCA. A discussion of those powers is contained at R.31.

55. All LEAs investigating ML for predicate offences other than corruption, or investigating predicates themselves, rely on the BFIU for assistance with financial investigations. Under section 23 of the MLPA the BFIU has the power to analyse and review information related to STRs and CTRs and to collect additional information relating thereto and provide this information to the investigating agency or any LEA. They also have the wide power to obtain any necessary information or report from ROs. LEAs may ask the BFIU to provide them with information under s.23(2) MLPA. Section 23(7A) of the MLPA allows an investigation agency the power to obtain documents and information related to the customer of a bank or FI through an order of the court or the BFIU.

56. Certain powers of investigation such as summons to produce documents and search warrants are available to investigating authorities under the CCP.

57. Section 14 of the MLPA and rule 7 of the MLPR provide a mechanism to freeze or attach property, the effect of which is that the property may not in any way be transferred elsewhere and no transactions carried out with respect to the property whilst the order is in force. This power is echoed in the ACCR at section 18 allowing the ACC to freeze property where there are sufficient grounds to consider its acquisition is disproportionate to known sources of income. The BFIU also has the power to freeze or order the suspension or freezing of any transactions of an account for a maximum of 7 times by 30 days each when there are reasonable ground to suspect any offence (s. 23(1)(c) MLPA).

58. Bangladesh may freeze or attach property of corresponding value under section 14 of the MLPA. There is no mechanism in legislation to allow a Court to set aside any transaction or void actions that prejudice its ability to freeze or seize property subject to confiscation.

59. Overall, it is not clear if these provisions cover the full range of powers the ACC, BFIU and other LEAs would need to identify, trace and evaluate property subject to confiscation.

60. *Criterion 4.3* - The rights of bona fide parties are protected under the MLPA. Persons or entities who have a bona fide interest in property that is confiscated or frozen can apply to the court and different avenues are available to those individuals under sections 15, 16, 17, 18 & 19 of the MLPA.

61. *Criterion 4.4* - Under section 20 MLPA the Government may, with the permission of the Court, sell by auction or dispose in any other way, property that is confiscated under this Act. The proceeds of sale or disposal must be deposited into the treasury of the State.

62. The Court can also, upon application, appoint any authorised law enforcement agency as a manager or caretaker of confiscated property to take control, manage, look after or, in any other manner, deal with the total property or any part thereof under such terms and conditions as the court may deem fit (s.21 MLPA).

63. The Code of Criminal Procedure also sets out the Court's powers and processes related to making orders for the management and disposal of property that is seized, attached or frozen in relation to the commission of any criminal offence.

Weighting and conclusion

64. Bangladesh has legislative measures to enable their authorities to freeze, seize and prevent dealing with property subject to confiscation including an administrative power of the FIU to freeze bank accounts. There is no provision to allow authorities to take steps to prevent or void actions that prejudice their ability to freeze, seize or recover property subject to confiscation. Bangladesh could strengthen the position with respect to confiscation relating to predicate offences by giving greater clarity to the confiscation provisions contained in the MLPA.

Bangladesh is rated largely compliant with R.4.

Recommendation 5 - Terrorist financing offence

65. Bangladesh was rated partially compliant with former Special Recommendation II in 2009. Key deficiencies identified were that the scope of the offence did not cover terrorist acts threatening States other than Bangladesh, TF was not a predicate offence for ML, and there was a lack of clarity on the application of the offence to legal persons. Since its MER, Bangladesh has incorporated the requirements of R.5 through amendments to its ATA 2009 and MLPA 2012.

66. *Criterion 5.1* - Section 6 of the ATA defines and criminalises 'terrorist activities'. Section 6(1)(e) extends the definition to include the relevant conduct in all of the nine conventions contained in the Annex to the UN Terrorist Financing Convention. In addition, s.6 includes within its definition of terrorist activity, acts involving the use and possession of any explosive substance, inflammable substance and arms for the purposes of committing or intending to commit terrorist activities as defined under s.6(a)(i) –(iv).

67. *Criterion 5.2* - Section 7(1) and (2) of the ATA mirror the requirements of this criterion.

68. *Criterion 5.3* - Section 7(1) of ATA sets out that terrorism offences extend to any funds whether from a legitimate or illegitimate source.

69. *Criterion 5.4* - Section 7 (2) of the ATA states that a conviction for TF shall not depend on any requirement that the funds were actually used to carry out, or directed or attempted to carry out a terrorist act or be linked to a specific terrorist act.

70. *Criterion 5.5* - The Evidence Act 1872 sets out the objective factual circumstances that may be taken into account when inferring intent and knowledge required to prove the commission of criminal offences.

71. *Criterion 5.6* - Section 7(3) of the ATA extends liability to a natural person punishable by a term of imprisonment between 4 - 20 years, depending on the person's involvement and magnitude of the offence. In addition to imprisonment, the person may be fined the equivalent to twice the value of the property involved with the offence or BDT 1 million (approx. US\$ 13,000), whichever is greater.

72. *Criterion 5.7* - Corporate criminal liability for TF is not explicit, but is implied by reference to the available sanctions under section 7(4)(a) whereby a legal entity convicted for TF is liable a fine equivalent to thrice the value of the property involved with the offence or of BDT 5 million (approximately US\$ 65,000), whichever is greater. The entity is also liable to be enlisted as a terrorist entity in the schedule to the ATA. The available monetary penalty is not sufficiently dissuasive, particularly for sanctioning legal persons.

73. *Criterion 5.8* - Sections 11 and 12 of the ATA directly mirror the requirements under this criterion.

74. *Criterion 5.9* - TF is a designated predicate offence for ML under s.2 (cc) (21) of the MLPA 2012.

75. *Criterion 5.10* - Section 5 of the ATA sets out the extra-territorial application of the Act. It states that offences committed out of Bangladesh which, if committed in Bangladesh would have been punishable under the ATA, shall be deemed to have been committed in Bangladesh and the provisions of the ATA shall apply to the person or entity, and the offence. The section also states that where any person commits an offence in any foreign country and then takes shelter in Bangladesh, the provisions of the ATA will apply if the offence is one that is punishable under the ATA and the person cannot be extradited to a foreign State having jurisdiction over the said offence.

Weighting and conclusion

76. Bangladesh has criminalised TF in keeping with the FATF standards with the exception of the quantum of available monetary penalties for the TF offence for both natural and legal persons.

Bangladesh is rated largely compliant with R.5

Recommendation 6 - Targeted financial sanctions related to terrorism

77. Bangladesh was rated non-compliant with former Special Recommendation III in 2009 due to limitations in the scope of freezing powers and the lack of any sanctions for non-compliance. Since the last MER Bangladesh has amended the ATA and issued Rules to implement UNSCR 1267 and 1373. In parallel but prior to the ATA and Rules, Bangladesh issued S.R.O. 398 of 2012 (SRO 398) with amendments via S.R.O. 188 of 2013 pursuant to the UN Act (Security Council) 1948 to give

effect to 1267 and 1373. At the time of the on-site visit, the ATA regime and the UN Act SROs were both in force and are largely duplicative, however they are complementary in their operation.

Identifying and Designating

78. *Criterion 6.1* - The National Committee, constituted under SRO 398, is the competent authority under the ATA Rules to make proposals to the 1267/1989 and 1988 Committees. Rule 10 of the ATA Rules mirrors the requirements set out by the FATF in R 6.1 (b) - (e) for identifying targets and proposing designations to the UN.

79. *Criterion 6.2* - Section 17 of the ATA incorporates the criteria as designated under UNSCR 1373. Rule 7 of the ATR sets out a Proscription and Enlistment Committee, headed by the Secretary of the MHA, to designate persons or entities that meet the criteria for designation in UNSCR 1373. The responsibility of the National Committee to submit designations to the UN is echoed in paragraph 8 of the SRO. Rule 18 of the ATR sets out the process and time-frames for dealing with requests for designations by foreign countries. Rules 8 and 18 of the ATA require that decisions relating to designations, proscription and enlistment be made on an evidentiary basis of reasonable grounds. This has been demonstrated in practice with the most recent designation in 2015.

80. *Criterion 6.3* - Under section 20A of the ATA, Bangladesh has the power to operate ex parte against a person or entity identified and considered as a target for proposed designation. This has been demonstrated in practice with the most recent 1373 designation in 2015. Paragraph 17 of the SRO echoes the ability to operate ex parte against confirmed listed persons or entities in identifying those that meet the criteria.

Freezing

81. *Criterion 6.4* - Under section 20A of the ATA, Bangladesh has the authority to implement targeted financial sanctions without delay.

82. *Criterion 6.5* - Section 20A of the ATA mirrors the requirements of FATF R.6 (a) to (c) in relation to freezing without delay the widest range of property and prohibitions on providing funds and financial services. For UNSCR designated persons and entities, the obligations to freeze and the prohibitions on dealing automatically apply in Bangladesh at the time of UN designation without a requirement for Bangladesh to pursue any domestic enlistment process.

83. The ATR set out the relevant government agencies responsible for keeping the list individual and entities updated and communicating this updated list to primary points within the relevant implementing or law enforcement agencies. The National UNSCR Implementation Committee has shared the regulations and implementing guidelines to all ROs and has organised two national workshops in recent times. The same Committee has developed a Communication Strategy to further disseminate the lists of designations. The SRO also reflects the relevant designated agencies and focal points for implementation.

84. The ATR and paragraph 17(a) of the SRO also require all reporting agencies to maintain and update the list including through regular checks of the relevant UN Sanctions Committee websites. The Master Circulars issued to Banks, DNFBPS and provided guidance in relation to their obligations for the prevention of the financing of terrorism which includes their obligations to report transactions to the BFIU.

85. The ATR and the SRO require all FIs and DNFPBs to stop payments immediately and report to the BFIU by the next following day with all relevant details. Sanctions for non-compliance for reporting include fines not exceeding BDT 2.5 million (approximately US\$ 32,000) and cancellation of the entity's licence or registration.

86. The SRO 188 provides protection for bona fide persons on the provision that evidence is provided proving assets held or owned by them have been inadvertently frozen.

De-Listing, Unfreezing and Providing Access to Frozen Funds or other Assets

87. *Criterion 6.6* - The ATR set out the processes for de-listing, unfreezing and enabling access to frozen funds or other assets. Paragraphs 11, 12 and 20 of the SRO also deal with de-listing and unfreezing of assets. Paragraph 9 of the SRO deals with exemptions to the freezing orders.

88. Section 19 of the ATA provides a review process in relation to UNSCR 1373 proscription and enlistment orders made under section 18 of that Act. Detailed review processes are set out under rule 9 of the ATR. The process allows for an appeal process to the High Court where a person is dissatisfied by the decision of the Bangladesh government on their review application.

89. The ATR also provide for a process for persons to apply to un-freeze funds or financial assets where it is proved that the freezing action resulted from a false positive. Paragraph 10 of the SRO as amended also confirms the ability of the National Committee to unfreeze funds in the event of a false positive.

90. BFIU requires reporting parties to develop systems to ensure that designations, whether 1267 or 1373 are updated. BFIU links its website to UNSCR subsidiary organ website. There are some mechanisms to inform reporting parties if there are updates to the UN consolidated list or to domestic designations under 1373. BFIU's website has had a link to the UN consolidated list since October 2015, and includes an outdated list of ATA designations (ie it does not reflect the designation of ABT in 2015). There is no requirement for reporting parties to confirm that they have checked new listings against customers and transactions.

91. *Criterion 6.7* - Rule 24 of the ATR mirror the requirements of this criterion. Paragraph 9 of the SRO as amended provides for exemptions based on certain circumstances and determined by the National Committee fall under this criterion.

Weighting and conclusion

Bangladesh is rated compliant with R.6.

Recommendation 7 – Targeted financial sanctions related to WMD proliferation

92. Targeted financial sanctions relating to the financing of proliferation is a new FATF Recommendation added in 2012.

93. *Criterion 7.1* - It is apparent that obligations under s.20A of the ATA and the ATR automatically transpose UN designations into domestic obligations without any additional steps being taken by Bangladesh authorities. On that basis the prohibitions on providing financial services / funds to designated entities and the obligations on ROs to check for a match and freeze property or transaction automatically apply to implement TFS without delay.

94. Provisions available under the 2012 S.R.O. issued pursuant to the UN Act (Security Council) 1948 are reliant on the government of Bangladesh translating UN designations into the schedule to the UN Act SRO. While this is done without prior notice, it is not clear that the SRO operates to ensure it is done without delay.

95. *Criterion 7.2 (a-c)* - . Section 20A of the ATA 2009 mirror the requirements of FATF Rec 7 (a) – (c) in relation to freezing without delay in relation to the widest range of property and prohibitions on providing funds and financial services. For UNSCR designated persons and entities, the obligations to freeze and the prohibitions on dealing automatically apply in Bangladesh at the time of UN designation without a requirement for Bangladesh to pursue any domestic enlistment process.

96. The ATA Rules set out the relevant government agencies responsible for keeping the list individual and entities updated and communicating this updated list to primary points within the relevant implementing or law enforcement agencies. The National UNSCR Implementation Committee has shared the regulations and implementing guidelines to all ROs and has organised two national workshops in recent times. The same Committee has developed a Communication Strategy to further disseminate the lists of designations.

97. The ATA Rules also require all reporting agencies to maintain and update the list including through regular checks of the relevant UN Sanctions Committee websites. The Master Circulars issued to Banks, DNFBPS and provided guidance in relation to their obligations for the prevention of the financing of terrorism which includes their obligations to report transactions to the BFIU.

98. The ATA Rules require all FIs and DNFBPs to stop payments immediately and report to the BFIU by the next following day with all relevant details. Sanctions for non-compliance for reporting include fines not exceeding 2.5 million BDT (approximately US\$ 32,000) and cancellation of the entity's licence or registration.

99. *Criterion 7.2(d)* - Rule 15 of ATA Rules details communication of sanction lists under different UNSCRs to reporting agencies and LEAs. Paragraph 15 and 16 of the SRO provides for detailed processes to communicate sanctions lists and related obligations.

100. *Criterion 7.2(e)* - Reporting agencies are required to stop any kind of payment immediately if any match found and they are required to report to BFIU within next working day with all particulars under Rule 16 of ATA Rules 2013.

101. *Criterion 7.2(f)* - Rule 4(3) and (4) of ATA Rules provide measures to ensure the right of bona fide third parties.

102. *Criterion 7.3* - Section (1)(d) and 20A(1)(j) of the ATA empower BFIU to issue instructions to the reporting agencies to implement Recommendation 7. Section 15(1)(c) of ATA empowers BFIU to monitor and supervise reporting agencies. Neither directly references TFS relating to proliferation. Section 15 (8) and 16(3) and 20A of ATA provide for sanctions of fines not exceeding BDT 2500000 (US\$ 32,467) and suspend registration /license for violations of elements of TFS. Section 20A of the ATA also sets out offences carrying prison terms up to 4 years.

103. *Criterion 7.4(a)* - There are no specific measures to support listed entities to petition a request for de-listing at the Focal Point for de-listing established pursuant to UNSCR 1730.

104. *Criterion 7.4(b)* - Section 19 and 25 of the ATA Rules includes procedures to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing mechanism (i.e. a false positive), upon verification that the person or entity involved is not a designated person or entity.

105. *Criterion 7.4(c)* - Section 24 of the ATA Rules provides a basis for access to funds for basic or extraordinary expenses in keeping with the relevant UNSCRs.

106. *Criterion 7.4(d)* - The mechanisms at section 16 of the ATA rules accommodate communicating de-listings and un-freezings to the financial sector and the DNFBPs.

107. *Criterion 7.5* - Paragraph 4A(d) of the SRO provides that payments in favour of frozen accounts shall be accepted and frozen in keeping with the relevant UNSCRs. There is no mechanism to ensure that authorities do not prevent a designated person or entity from making a payment due under a contract entered into prior to their listing.

Weighting and Conclusion

108. The only minor gap is with a mechanism to ensure that authorities do not prevent a designated person or entity from making a payment due under a contract entered into prior to their listing.

Bangladesh is rated largely compliant with R.7.

Recommendation 8 – Non-profit organisations

109. Bangladesh was rated PC with SR. VIII in 2009 as there was no overall strategy to identify and address ML/TF risks within the NPO sector, limited outreach on TF risks, and inadequate oversight. A significant portion of the sector was outside of formal regulation and supervision.

110. Bangladesh has indicated that it has approximately 115,000 NPOs/NGOs and charitable legal arrangements formed under legislation administered by the RJSC, Ministry of Religious Affairs and the Department of Social Services. In addition a number of NGOs have additional registration with the NGOAB or the MRA.

111. There are a number of legislative instruments which govern the operations of NPOs in Bangladesh (refer to table below) and the sector is regulated by multiple authorities. The number and type of NPOs regulated by each regulatory authority is as follows:

NPOs, Regulators and Legislation in Bangladesh

Regulatory Authority	Number and type of NPOs (as of 2015)	Legislation
NGO Affairs Bureau (NGOAB)	Local- 2177 Foreign- 248 Total - 2425 National and International Foreign Donation Receiving NGOs (as on 30 September, 2015)	<ul style="list-style-type: none"> Foreign Donations (Voluntary Activities) Regulation Ordinance 1982 (FDVAR Ordinance) Foreign Donation (Voluntary Activities) Regulation Rules 1978 (FDVAR Rules) Foreign Contribution (Regulation) Ordinance 1982 (FCR Ordinance)
Microcredit Regulatory Authority (MRA)	697 (Licensed) + 202 (Temporary permission) (as on 30 September, 2015)	<ul style="list-style-type: none"> Microcredit Regulatory Authority Act 2006 Microcredit Regulatory Authority Regulations 2010
Department of Social Services	62,773 Voluntary social welfare agencies.	<ul style="list-style-type: none"> Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961 Voluntary Social Welfare Agencies (Registration and Control) Rules 1962 (VSWA R&C Rules)
Register of Joint Stock Companies and Firms	13 954 Societies (registration only) No. of NPOs registered with the RJSC-1006	<ul style="list-style-type: none"> Companies Act 1994 Societies Registration Act 1860
Department of Women Affairs	17,693 Small women association/groups	<ul style="list-style-type: none"> Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961
BFIU	All NPOS/NGOs	<ul style="list-style-type: none"> MLPA MLPR AML Circular No 27 dated 15 June 2011
No regulator	Foundations or charitable trust	<ul style="list-style-type: none"> Trusts Act 1882
Ministry of Religious Affairs	20,600 Waqfs	<ul style="list-style-type: none"> Waqfs Ordinance 1962 The Waqfs (transfer and development of property) Special Provisions Act 2013
No regulator	Qawmi madrassas (unregulated religious education institutions) 14,000	<ul style="list-style-type: none"> Not registered with an regulatory authority

112. The activities, size and funding sources of NPOs in Bangladesh are diverse. NPOs in Bangladesh can be generally categorised as microcredit NPOs and development NPOs. There are broadly six categories of development NGOs based on their sources of funds and scale of operations. They are:

- **International NGOs** (typically headquartered in developed countries to carry out operations in developing countries);
- **National and Regional NGOs** (receive funds directly from international NGOs and donor agencies to implement a specific project);
- **Local NGOs** (generally partner with larger national and regional NGOs to implement development projects on a sub-contract basis. Often have few offices in one or two districts. These generally take registration from the local office of the Department of Social Services.

- **Community-based organisations** (serve a specific population in a narrow geographical area). Includes clubs, community libraries, women's self-help groups, community associations. These also generally take registration from the local department of Social Services.
- **Religious NPOs**
- **Educational NPOs**

113. Cooperatives are designated as separate reporting organisations under the MLPA. Waqfs are a form of religious endowment, generally donating property, or money for religious or charitable purposes with no intention of reclaiming it. In Bangladesh, all Waqf properties are managed by the Waqf administrator (an Additional Secretary) nominated by the Ministry of Religious Affairs.

114. NPOs are regulated differently depending on their activities and funding sources. All NPOs which receive foreign donations must be registered with their relevant regulator as well as the NGOAB, which is located within the PMO. Such NPOs are subject to stringent oversight such as strict registration and renewal of registration requirements, the provision of audited accounts and receipt of funds amongst others.

115. All NPOs are captured as reporting organisations under the MLPA and ATA and are regulated by BFIU for compliance with their obligations under these Acts and other enforceable means and associated rules.

116. Societies in Bangladesh must register through the RJSC and information pertaining to them is made available on the RJSC website. Should a Society wish to become a legal person, they must register under the Companies Act. There is no regulator for societies formed under the Societies Registration Act 1860 in Bangladesh unless they receive foreign donations in which case they must register with the NGOAB and comply with the requirements of the NGOAB.

117. Microcredit programs and MFIs are implemented by NGO MFIs, Grameen Bank, state-owned commercial banks, private commercial banks and specialised programs of some Ministries within the Bangladesh government. MFIs are regulated by the MRA. These institutions generally provide credit to women's groups with collective responsibility and collect loan instalments on a weekly basis. Over 93% of the micro credit borrowers are women and the loan recovery rate is circa 95.64%. MFIs are further discussed under relevant preventive measures.

118. The small women's groups refer to organisations comprised only of women and for women's purposes. Bureaus in the district and metropolitan areas exist to closely monitor these organisations.

119. *Criterion 8.1* - Bangladesh conducted an assessment of the NPO/NGO sector that was published to government in October 2015 ('the 2015 NGO RA'). The 2015 NGO RA included a comprehensive review of the legal and regulatory framework of all NPOs in Bangladesh along with a TF risk assessment. As part of the TF assessment, Bangladesh noted global and local trends on the risk of TF through NGOs and NPOs and also consulted local NGOs, LEAs and other government agencies. It concluded that relatively newly established NGOs in Bangladesh which receive direct foreign funds may be abused for TF, funding to faith or religious based institutions may be vulnerable to TF, particularly funding from private charitable organisations or individuals. However, Bangladesh has not assessed the interplay between NGOs and religious institution Waqfs given that Waqfs are not covered under the extensive legislative regime as other NGOs or the financing of independent religious schools (Qawmi Madrassas).

120. Funding by foreign NGOs for the purpose of benefitting a specific religious / ideological / ethnic group along with activities of NGOs in conflict areas or border areas were assessed as higher risk in the 2015 NGO RA. Microcredit programs were seen as less likely to be abused for TF because of the close supervision by the MFIs however institutions in certain geographical areas should be more closely monitored. NPO sector risk assessments were conducted in 2008 and 2015. In the intervening period, authorities have conducted on-site visits in areas deemed at greater risk and have provided reports to the police regarding STRs. A policy decision was made in the 2015 NGO RA to update this assessment every 3 years.

121. Bangladesh does review the adequacy of the laws relating to NPOs however the review does not appear to encompass less enhanced oversight measures for lower risk NPOs. Bangladesh subjects all NPOs and NGOs to controls as ROs under the MLPA and the ATA that go well beyond the FATF standards.

122. *Criterion 8.2* - Bangladesh authorities conduct periodic outreach to the NPO sector on TF issues. BFIU conducted a workshop in August 2013 on the draft Guidelines on the Prevention of ML/TF in the NGO/NPO Sector, a workshop in October 2013 on ML/TF risk in the NPO sector and a workshop in December 2014 on TF risk in the NPO sector. In addition, the MRA has conducted nine regional workshops to enhance awareness relating to microfinance operations, which have included TF issues. In drafting the 2015 NGO RA, different NGOs were consulted for input into the risk assessment.

123. *Criterion 8.3* - Public confidence with the NPO sector in Bangladesh appears to be high and various parts of the NPO sector are well organised into associations to promote standards, integrity and good administration of NPOs in Bangladesh. Legal frameworks for the transparency and integrity of Bangladesh NPOs are strongest in relation to the roughly 3500 NPOs registered with either the NGOAB or the MRA due to their strict oversight.

124. There are various legislative instruments governing different types of NPOs all of which contain provisions to promote transparency and public confidence, such as requirements for the management of NPOs, amendments of the constitution of NPOs and mandatory external auditing requirements (only chartered accountants firms may audit accounts of NPOs). NPOs must evidence that their expenditure is in line with their stated goals. Generally, NPOs have to submit half yearly and/or yearly project reports on the activities to the donors. The information contained therein includes activity reports, annual budgets and audited financial statements.

125. *Criterion 8.4* - The strict requirements are imposed on both large and small NPOs receiving foreign funds. Development NPOs (both international NPOs and national and regional NPOs) will be considered for the purpose of 8.4 due to the large amount of foreign funds they receive. The 2015 NPO/NGO Assessment of Bangladesh estimates that around \$82 million has been channelled annually to development NGOs from concessional loan sources.

126. *Criterion 8.4(a)* - Rule 27 of the MLPR require NPOs to preserve information relating to their goals, obligations and functions and information identifying who controls or directs the activities of the organisation. Section 27(c) requires that this information be made publicly available. These requirements are reiterated in the PMO Circular 2012, and the s.27 MLPR, s.5A of Foreign Donations (Voluntary Activities) Regulation Rules, 1978 along with the BFIU Circular No 14.

127. *Criterion 8.4 (b)* - All NPOs receiving foreign funds must issue annual financial statements to provide detailed breakdowns of income and expenditure (s. 7 of the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961). Under s. 9 of Voluntary Social Welfare

Agencies (Registration and Control) Rules 1962, books of accounts have to be prepared at the end of every financial year. All NPOs must maintain yearly audited accounts, audited by chartered accountants nominated by the NGOAB (paragraph 10 of the PMO Circular Order 2012). The requirement is further reiterated at section 6 of the Foreign Donations (Voluntary Activities) Regulation Rules, 1978. Numerous circulars and guidelines confirm this requirement.

128. Whilst Bangladesh is technically compliant with R8.4 (b) the onerous accounting requirements also extend to voluntary social welfare agencies that are often small in nature and represent small community interest groups. Bangladesh should consider taking a more risk-based approach to the imposition of these requirements.

129. *Criterion 8.4 (c)* - For all NPOs receiving foreign donations, there are clear controls in place to ensure proper accounting practices, and to oversee that funds are spent in a manner consistent with the purposes and objectives of the NPO's stated activities. In fact these controls apply to all NPOs including voluntary social welfare agencies and societies. For foreign funded NPOs the requirements to keep audited accounts are contained in R6 of the FDVAR Rules and sections 4 & 5 of the FDVAR Ordinance.

130. For all NPOs, these requirements are reiterated in R27(j) of the MLPR and AML Circular No 27 dated 15 June 2011 requires each NPO to preserve information relating to their goals, objectives and functions, preserve annual financial statements, explanatory notes of each sector and for Senior Management to ensure that all funds are spent in a manner that is consistent with the stated goals, objectives and activities of the NPO. They are again reiterated in the PMO Circular (12 April 2012) at paragraph 10 and 11.

131. *Criterion 8.4 (d)* - All NPOs in Bangladesh are required to be registered or licenced, as required under different entity type laws. Foreign funded NPOs must seek registration with the NGOAB per s. 3 of the FDVAR Ordinance which is reaffirmed in s.3 (7) of the FDVAR Rules and the PMO Circular Order 2012 at para 6.1. Before taking registration, consent of the Ministry of Home Affairs must also be obtained. For voluntary social welfare agencies, ss. 3 and 4 of the VSWARC Ordinance requires registration of any voluntary social welfare agencies with the relevant Government Department, being the Department of Social Services. Societies are required to be registered with the RJSC under s.1 -3 of the Societies Registration Act. Further, all small women's associations and groups are also required to be registered with the Department of Women's Affairs under the VSWARC Ordinance.

132. *Criterion 8.4 (e)* - NPOs are captured as reporting organisations under the MLPA. Under s.25 of the MLPA reporting organisations are required to maintain complete and correct information with regard to the identify of their customers. Under r.27 (g) of the MLPR, in the context of NPOs, customers are defined as beneficiaries of NPOs such as any person, group of people, other NPO or any other organisation. R 27(n) of the MLPR provides further instruction as well as the BFIU Circular no 14 at paragraph 3.6.

133. *Criterion 8.4 (f)* - R.24 of the MLPR sets requirements on all ROs to maintain records of all transactions, both domestic and international, for rat least five years from the date of the closer of the account or at least five years from the date of the completion of any one-off transaction. This includes all records obtained through CDD measures, account files, business correspondence for at least five years following the termination of the business relationship or after the date of the occasional transaction. These must be available swiftly to the BFIU or respective investigation authority upon appropriate court order. This is further reiterated at R27(f), and ss.4 & 5 of the FDVAR Ordinance and 7 of the VSWARC Ordinance provides further instruction.

134. *Criterion 8.5* - The MLPA provides for extensive oversight by the BFIU of by the fact that all NPOs are reporting organisations under the MLPA, however this has not yet been done for most NPOs. While NGOAB has well developed powers and programs for monitoring, this does not occur for other regulators of NPOs. Sanctions for violation of the obligations under the MLPR are dissuasive and include fines of up to BDT 500000 (US\$ 6493), potential suspension of the registration or licence of the organisation. S25(2) of the MLPA provides further sanctions for not preserving records which can include fines of up to BDT 2.5 million (approximately US\$ 33,000) on the RO along with cancellation of licence or authorisation or referral to their relevant authority. Other statutes governing registration lack comprehensive powers to enforce compliance.

135. Section 7 of the VSWARC Ordinance provides that NGOAB officers may inspect books of account and other records of the agency and all documents. S 9 of the VSWARC Ordinance gives the regulatory authority the power to suspend the governing body of the organisation in circumstances of irregularity or a failure to comply with the Ordinance. They may appoint caretaker administrators. Persons generally contravening provisions of the ordinance may be punished with six months imprisonment, or a fine. Liability extends to both corporate and personal liability.

136. Ss 4 & 5 of the FDVAR Ordinance allow the NGOAB to inspect books of accounts and other documents of an NPO. It further provides for penalties for false declarations to the NGOAB or contravention of any provision of the Ordinance. The NGOAB may cancel registration of such person or organisation or stop any voluntary activity from being undertaken. In the event of receiving foreign donations in contravention of the provisions, the person may be liable to pay a penalty of double the amount or value of the donation received or imprisonment up to 3 years.

137. The PMO Circular sets out the purview of the NGOAB's oversight powers which includes examination and evaluation of reports and returns submitted to them, monitoring evaluation and inspection of NPO activities, inspection of field level NPO activities and examining their income and expenditure. Copies of all annual audits of accounts must be provided to the NGOAB containing detailed descriptions on whether the project expenditure was maintained according to the guidelines approved by the NGOAB. No NPO is allowed to take any program without project approval by the NGOAB which then sends proposals to the ministry concerned. Penalties are set out as per the FDVAR Ordinance. Broadly, 14(g) provides that activities of NGOs are limited to approved project proposals, work plans and work area. NGOs found working beyond the limits of approved proposals, work plans or areas may have their registration cancelled.

138. *Criterion 8.6 (a)* - LEAs investigating any criminal matter that relates to an NPO may obtain information on the activities of the relevant NPO via the CCP. As NPOs are reporting entities, the BFIU may obtain information from the entity and share this information with the LEA under the MLPA or the ATA. Rule 3 the MLPR provides for the NCC to obtain information from any relevant Ministry or Agency in relation to ML or TF. Agencies that regulate NPOs and NGOs pursue regular coordination and cooperation, including at the local level. This is important as there are many NPOs that register with at least two different regulatory authorities.

139. *Criterion 8.6 (b)* - Powers of LEAs to obtain information is discussed above at R 31 – the CID and the ACC have wide powers under the ACCA, MLPA and ATA to obtain information if not directly, then via a Court Order or through the BFIU.

140. *Criterion 8.6 (c)* - In the event of a suspicion that an NPO or NGO is being used for illegal purposes, the BFIU has powers pursuant to the reporting regime in the MLPA. The MLPA and MLPR (R30) require the NGO to provide timely responses to any inquiry made by the BFIU. Section 24(3)

of the MLPA then allows the BFIU to provide any ML or TF related information to other government agencies including LEAs.

141. *Criterion 8.7* - BFIU is the authority designated under the MLPA to respond to international requests for information, including relating to NPOs suspected of TF or other forms of terrorist support.

Weighting and conclusion

142. Bangladesh has a strict system of oversight for all NGOs and NPOs. Whilst the legislative regime is wide for registration of many forms of NPOs, accounting and reporting requirements, this regime is applied across the board with little consideration of risk and context. In many areas Bangladesh's regime goes beyond the standards (eg requiring small associations to form central compliance units with adequate human resources who meet quarterly to discuss AML/CFT strategies) which has the potential effect of disrupting the legitimate activities of NPOs.

143. Bangladesh should consider taking a more risk-based approach to their supervision of NPOs to avoid capturing very low level societies and voluntary agencies in the onerous reporting obligations under the MLPA and ATA amongst other pieces of legislation. This will also assist in allocation of the acknowledged diminished resources.

144. This is pertinent in light of the FATFs revised guidance to R.8 and its definition of NPOs as being 'a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works".' Bangladesh should closely follow the FATF revised guidance and consider redefining those NPOs that fall within their definition of ROs under the MLPA.

Bangladesh is rated largely compliant with R. 8

Recommendation 9 – Financial institution secrecy laws

145. Bangladesh was rated largely compliant with former R.4. 2009 MER found that there are some minor limitations on Bangladesh Bank's powers to share information with local authorities and foreign counterparts and no clear legal provisions that allows information sharing between FIs where this is required by former R7, R9, or SR.VII. Since then, Bangladesh has amended the MLPA to confirm powers to share information between local authorities and foreign counterparts. Section 23 (2) requires Bangladesh Bank to provide investigation agencies with any information in relation to ML or suspicious transaction.

146. *Criterion 9.1* - As per section 25(c) of the MLPA all FIs are bound to provide information to the Bangladesh Bank. Further section 23 of the MLPA empowers Bangladesh Bank to collect any financial information from Banks.

147. Section 15 ATA 2009 also empowers Bangladesh Bank to call for a report relating to any suspicious transaction from any reporting agencies. The maintenance of secrecy by the banks in relation to customer information is required by section 29 of the Bank Company Act. However, the exemptions contained within that section include circumstances in which information is provided to an authority established by law to have jurisdiction over AML or CFT. In any event, section 3 MLPA and section 4 of the ATA have overriding provisions over other Acts. Whilst in principle, inter-bank

sharing of information is not exempted for AML/CFT purposes under the Bank Companies Act, FIs are required by the BFIU Regulation to share information between each other (see findings in 13.2, 16.5 and 17.1) which mitigates the risk of bank secrecy impeding AML/CFT requirements.

Weighting and Conclusion

148. Bangladesh has not issued exemptions for FIs to undertake information sharing in particular relation of FATF R 13, R 16 and R 17.

Bangladesh is rated partially compliant with R.9.

Recommendation 10 – Customer due diligence

149. Bangladesh was rated NC for former R.5 in 2009 due to: a lack of coverage of securities sector; detailed CDD requirements were not extended to insurance companies and postal remitting services; no obligations on verification of legal arrangements; and overall weak implementation. The MLPA MLPR and Master Circulars have been issued to meet the recommendations in the 2009 MER.

150. The analysis of R10 in this MER will also include Micro Finance Institutions (MFIs). MFIs are defined as an NGO as they are registered under the Microcredit Regulatory Authority (MRA) Act 2006 however they fall within the FATF definition of an FI due to their activities of deposit taking and lending. MFIs are a reporting organisation under the MLPA due to the fact that they are an NGO. They do not however fall within the definition of an RO-FI in the MLPA. MFIs are also subject to AML/CFT requirements under the MRA Act and Rules, the BFIU Circular No. 14 issued to NGOs, and the AML Circular issued to NGOs of 15 June 2011.

Anonymous Accounts

151. *Criterion 10.1* - Section 17(1) of the MLPR prohibits ROs from opening or maintaining any anonymous or numbered accounts or accounts in fictitious names. In addition a similar provision is also contained in paragraph 2 (1) of BFIU circular no10 and Para 5.2.2 of the Guidance notes issued to FIs dated 16 September 2012. This is reiterated in the BFIU Master Circular to NGOs at paragraph 3.6(a).

When CDD is Required

152. *Criterion 10.2* - Section 17(2) of the MLPR require RO FIs to conduct CDD when: (a) establishing or conducting a business relationship; (b) it carrying out occasional transactions above the applicable designated threshold determined by BFIU from time to time including situations where the transaction is carried out in a single operation or in several operations that appear to be linked; (c) carrying out occasional transactions that are wire transfers (d) there is suspicion of ML or TF, regardless of any exemption or thresholds ; and (e) when there is doubt about the veracity or adequacy of previously obtained identification data. This requirement in the Rule is also elaborated in the guidelines such as AML circular 24 dated 3 March, 2010 and BFIU circular no10. However no instruction has been issued in relation to the designated threshold determined by BFIU for occasional transaction. Section 3.2 BFIU Circular No. 10 and other guidelines do not include the requirement of CDD when carrying out occasional transactions above the applicable designated threshold.

153. The requirements contained within R10 (2 – 16) are not applied to MFIs under the MLPR as they do not fall within the definition of an RO FI under the MLPA. Simplified measures are contained

within the BFIU Master Circular to NGOs requiring identification of direct beneficiaries which includes formal full name and other names used to identify the person, parents' name, and date of birth, nationality, occupation, present and permanent address. For customers receiving over BDT 100,000 (US\$ 1298) in loans, stricter requirements are in place including the need to verify the authenticity of that information. The simplified CDD measures in place for MFIs are further discussed at R10.18 and will not be analysed in R10. (3-16).

Required CDD Measures for all Customers

154. *Criterion 10.3* - Section 17(3) of the MLPR directly mirrors the FATF standard. This requirement is also elaborated in the guidelines such as AML circular 2 dated 17 July 2002, AML circular 24 dated 3 March, 2010 and BFIU Master Circular dated 28 December, 2014.

155. *Criterion 10.4* - Section 17(3) of the MLPR directly mirrors the FATF standard. This requirement in the Rule is also elaborated in the guidelines such as AML circular 24 dated 3 March, 2010 and BFIU Master Circular dated 28 December, 2014.

156. *Criterion 10.5* - Section 17(4) of the MLPR directly mirrors the FATF standard. This requirement in the Rule is also elaborated in the guidelines such as AML circular 19 dated 14 August, 2012 and BFIU circular no 24 dated 3 March, 2010.

157. *Criterion 10.6* - Section 17(5) of the MLPR directly mirrors the FATF standard. BFIU may define "appropriateness" according to the BFIU vetted risk and vulnerabilities report of the financial institution.

158. *Criterion 10.7* - Section 17 (6) of MLPR directly mirror the FATF standard.

Specific CDD Measures Required for Legal Persons and Legal Arrangements

159. *Criterion 10.8* - Section 17 (7) of MLPR directly mirror the FATF standard.

160. *Criterion 10.9* - Section 17 (7) of MLPR directly mirror the FATF standard.

161. *Criterion 10.10* - Section 17 (8) of MLPR directly mirror the FATF standard.

162. *Criterion 10.11* - Section 17 (9) of MLPR directly mirror the FATF standard.

CDD for Beneficiaries of Life Insurance Policies

163. *Criterion 10.12* - Section 18 (1) of MLPR directly mirror the FATF standard.

164. *Criterion 10.13* - Section 18 (2) of MLPR directly mirror the FATF standard.

Timing of Verification

165. *Criterion 10.14* - Section 19 (1) of MLPR directly mirror the FATF standard.

166. *Criterion 10.15* - Section 19 (2) of MLPR directly mirror the FATF standard.

Existing Customers

1. *Criterion 10.16* - Section 20 of MLPR directly mirrors the FATF standard.

Risk-Based Approach

167. *Criterion 10.17* - Section 21 of MLPR requires FIs to conduct periodic risk assessment and forward the same to the BFIU for vetting. FIs shall perform enhanced due diligence where the ML and/or TF risks are higher according to the vetted Risk Assessment Report.

168. *Criterion 10.18* - Section 21 of MLPR authorizes FIs to apply simplified CDD measures where lower risks have been identified by the BFIU or as per the BFIU vetted risk assessment report conducted by the RO-FI itself or by the other independent body. The simplified measures should be commensurate with the lower risk factors, but are not acceptable whenever there is suspicion of ML and/or TF, or specific higher risk scenarios apply. In relation to MFIs, Bangladesh has conducted a review of the NGO sector and concluded that MFIs are a low risk of TF in Bangladesh due to the significant oversight by the Micro Finance Regulatory Authority. The assessment team considers this to be a reasonable assessment. In the event that MFIs receive foreign donations, then there are stricter AML/CFT obligations and oversight applied. The simplified CDD measures outlined above to MFIs are compliant with the FATF recommendations.

Failure to Satisfactorily Complete CDD

169. *Criterion 10.19* - Section 22 of MLPR directly mirrors the FATF standard.

CDD and Tipping Off

170. *Criterion 10.20* - Section 23 of MLPR directly mirrors the FATF standard.

Weighting and Conclusion

171. Bangladesh has not issued designated threshold for conducting CDD for occasional transactions, which is a minor gap.

Bangladesh is rated largely compliant with R.10.***Recommendation 11 – Record-keeping***

172. Bangladesh was rated largely compliant with former Rec 10. The 2009 MER found obligations for retaining transaction records does not yet apply to securities companies. 2009 MER also noted uncertainties regarding current levels of implementation as obligations for retaining transaction records are new and not yet fully implemented. Further, there appeared to be a relatively limited ability to obtain information swiftly due to the limited number of computerized data bases.

173. *Criterion 11.1* - The obligation contained in the MLPR directly mirrors the FATF standard. Section 24 of MLPR requires FIs to maintain all necessary records of all transactions, both domestic and international, for at least five years from the date of the closer of the account or at least five years from the date of the completion of any one-off transaction.

174. *Criterion 11.2* - Obligation in the MLPR directly mirrors the FATF standard. Section 24 of MLPR requires ROs to keep all records obtained through CDD measures, account files and business correspondence, and results of any analysis undertaken, for at least five years following the termination of the business relationship or after the date of the occasional transaction.

175. *Criterion 11.3* - Obligation in the MLPR directly mirrors the FATF standard. Section 24 of MLPR requires FIs to ensure transaction records are sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.

176. *Criterion 11.4* - Obligation in the MLPR directly mirrors the FATF standard. Section 24 of MLPR requires ROs to ensure that all CDD information and transaction records are available swiftly to BFIU or available to the respective investigation authority upon appropriate court order.

Weighting and Conclusion

Bangladesh is rated compliant for R.11.

Recommendation 12 – Politically exposed persons

177. Bangladesh was found not compliant with former R.6 in the 2009 MER, largely because PEPs were not covered for the securities sector, insurance companies, money remitters and money changers. 2009 MER also noted that the requirement of PEP for banks has not been updated to reflect the MLPA and the provisions appear to be poorly understood in practice. R.12 has been expanded to include domestic PEPs.

178. *Criterion 12.1* - For foreign PEPs, Banks and FIs are required under and section 3.7 of BFIU circular No.10 (scheduled banks) and paragraph 3.7 of BFIU Circular 12 (all other non-bank FIs) to: (a) adopt the risk-based approach to determine whether a customer or the real beneficial owner of an account is a PEP (b) obtain senior managements approval before establishing such business relationship (c) conduct ongoing monitoring of transactions. (d) take reasonable measures to establish the source of fund of a PEP account. The same requirement is also issued for securities companies under the guidelines for capital market intermediaries (BFIU Circular no. 6), for insurance companies under guideline for insurance companies (AML Circular No. 28) for money changers under guideline for money changers (AML Circular No. 29). However, the requirement does not cover the situation where PEPs have been identified as beneficial owners and there is no requirement to establish the source of wealth of a PEP account.

179. *Criterion 12.2* - BFIU circulars for banks, money changers, insurance and capital market intermediaries cover domestic PEP ('influential persons') and persons who have been entrusted with a prominent function by an international organisation in keeping with the international standards.

180. *Criterion 12.3* - The relevant BFIU circulars (No. 6, 10, 28 and 29) cover family members or close associates of all PEPs.

181. *Criterion 12.4* - Paragraph 3.8 of the BFIU Circular 16 requires insurance companies to determine whether a customer or the beneficial owner of an account or policy is an influential person (IP). In the event that they are an IP, the insurance company should monitor their transactions and obtain senior management approval before establishing a business relationship (although there is no requirement to inform senior management before payout of insurance proceeds). They must monitor their transactions on a regular basis. There is no specific requirement to file a STR although those requirements do exist in other circulars and the MLPA.

Weighting and Conclusion

182. There is no requirement for insurance companies to inform senior management of pending payouts to identified IPs. The requirements do not cover the situation where PEPs have been identified as beneficial owners. There is no requirement for FIs to take reasonable measures to establish the source of wealth of customers and beneficial owners identified as PEPs. Bangladesh should provide further clarity in the Master Circulars to FIs on the obligation to provide enhanced monitoring of accounts belonging to or beneficially owned or controlled by PEPs.

Bangladesh is rated largely compliant with R.12.

Recommendation 13 – Correspondent banking

183. Bangladesh was rated partially compliant with former R.7 and largely compliant with former R.18. The 2009 MER noted a lack of clear requirement on banks to access the existing correspondent relationships existing prior to the issuing of Circular No.7 and to access adequately the correspondent's AML/CFT controls. The ME follow-up analysis report noted that Bangladesh has covered respondent's controls and clear policy relating to shell banks over AML/CFT under AML circular letter. A requirement to apply the obligations for correspondent banking relationships measures to pre-existing respondent relationships has been included under AML circular letter. Since 2009 MER, the BFIU issued the BFIU circular No-10 dated 28 December, 2014 which impose requirements on banks regarding correspondent banking.

184. *Criterion 13.1* - As per Para 3.10 of BFIU circular No-10 dated 28 December, 2014, before providing correspondent banking service, senior management approval must be obtained after being satisfied that the nature of the business of the correspondent or the respondent bank through collection of information as per an annexed checklist. The checklist identifies pertinent AML/CFT controls that must be present within the correspondent bank before a FI may establish a correspondent banking relationship with it. For foreign banks, correspondent relationships shall only be established if banks are satisfied that the correspondent bank is effectively supervised by the relevant regulatory authority.

185. However, there is no clear requirement for banks to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a ML/TF investigation or regulatory action.

186. *Criterion 13.2* - Instructions have been given in Para 3.10(6) of BFIU circular no. 10 dated 28 December, 2014 to perform CDD obligations in relation to payable through accounts.

187. *Criterion 13.3* - As per Para 3.10(6) of BFIU circular no. 10 dated 28 December, 2014, banks are required not to enter into or continue correspondent banking relationships with shell banks and are advised to satisfy themselves that respondent FIs do not permit their accounts to be used by shell banks.

Weighting and Conclusion

188. The absence of a requirement to determine from publicly available information the reputation of the correspondent bank is a gap however, in light of the other controls around the establishment of correspondent banking relationships, the gap is a minor one.

Bangladesh is rated largely compliant with R.13.

Recommendation 14 – Money or value transfer services

189. Bangladesh was rated non-compliant for former SRVI. The 2009 MER found that large scale unregulated MVTS continued and Bangladesh had not ensured that all MVTS operators were subject to FATF Recommendations. The 2012 MLPA includes MVTS providers as ROs subject to monitoring for AML/CFT compliance. As per the Circular Letter 11 (Dept of Currency Management & Payment System (DCMPS)) December, 2011, guidelines on mobile financial service for banks were issued for AML/CFT compliance. However, the Postal Service is still not covered by these guidelines.

190. *Criterion 14.1* - In Bangladesh, only inward foreign remittance is allowed through international MVTS. Only scheduled banks are able to provide outward remittance services following the Foreign Exchange Regulation Act, 1947. Bangladesh Post Office also acts as a sub agent of a scheduled bank to disburse foreign remittance to their beneficiaries. The scheduled banks of Bangladesh act as the local partner of the international MVTS providers to disburse foreign remittance to the domestic beneficiaries. The contract i.e. drawing arrangement between the banks and MVTS providers are required to be approved by the Bangladesh Bank according to Circular Letter No. FEPA (LDA-1)147/2007-1468, dated 29 October, 2007. However, there is no clear requirement in law on natural or legal persons providing MVTS except banks to be licensed or registered. The Post Office usually acts as an independent MVTS provider as they receive and disburse foreign remittance through the foreign post, but they also have an arrangement with Western Union to disburse remittances through their network and in that event acts as an agent of Western Union.

191. *Criterion 14.2* - Bangladesh Government formed a central and seven regional taskforces on 27 January, 2002 to combat ML and illegal hundi activities in Bangladesh. The task force operates to identify and prosecute illegal MVTS and has shown considerable success.

192. Any contravention of the FERA including foreign remittance transfer service is a crime and punishable under the Act under section 23. Section 23 provides that a contravention of the FERA can be tried before a special tribunal. The sanctions to be applied include imprisonment of up to four years and/or a fine (minimum or maximum fines are not specified). As well as this penalty, the Tribunal may also order that any instruments involved in the contravention may be confiscated. Individual liability may also be found for directors, managers or any officer of any legal person that is found guilty where they are found to knowingly be a party to the offence. Section 23A(3)(5) of the FERA provides that as regards sentences of fine, the powers of a Tribunal shall be as extensive as those of a Court of Sessions.

193. *Criterion 14.3* - BFIU is designated to enforce AML/CFT compliance of the MVTS providers as reporting organization. Other regulators like Bangladesh Bank and the Bangladesh postal authority also monitor the AML/CFT compliance of the MVTS providers.

194. Under section 2(w) (v) of MLPA, MVTS are included as the reporting organizations and thus they are subject to monitoring for AML/CFT compliance according to the provisions of the law. Under section 23(e) of MLPA, BFIU is authorized to monitor whether the MVTS providers have properly submitted information and reports requested by it and whether they have duly complied with the directions issued by BFIU, and where necessary, carry out on-site inspections of the organizations to ascertain the compliance of MVTS.

195. The responsibilities of the institutions engaged in postal remittances have been delineated in paragraph 3.3 to 3.7 of the Postal Remittance Business Guidelines issued on 28 December 2011. These include some AML/CFT compliance issues.

196. *Criterion 14.4* - Branches of banks are the delivery channel for disbursing inward foreign remittance to the beneficiaries and the scheduled banks of Bangladesh act as the local partner of the international MVTS providers. Banks and their branches are licensed for such activities from the central bank. The contract/drawing arrangement between the banks and MVTS providers are required to be approved by BB as per Circular Letter FEPA (LDA-1)147/2007-1468, (29 October 2007). Under Para. 7 of Guidelines on Mobile Financial Services (MFS) issued by circular letter No-DCMPS (PSD) 11 dated 20 December, 2011, banks willing to provide mobile financial services shall submit agreement(s)/MOU(s) containing their partners/agents before launching the product a list of the cash points/ agents with their names and addresses shall have to be submitted to the DCMPS.

197. Bangladesh Post Office maintains the post office branch list and where applicable the country list for providing services such as money order, telegraphic money orders, value payable inland money orders and electronic money transfer services.

198. *Criterion 14.5* - Branches of banks are the main delivery channel for sending inward foreign remittance to the beneficiaries and are included in the AML/CFT programmes and monitored for compliance (paragraph 1.5, 1.3(5) and 1.4 of BFIU Circular 10). However, the Bangladesh Post Office who act as the sub agent of a scheduled bank to disburse foreign remittance to their beneficiaries are not included in the AML/CFT programmes and monitored for compliance.

Weighting and Conclusion

199. There is no clear requirement in law on natural or legal persons providing MVTS except banks to be licensed or registered. Further, the Bangladesh Post Office who act as the sub-agent of scheduled banks are not included in AML/CFT programmes and monitored for compliance.

Bangladesh is rated largely compliant with R.14

Recommendation 15 – New technologies

200. Bangladesh was rated partially compliant for former R.8 in 2009 as controls were inadequate when dealing with non-face to face customers. There was no provision for banks to have a policy to prevent misuse of technological developments for TF and no provision for securities, insurance, and MVTS sectors. R.15 now requires countries and FIs to identify and assess the risks in relation to the development of new business practices, delivery mechanisms and technologies.

201. *Criterion 15.1* - Master Circulars require banks, NBFIs, insurance, capital market intermediaries, NGOs, NPOs and DNFBPs to identify and assess the ML/TF risks that may arise in relation to the development of technology based 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.

202. *Criterion 15.2* - Banks, NBFIs, insurance companies, insurance and DNFBPs are required to take appropriate measures to manage the emerging risks from new products or practices (BFIU circulars 10 and 12). Similar directions have been given to NGOs and NPOs (BFIU Circular No 14) and capital market intermediaries (BFIU circular 18).

203. The circular notes the requirement for banks to ‘identify and assess’ ML/TF risks that may arise from such products or practices. This requirement is echoed in circulars to the relevant sectors.

204. As per para 7.1.4 of the Guidelines for the Insurance Sector and BFIU circular no 16, in accepting business from non-face to face customers the insurer is required to use equally effective identification procedures as those available for face-to-face customer acceptance, supplemented with specific and adequate measures to mitigate the higher risk.

Weighting and Conclusion

Bangladesh is rated compliant with R.15.

Recommendation 16 – Wire transfers

205. Bangladesh was rated partially compliant with former SR.VII. The 2009 MER noted that collection and transmission of required originator information is not mandatory, in the case of all wire transfers, the beneficiary/recipient has to declare only in the event of the amount being US\$ 2000 or more. Beneficiary FIs were not clearly required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information. The requirements have also been very substantially expanded in R.16 (i.e. inclusion of beneficiary information in wire transfers and additional obligations on intermediary and beneficiary FIs). In 2014, Bangladesh issued the BFIU Circular No-10 (December 2014) which placed requirements for banks regarding wire transfers.

Ordering Financial Institutions

206. *Criterion 16.1* - Paragraph 9.2(1)(a) of BFIU Circular no. 10 dated 28 December, 2014 (BFIU circular 10) describes that under general or special consideration, in case of cross-border wire transfers of US\$ 1000 or above or equivalent foreign currency, full and accurate information of the originator has to be collected and preserved. For all cross-border wire transfers, full and meaningful beneficiary information has to be preserved. Furthermore, for cross-border wire transfers that fall below the threshold, full and meaningful originator information has to be preserved. Full and meaningful information is defined in the circulars and is in line with the FATF recommendations except for one major point. The definition of meaningful only requires the account number to be collected “if available” and there is no clear written requirement on keeping “a unique transaction reference number” in the absence of an account number. Although in practice a reference number would be generated, this remains a significant gap.

207. *Criterion 16.2* - Paragraph 9.2(1)(b) of BFIU Circular no. 10 confirms that when several individual cross-border wire transfers have been bundled into a batch file from a single originator, the batch file must contain required and accurate originator information and full beneficiary information. In addition, bank should include the account number of the originator.

208. *Criterion 16.3* - Paragraph 9.2(1)(a) of BFIU Circular no. 10 describes that, for cross-border wire transfers below the threshold of US\$ 1000, full and meaningful originator information has to be preserved. A gap remains with the collection of an account number or unique transaction reference.

209. *Criterion 16.4* - FIs are required to verify the information pertaining to their customer when there is a suspicion of ML/TF (paragraph 3.2(2)(d) of BFIU Circular No 10).

210. *Criterion 16.5* - Instructions have been given in paragraph 9.2(2)(a) of BFIU Circular no. 10. In case of domestic wire transfers of at least BDT 25000 (US\$ 325), full and accurate information of the originator has to be collected, preserved and has to be sent to intermediary/beneficiary bank/institutions. Furthermore, for domestic wire transfers below the threshold full and meaningful originator information has to be preserved. However, instructions given in paragraph 9.2(2)(a)-(c) of BFIU Circular no. 10 are exempted in case of inter-bank wire transfer (where originator and beneficiary both parties are banks or FIs).

211. *Criterion 16.6* - As per paragraph 9.2(2)(a) of BFIU Circular no. 10, the ordering bank has to collect and preserve full and accurate information of the originator. However, instructions given in paragraph 9.2(2)(a)-(c) of BFIU Circular no. 10 are exempted in case of inter-bank wire transfer (where both the originator and beneficiary are banks or FIs).

212. *Criterion 16.7* - As per paragraph 9.2(2)(a) of BFIU Circular no. 10, the ordering bank has to preserve information collected for a minimum of 5 years. Paragraph 12 of BFIU Circular no. 10 also confirms the requirements for the preservation of records and necessary information/documents for a period of 5 years.

213. *Criterion 16.8* - There is no express prohibition on ordering banks to execute wire transfers when the requirements set out above are not met. However Bangladesh advises that there is an implied prohibition. In light of the provisions of section 23(5) of the MLPA, non-compliance by any RO with the circulars subject them to penalties and sanctions. This could better be expressed in more definite terms. Circular 10 expressly provides that ordering banks should ensure that qualifying wire transfers contain required and accurate originator and beneficiary information and should retain these documents for at least 5 years.

Intermediary Financial Institutions

214. *Criterion 16.9* - Instruction has been given to the intermediary financial institution accordingly in paragraph 9.3(2)(a) of BFIU Circular no. 10. For cross-border and domestic wire transfers, any bank working as an intermediary between ordering bank and beneficiary bank, should ensure that all originator and beneficiary information that accompanies a wire transfer is retained.

215. *Criterion 16.10* - Paragraph 9.3(2)(a) of BFIU Circular no. 10 describes that record should be kept, for at least five years, by the receiving intermediary financial institution of all the information received from the ordering financial institution (or as necessary another intermediary financial institution).

216. *Criterion 16.11* - Paragraph 9.3(2)(a) of BFIU Circular no. 10 describes that intermediary FIs should have effective risk-based policies and procedures for determining reasonable measures to identify wire transfers that lack required originator information or required beneficiary information such as execution, rejection or suspension of that wire transfer and the appropriate follow-up action. Such measures should be consistent with straight-through processing.

217. *Criterion 16.12* - Paragraph 9.3(2)(a) of BFIU Circular no. 10 describes that intermediary FIs should have effective risk-based policies and procedures for determining reasonable measures to identify wire transfers that lack required originator information or required beneficiary information such as execution, rejection or suspension of that wire transfer and the appropriate follow-up action.

Beneficiary Financial Institutions

218. *Criterion 16.13* - Instruction has been given to beneficiary FIs in paragraph 9.3(3)(b) of BFIU Circular no. 10. A beneficiary FI should have effective risk-based policies and procedures for determining reasonable measures to identify wire transfers that lack required originator information or required beneficiary information such as execution, rejection, or suspension of that wire transfer and the appropriate follow-up action. Such measures should be consistent with straight-through processing.

219. *Criterion 16.14* - The beneficiary bank is required to collect full and accurate information of the receiver/beneficiary during payment (9.3(3) of BFIU Circular no.10).

220. *Criterion 16.15* - Instruction has been given to the beneficiary FI in paragraph 9.3(3)(b) of BFIU Circular no. 10. A beneficiary FI should have effective risk-based policies and procedures for determining reasonable measures to identify wire transfers that lack required originator information or required beneficiary information such as execution, rejection, or suspension of that wire transfer and the appropriate follow-up action. Such measures should be consistent with straight-through processing.

Money or Value Transfer Service Operators

221. *Criterion 16.16* - Banks have been instructed accordingly in paragraph 9.2 and 9.4 of BFIU Circular no. 10. The responsibilities of the institutions engaged in postal remittances have been set out in paragraph 3.3 to 3.7 of postal remittance business guidelines issued on 28 December 2011. However, as per the concerns raised above, there is no requirement for banks/postal remitters to retain a unique transaction reference number.

222. *Criterion 16.17* - Banks and postal remittances are subject to AML/CFT compliance programmes and are required to file STRs in such circumstances.

Implementation of Targeted Financial Sanctions

223. *Criterion 16.18* - Together, the ATA Rules 13-15 and 17 provide a basis for the postal office and ROs to implement targeted financial sanctions as an implementing agency of relevant government ministries.

Weighting and conclusion

224. There is no requirement for FIs to collect a unique transaction number in the absence of an account number which cascades across a number of requirements in R.16. Inter-bank wire transfers are exempted from the requirement to collect complete and accurate information regarding transfers.

225. There is no express prohibition on ordering banks to execute wire transfers when requirements in 16.1 – 16.7 are not met. There is an implied prohibition, however this could be expressed in more definite terms.

Bangladesh is rated partially compliant with R.16.

Recommendation 17 – Reliance on third parties

226. Bangladesh was rated NC with former R.9. Securities companies were not included and there was no provision for third party reliance for CDD or adequate procedures with respect to use of third parties for service that involve CDD. Since 2011, Bangladesh issued several guidelines for reliance on third parties, including Guidance Notes on AML/CFT for FIs dated 16 September, 2012, Guidance Notes on AML/CFT for the Capital Market Intermediaries dated 30 December, 2012 and the Guidance Notes on AML/CFT for Insurance Companies dated 05 July, 2011.

227. *Criterion 17.1* - As per Para 7.2.4 of Guidance notes on AML/CFT for the FIs issued on 16 September, 2012, FIs relying on third parties to perform CDD measures are required to take ultimate responsibility for CDD measures in keeping with the FATF requirements. This is in line with the provisions of the MLPR. S22 of the MLPR outlines that where a RO-FI is unable to comply with relevant CDD measures, it should be required to not open the account, commence business relations or perform the transaction; or shall terminate the business relationship. Guidance Notes on AML/CFT for Insurance Companies (BFIU Circular 29 refers) also set out requirements on reliance on third parties for the insurer in keeping with the FATF standard. Therefore, whilst the guidance notes may allow third parties to assist in the CDD process, the legislation makes the position clear that the business relationship shall not be entered into when the RO cannot comply with the CDD requirements set out in legislation.

228. *Criterion 17.2* - There is no requirement for FIs to determine which countries third parties that meet the conditions can be based, dependent on the level of that countries risk.

229. *Criterion 17.3* - FIs are not able to rely on third parties and the option provided for in criterion 17.3 is not applicable in Bangladesh.

Weighting and Conclusion

230. Some weight is given to the absence of detailed of conditions for third parties, including country of origin and reliance within financial groups.

Bangladesh is rated largely compliant with R.17.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

231. Bangladesh was rated partially compliant with former R.15 in 2009 due to a lack of mandatory requirements for an independent audit function, no AML/CFT controls and staff training for insurance and securities sectors, no guidance or direction provided on employee screening, no clear guidance to include foreign subsidiaries of banks and no obligation for FIs to inform BB when a foreign branch or subsidiary was unable to observe appropriate AML/CFT measures.

232. *Criterion 18.1* - The guidelines require FIs to have a compliance program, screening procedures for hiring and ongoing training of employees and an independent audit function to test an institution's AML/ CFT framework, however the guideline for money changers is silent on the required management level for compliance officers,. The guideline requires a 'senior official'. Bangladesh confirm that money changers operating in the country generally do not have branches or management levels, so this requirement isn't relevant in Bangladesh.

233. *Criterion 18.2* - None of the essential elements for financial groups are met, and FIs are not specifically required to implement group-wide AML/CFT policies and procedures.

234. *Criterion 18.3* - In the case of branches and subsidiaries that are being operated in foreign countries, banks and FIs shall ensure the proper compliance of the instructions under the MLPA and ATA and must inform BFIU when the host country does not permit the proper implementation of AML/CFT measures consistent with the Bangladesh AML/CFT regime (BFIU Circular No. 10 and AML Circular No. 24). However, no regulation exists for other types of FIs.

Weighting and Conclusion

235. The absence of specific requirements for implementation of group-wide AML/CFT programmes and on allowing the sharing of information under the financial groups is given significant weight, given the risks and context in Bangladesh (e.g. financial groups operating across the banking and securities sectors). There is also a lack of requirement on foreign branches or subsidiary branches for insurance companies, capital market intermediaries and money changers which is given some weight.

Bangladesh is rated partially compliant with R.18.

Recommendation 19 – Higher-risk countries

236. Bangladesh was rated non compliant with former R.21 in 2009 due to a lack of requirements for all reporting parties to pay special attention and apply counter-measures to business relationships and transactions with persons (including legal persons and other FIs) from or in countries which do not or insufficiently apply the FATF Recommendations.

237. *Criterion 19.1* - Under Rule 28 of MLPR reporting organizations are required to apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons (including FIs) from countries for which this is called upon by FATF. They are required to consider the status of the AML/CFT systems of that country before establishing a relationship with foreign counterparts. This requirement is also contained in the BFIU Master Circular 10 at paragraph 3.2(6).

238. *Criterion 19.2* - The NCC is able to advise authorities to implement 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. However, possible counter-measures to be applied to any identified higher risk countries are not specifically enumerated in any statutory instrument or guide. There is no regulation governing which type of countermeasure would be conducted in relation to higher-risk countries.

239. *Criterion 19.3* - Domestic competent authorities in Bangladesh have no mechanism in place under the MLPA or MLPR, to ensure that FIs are advised of concerns about weaknesses in the AML/CFT system of other countries. BFIU has done a large number of outreach sessions with reporting parties on higher risk countries, including FATF listings and other indicators. There have been no further publications from BFIU to reporting parties on countries that have strategic deficiencies in their AML/CFT regime.

Weighting and Conclusion

240. Bangladesh has not implemented clear requirements specifically enumerating possible counter-measures to be applied to any identified higher risk countries and only limited measures are in place to ensure that FIs are advised of concerns regarding weaknesses in the AML/CFT systems of other countries.

Bangladesh is rated partially compliant with R.19.

Recommendation 20 - Reporting of Suspicious Transactions

241. Bangladesh was rated NC for former R.13 and SRIV due to a lack of inclusion of the securities sector in the STR reporting regime, the scope of coverage of the ML, TF offence and predicate offences, the lack of coverage of attempted transactions and very weak implementation.

242. *Criterion 20.1* - Section 25(1) (d) of MLPA, 2012 requires reporting organisations (financial institution) to report its suspicions to BFIU. “suspicious transaction” includes transactions: (a) which deviates from usual transactions, (b) of which there is ground to suspect that the property is the proceeds of an offence or it is financing to any terrorist activity, a terrorist group or an individual terrorist, (c) which is, for the purposes of this Act, any other transaction or attempt of transaction delineated in the instructions issued by Bangladesh bank from time to time. Section 16(1) of ATA 2009 also requires reporting agencies to report suspicious transactions to BFIU. Circulars have also been issued to banks, NBFIs, NGOs, NPOs, money changers, insurance companies and DNFBPs elaborating on the required process for analysing and filing STRs with the BFIU. As the MLPA covers suspicion of proceeds of any offence, so the gaps with the definition of predicate offence does not reduce the STR obligation.

243. *Criterion 20.2* - FIs are required to report all suspicious transactions, including attempted transactions, regardless of the amount of the transaction per section 25(1)(d) and of MLPA and 16(1) and 2(16) of ATA.

Weighting and conclusion

Bangladesh is rated compliant with R.20.

Recommendation 21 - Tipping-off and confidentiality

244. Bangladesh was rated PC for the former R.14 as securities companies were not included in AML regime for safe harbour protections and safe harbour did not include directors, other related officers and employees (permanent or temporary) of the financial institution. MLPA amendments included securities companies in the AML regime and safe harbour to any officer or staff of any reporting organization or its board of directors.

245. *Criterion 21.1* - Section 28 of MLPA provides that no suit or prosecution or administrative measures or any other legal proceedings shall lie against the Government or any officer or staff of the Government or Bangladesh Bank or any officer or staff of Bangladesh Bank or the Anti-Corruption Commission or any officer or staff of the Commission or any reporting organization or its Board of Directors or any of its officers or staff for anything which is done in good faith under this Act or rules made there under for which any person is or likely to be affected.

246. *Criterion 21.2* - Section 6 of MLPA and rule 23 of the MLPR prohibit tipping-off. The issue is also addressed in the BFIU circular no. 10 dated 28 December, 2014.

Weighting and conclusion

Bangladesh is rated compliant with R.21.

Recommendation 22 – DNFBPs: customer due diligence

247. Bangladesh was rated NC with former R.12 in 2009 as CDD requirements did not extend to DNFBPs. R.22 contains new requirements that were not assessed under the 2004 Methodology. These are a consequence of new requirements in R.10, 12, 15 and 17. Since 2013, with the passage of the MLPR, requirements set out in Recommendation 10, 11,12,15,17, are now extended to DNFBPs.

248. *Criteria 22.1 and 22.2* - Rule 25(1) of MLPR, 2013 requires DNFBPs to comply with the CDD requirements set out in Rules 17, 19, 20, 21, 22 for Reporting Organization- Financial Institution (RO-FI). The Circular issued to DNFBPs by the BFIU on 9 July 2015 provides further guidance and instruction to DNFBPs to adhere to the requirements of R.10. R25(2) of the MLPR requires DNFBPs to adhere to the CDD and record keeping requirements in compliance with R.10 and R.11. The gap identified in R.10 for transaction threshold is not an issue for DNFBPs.

249. *Criterion 22.3* - Rule 25 (3) of MLPR requires DNFBPs to comply with the PEPs requirements set out by BFIU. The BFIU circular of 9 July 2015 contains provisions that require DNFBPs to comply with the requirements in R.12.

250. *Criterion 22.4* - Rule 25 (4) of MLPR requires DNFBPs to comply with requirements on new technologies set out by BFIU. BFIU circular dated 9 July 2015 contains requirements in line with the FATF standards.

251. *Criterion 22.5* - Rule 25 (4) of MLPR requires DNFBPs to comply with requirements on reliance on third parties set out by BFIU. Paragraph 4.4.7 of Guidelines on Prevention of ML & TF for DNFBPs contains requirements on reliance of third party. The only gap in the compliance with R17 which is also applicable for DNFBPs is that there is no requirement for the DNFBP to take into account an agent's country risk when considering who to instruct as agents.

Weighting and Conclusion

252. The only gap is the lack of requirements for taking into account the level of country risk when determining in which country 3rd parties can be based.

Bangladesh is rated largely compliant with R.22.

Recommendation 23 – DNFBPs: Other measures

253. Bangladesh was rated as Non-Compliant with former R.16 as STR requirements were not extended to DNFBPs. R.23 contains new requirements that were not assessed under the 2004 Methodology.

254. *Criterion 23.1* - Rule 25(1)(d) of the MLPR requires all ROs to report STRs. This requirement is further elaborated in the BFIU circular dated 9 July 2015 to DNFBPs at paragraph 7.

255. *Criterion 23.2* - Rule 26(2) of MLPR requires DNFBPs to comply with the internal control requirements set out time to time by BFIU. Further instructions were provided by the BFIU in the Circular of 9 July 2015. Bangladesh's compliance with R18 is discussed above where it is noted that there is a lack of group wide programmes against ML/TF. Further, the requirement for foreign branches and subsidiaries of DNFBPs to apply the AML/CFT measures consistent with Bangladesh requirements is absent from the instructions given by the BFIU.

256. *Criterion 23.3* - Rule 26 (3) of MLPR requires DNFBP to comply with the higher-risk countries requirements set out time to time by BFIU. However, the gaps identified in R.19 apply equally to DNFBPs.

257. *Criterion 23.4* - Rule 26(4) of MLPR and Circular No. 13 require DNFBPs to comply with the tipping-off and confidentiality requirements set out from time to time by BFIU. This is in keeping with the FATF standards.

Weighting and Conclusion

258. While gaps remain in relation to deficiencies identified in R.18 and R.19, weight is given particularly to compliance with R.23.1 in light of the context of DNFBPs in Bangladesh.

Bangladesh is rated largely compliant with R.23.

Recommendation 24 – Transparency and beneficial ownership of legal persons

259. Bangladesh was rated NC with the former R.33 as records held by company registers, the RJSC, TCSPs and the ROS did not include sufficient information about beneficial ownership and the accuracy of RJSC records was limited. There was no mechanism to mitigate the risks posed by bearer shares. All of these factors inhibited LEAs' ability to obtain beneficial ownership information.

260. All companies and associations which are formed for the purpose of gain must be registered with the RFJSC as a company: section 4(2) CA. All companies, associations or partnerships to be formed with the purpose of carrying on the business of banking must register if they have a minimum of 10 persons.

261. Partnerships with greater than 20 partners must register as a company under the Companies Act or as a firm under the Partnership Act and undertake registration requirements accordingly. Partnerships with less than 20 members may register as a partnership however it is not mandatory. Partnerships can exist if unregistered however their 'corpoprate veil' and capacity to sue amongst other things will be limited.

262. *Criterion 24.1* - As outlined in the 2009 MER, the Companies Act 1994 (the CA) is the principal legislation governing the formation, management and dissolution of companies and is administered by the RJSC. The Partnership Act 1932 along with the Societies Registration Act 1860 also govern the registration of partnerships and societies respectively. Registration of these entities is attained through the RJSC under section 23 of the CA, section 3 of the Societies Registration Act and section 58 of the Partnership Act.

263. The following legal entities are able to be registered in Bangladesh:

- Private Company – a company limited by its articles
- Public Company – a company which is not a private company where the number of shareholders can be un-limited at maximum but not less than seven. There must be a minimum of 3 Directors;
- Foreign Company – a company incorporated outside Bangladesh which a maintained established place of business in Bangladesh;
- Trade Organization – an association formed with the object of promoting trade, commerce or industry or any group or class thereof or for representing any of the above.
- Society – this is an entity established for any literary, scientific or charitable purpose and is registered under the Societies Act 1860.
- Partnership Firms – this entity is formed for the purpose of persons agreeing to share profits of a business carried on by all or any of its members acting on behalf of all. This entity is registered under the Partnership Act 1932. Partnerships who carry on business to generate profits with 20 or more partners must register as a company or a partnership firm.

264. All registrable entities must register with the RJSC. On registration of the memorandum of a company, the Registrar shall certify the company is incorporated. Information to be provided to the RJSC on application for registration must include the name of the company, address of its registered office and its memorandum and articles of association.

265. Incorporated companies may be limited by shares, limited by guarantee or unlimited.

266. Whilst the requirement to obtain and record basic information with the RJSC exists in legislation and the prescribed process by the RJSC, there is no requirement to record either ownership (beyond immediate shareholders) or beneficial ownership information as required by R24.1. There is no requirement to verify identity of directors and shareholders. All information supplied at the time of company registration is accessible to the public under section 41 of the CA which requires that the register and index of members be kept at the registered office of the company and such register and index shall be allowed for inspection for a nominal fee.

267. In relation to joint stock companies, statutory information and relevant forms are available to the public on the RJSC website. The RJSC website includes materials that identify and describe the requirements and processes for the creation of various types of legal persons and obtaining information on basic ownership of a company. Information relating to publicly listed companies can be obtained on the websites of the Dhaka Stock Exchange and the Chittagong Stock Exchange as well as the Central Depository Bangladesh Ltd.

268. *Criterion 24.2* - Bangladesh gave cursory consideration to the risks associated with legal entities and the laundering of funds through them along with the associated vulnerabilities in the 2015 sanitised NRA. The NRA identified that the use of corporate vehicles to launder proceeds of crime is vulnerability within Bangladesh. However, Bangladesh did not consider the different types of legal persons and their associated risk.

269. Bangladesh considered the vulnerabilities related to the RJSC in the 2015 NRA. One of the risks identified in the NRA was that the RJSC does not have a mechanism to identify beneficial owners of registered firms/companies/societies and that they lack the monitoring and supervising ability to ensure whether companies are complying with the legislation. A more in-depth consideration of risk would be required to properly understand the risks posed by all forms of legal persons in Bangladesh.

Basic Information

270. *Criterion 24.3* - The CA provides registration requirements for companies, partnerships and associations in Bangladesh. However, section 4(1) of the Companies Act states no company, association or partnership of more than 10 persons shall be formed for the purpose of carrying on the business of banking unless it is registered as a company. Section 4(2) requires all companies, associations or partnerships consisting of more than 20 members with the purpose of carrying on other business to be registered. Bangladesh authorities confirm that in practice, all companies (including those with less than 20 members) must register with the RJSC to obtain legal personality. This is further evidenced in the definition of a company in the CA as 'a company formed and registered under this Act or an existing company'. Section 24 of the CA further provides that from the date of incorporation (registration) the company shall be a body corporate capable forthwith of exercising all the functions of an incorporated company. Whilst the team accepts Bangladesh's contention that in practice all companies must register, it finds that the provisions in the legislation are ambiguous.

271. All legal persons on registration shall file a register of directors (only natural persons may become directors in Bangladesh), managers and managing agents, their names, addresses, nationality and occupation. Companies must notify of changes in any of the above including a change in the registered office. They must also provide a register of shares with the name, address and the statement of shares held by each shareholder (section 34(1)(ii)).

272. Other legal persons such as Societies and Partnerships (with more than 20 partners) must register through the RJSC per their respective legislation (sections 1 & 3 Societies Registration Act and section 58 of the Partnership Act.) Basic information is publicly available via the RJSC.

273. *Criterion 24.4* - Information pertaining to the company name, proof of incorporation, legal form and status is required in the Memorandum and Articles of Association. On registration, this is filed with the RJSC. Section 77 of the CA requires notice of the registered office and any change therein to be provided to the Registrar. The CA requires every company to keep at its registered office a register of its directors, manager and managing agents including names in full, residential address, nationality, occupation. This also applies to foreign companies who are legally mandated to have a registered office in Bangladesh by virtue of section 379 (e) of the CA. The company is also required to keep an up to date register and index of members including names, addresses and occupations of members, a statement of shares held by each member, date the person was entered in the register as a member and the date the person ceased to be a member (section 34). In the case of companies having share capital, the company shall keep a statement of the shares held by each member, distinguishing each share by its number and of the amount paid or agreed to be considered as paid on the shares.

274. *Criterion 24.5* - In Bangladesh, only legislative requirements exist to ensure that information is kept up to date and accurate. The RJSC does not conduct onsite inspections or outreach to legal persons to ensure registration and associated legislative requirements are complied with.

275. Section 36 of the CA requires an annual statutory report to be filed with the RJSC containing:

- Names, addresses and occupations of all directors and auditors, managing auditors and secretaries as well as any changes thereto;
- A list of all shareholders including names, addresses, occupations and number of shares held by each; and

- All receipts and payments made by the company.

276. Companies must also keep a copy in the register of members. Fines apply to companies who do not comply with this requirement.

277. Under section 115 of the CA particulars of directors, managers and managing agents and any change thereof must be submitted to the RJSC within 14 days from the date of appointment or change. Section 34 requires companies to keep a register of members including when members commenced or ceased to be a member. Fines apply for those companies who do not comply.

Beneficial Ownership Information

278. *Criterion 24.6* - Bangladesh uses a combination of mechanisms to seek to ensure that beneficial ownership information is available: legal ownership information held by companies and beneficial ownership information to be collected and maintained by ROs in the course of company formation and ongoing CDD; and information disclosed by companies listed on the stock exchange relevant to beneficial ownership. Requirements in the MLPA and MLPR on ROs extend to them having to collect and maintain beneficial ownership information via their CDD processes when entering into customer relationships and through ongoing CDD (see discussion under R.10 and R.22), which should theoretically allow beneficial ownership information to be available for many legal persons. LEAs and the BFIU have sufficient legal powers to obtain such CDD information on beneficial ownership of a customer of an RO. In the absence of registration requirements for some companies along with the absence of supervision and oversight by the RJSC, it is envisaged that the collection of beneficial ownership information by ROs may be challenging.

279. *Criterion 24.7* - Beneficial ownership information held by ROs through CDD obligations under the MLPA is required to be up to date and relevant. However, this will only apply to those companies who interact with FIs and not to all companies.

280. *Criterion 24.8* - There are no requirements in the legislation for Directors or a DNFBP on behalf of the company to be resident in the country and accountable to domestic authorities.

281. *Criterion 24.9* - There is no legislative requirement for companies or the RJSC to hold information for a minimum specified period of time. Bangladesh confirm that in practice, the RJSC hold the documents for an un-limited period of time although this is not a legislative requirement. Under section 25 (b) of the MLPA 2012, if any account of a customer is closed, ROs including Trust and Company Service Providers are to preserve previous records of transactions of such account for at least 5(five) years from the date of such closure.

282. Section 24 of MLPA and R 24 of the MLPR requires DNFBPs and FIs to keep all records obtained through CDD measures, account files and business correspondence, and results of any analysis undertaken, for at least five years from the date the account is closed or at least five years from the date of completion of any one-off transaction.

Other Requirements

283. *Criterion 24.10* - Bangladesh authorities have the powers to obtain timely access to basic information from RJSC and the stock exchanges and available CDD information on beneficial owners from ROs. Bangladesh has provisions in the MLPA to enable competent authorities and LEAs to obtain information from reporting organisations. The BFIU has the power to obtain any information from governmental, semi-governmental, autonomous organisation or other institution or

organisation (section 24 MLPA). The BFIU can also spontaneously provide other LEAs with information relating to ML and TF. Investigation agencies can also request information regarding ML investigations or suspicious transactions from the Bangladesh Bank.

284. The CA provides the Registrar with the power to conduct inspections of books and records, require officers to furnish it with books, paper or information and obtain a court order for seizure of the above.

285. The ACC has powers to investigate matters under the ACCA which include issuing summons notices to appear and interrogate witnesses, produce documents and call for public records. Under this mechanism the ACC or any LEA authorised by them has power to compel production of documents including any basic or beneficial ownership information held by an individual, legal person or government body. The Bangladesh Police has the power to conduct search warrants and obtain such information under the CCP.

286. *Criterion 24.11* - Bearer shares are not permitted in Bangladesh by virtue of section 31 of the CA. Every certificate of shares or stock must specify the name or names of persons in whose favour the certificate is issued.

287. The CA has provision for bearer share warrants for a company limited by shares if authorised by its articles. Private companies are not able to issue bearer share warrants. Section 50 of the CA deals with entries in the register when the share warrant is issued and provides that on issue of the share warrant, the member formerly holding the shares or stock is struck out of the register and details of the warrant are entered. In these cases, there are no actions as provided for in 21.11 (b)-(e) present in Bangladesh’s system.

288. Bangladesh has not established mitigating measures to mitigate risks of bearer share warrants from being misused for ML or TF.

289. *Criterion 24.12* - There is no prohibition in Bangladesh law against nominee shares. There are provisions that allow for nominee directors under section 101 of the CA. However, Bangladesh has not been able to demonstrate it practices any of the measures to mitigate risks emanating from nominee shareholders and directors. By virtue of the lack of prohibition against nominee shares, the team finds that there is scope for them to be used in Bangladesh. No mitigating measures have been taken to prevent their misuse.

290. *Criterion 24.13* - The penalties contained in the CA are not proportionate or dissuasive. The CA include the following penalties:

Statutory provision	Penalty
Section 193 failure to furnish information to the Registrar	max BDT 500 (approx. US\$ 6) in respect of each offence
Section 200 – failing to produce to an inspector documents or information or answer questions	Max 6 months imprisonment or a fine BDT 5000 (approx. US\$ 65) or both plus a further fine of BDT 500 (US\$ 6) for every day which the refusal continues.
Section 34 failing to keep a register of members	BDT100 (approx. US\$ 1) for every day the default continues and every officer who knowingly authorises or permits default can be subject to that fine

Section 36(5) failing to keep and update annual list of members	BDT200 (approx. US\$ 2) for every day default continues plus personal liability for officers knowingly involved
Section 77 – failure to keep a registered office	BDT200 (approx. US\$ 2) for every day in default that it carries on business
Section 115 failure to allow inspection of the register including personal liability with actual knowledge and to allow inspection of the register	fine of BDT500 (approx. US\$ 6)
Section 397 Making a false statement	Imprisonment of up to five years and a fine.

291. There is no penalty for a failure to allow inspection of a company’s register of members.

292. *Criterion 24.14* - Although Bangladesh has the ability to exchange a wide range of information with foreign counterparts including information on shareholders, they are unlikely to be able to provide beneficial ownership information unless it was obtained through their CDD requirements. As stated in R37 and 40, Bangladesh is able to provide a wide range of mutual legal assistance. Bangladesh is able to make and receive mutual legal assistance requests whether or not they have an agreement signed in place. The BFIU would be able to utilise their power to investigate and obtain information under section 24 of the MLPA which includes their ability to obtain information from a wide range of governmental and semi-governmental organisations. They would then be able to exchange such information under section 24(4) of the MLPA with foreign FIU counterparts.

293. Under the BSEC Act, the BSEC can sign agreements with local or foreign authorities or organization, on securities related co-operation and exchange of information with prior approval of the Government. Rule 34 of the MLPR allows financial supervisors to exchange information domestically available to them with foreign counterparts, such information may include CDD information and customer files.

294. *Criterion 24.15* - Bangladesh has provided some details of how they monitor assistance received from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating BOs abroad. This involves the BFIU and the AGO.

Weighting and Conclusion

295. Bangladesh has a number of technical gaps in relation to the registration of companies. In particular, the absence of any requirement to record beneficial ownership of companies is significant. The relatively weak sanctions for non-compliance with company registration requirements and transparency in ownership is also significant. There are very few controls on bearer share warrants. The RJSC does not adequately monitor company registration or annual reporting.

Bangladesh is rated partially-compliant for R. 24.

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

296. Bangladesh was rated as non-compliant to former Rec 34 as information on ultimate beneficiaries of trusts is not required to be determined and made available to authorities on request. Information on parties to a trust are held in decentralized manual registers which proved very difficult for LEAs to access in practice.

297. Bangladesh has a system of trust law that includes express and discretionary trusts similar to other jurisdictions which apply common law. Trusts and other legal arrangements formed overseas can and do operate in Bangladesh.

298. Under the Registrations Act 1908, trust deeds relating to immovable property are required to be registered with one of the 500+ Sub Registrars across Bangladesh. Trust deeds may also be registered with the RJSC. At the time of the onsite visit 696 trust deeds were registered with the RJSC but the Sub-Registries did not keep or consolidate statistics as all records remain in paper form.

299. Hindu Karta are registered under The Hindu Religious Welfare Trust Ordinance, 1983. Hindu Karta or Hindu Undivided Families are part of traditional Hindu customary law and are legal entities comprised of members of a nuclear or extended family. Hindu Karta are unique in the sense that they have some elements in common with a trust or partnership but are different in some respects. For example, a Hindu Karta is defined as a “person” and as such the person may hold assets such as company shares, securities, jewellery and movable and immovable property.

300. Property, whether immovable or movable held under the Hindukarta arrangement is held in the name of the Karta which is usually a senior family member. No separate instrument or document is required for the creation or continuance of Hindukarta but if the Hindukarta purports to create or extinguish rights in land, it must be registered under the Registration Act 1908. And done so in writing. Hindu karta can also operate as businesses and can be composed of large number of branches/families- each branch itself being a Hindu karta and similarly the sub-branches of more branches. 21 are currently registered.

301. Waqfs are described as permanent dedications by persons professing the Islamic Faith of any movable or immovable property recognized by Islamic Law for religious or charitable purpose. All Waqf properties are managed by the Waqf Administrator who is an Additional Secretary nominated by the Minister of Religious Affairs under the Waqfs Ordinance 1962. Through a written deed, the settlor (waqif) appoints a manager for the administration of the Waqf for certain property (mutawalli) and once dedicated, the trust is permanent, irrevocable and inalienable.

302. *Criterion 25.1* - The Trusts Act 1882 acknowledges the legitimacy of pre-existing trusts and applies measures to those trusts and to trustees. It sets out that registered trust deeds should contain specific information relating to settlor, trustees and beneficiaries.

303. All DNFBPs and FIs are required under the MLPR (s.17.9) to identify and take reasonable measures to verify the identity of the settlor, the trustee(s), the protector (if any), the beneficiary or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, including through the chain of control/ownership. The obligations extend to identifying persons in equivalent or similar positions for other types of legal arrangements. BFIU Circular No 13 creates obligations on reporting organizations such as trust and company service providers and other DNFBPs to apply specific CDD measures and update CDD (rules 4.3 and 4.6).

304. Professional trustees who are trust service providers covered under the MLPA are required to maintain information on parties to the trust for at least five years after their involvement with the trust ceases. Natural or legal persons which are not obliged ROs under the MLPA may act as settlor, trustees or protector of a trust or equivalent or similar positions for other types of legal arrangements in Bangladesh. In such cases MLPA obligations do not apply. As such, there is no certainty as to whether a trustee holds such information for regulated agents.

305. Statutes establishing religious trusts cover elements of extend any positive obligations under the Waqfs Ordinance Act 1962 or the Hindu Religious Welfare Trust Ordinance, 1983. It would appear that MLPA obligations and requirements to provide and maintain accurate, adequate and current information on trustees, beneficiaries and settlors in this area are not present.

306. *Criterion 25.2* - There is no requirement in law for information held pursuant to this recommendation to be kept accurate and up to date and updated on a timely basis. The requirement under 25.2 is also not present in the legislation governing Waqfs or Hindukarta.

307. *Criterion 25.3* - Obligations in the MLPA and BFIU circulars do not extend to a positive obligation on trustees to disclose their status to a financial institution or DNFBP when forming a business relationship. The MLPA obligation only applies to reporting organisations taking measures to conduct CDD on their clients.

308. *Criterion 25.4*- There appears to be no exemptions in law or enforceable means to prevent trustees from providing the necessary information to competent authorities. There are no specific confidentiality provisions contained within the Trusts Act that preclude trustees from responding to requests for information. The Administrator of waqfs is required to maintain a register containing particulars of each waqf and copies of the waqf deed, including the name of the mutawalli. However, section 97 requires the Administrator to maintain secrecy regarding the particulars and other information relating to a waqf.

309. *Criterion 25.5* - The BFIU by virtue of the MLPA 2012 and the MLPR are able to obtain information held concerning trusts. This would include a wide range of information such as assets held or managed by an FI or DNFBP (section 23 MLPA). However, it is uncertain as to whether the information on beneficial ownership is sufficient enough to be of useful purpose. Such obligations are also not applied in the form of any legislation or circular to Waqfs.

310. *Criterion 25.6* - Bangladesh's ability to provide international co-operation in relation to trusts and other legal arrangements is described at R.40. The scope of the available information covers access by foreign competent authorities to basic information held by domestic authorities and using competent authorities' investigative powers under the MLPA and other regulatory instruments to obtain beneficial ownership information, where available, from ROs on behalf of foreign counterparts. The legal and institutional measures available under R.40 are equally available to Bangladeshi authorities in relation to international cooperation to share information on trusts and other legal arrangements. However, the gaps in the collection of beneficial information as discussed in 25.1 mean Bangladesh may not be able to provide full beneficial information on trusts that are not formed by a RO under the MLPA.

311. *Criterion 25.7* - While there are provisions under section 23 (Liability for Breach of Trust), section 29 (Liability of Trustee) and section 68 (Liability of Beneficiary in joining Breach of Trust) under the Trusts Act that spell out legal liabilities where breach of trust has occurred, the provisions do not point towards any additional proportionate or dissuasive sanctions, criminally civilly or administratively. Section 32 of the Waqfs Ordinance 2012 allows for the Administrator of Waqf to remove a Mutawali ("Manager) of the Waqf and when a mutawalli commits a breach of trust or does any wrongful act causing loss to the waqf property, he shall be liable to make good the loss sustained by the waqf property or its beneficiaries. Bangladesh authorities did provide evidence pertaining to the obligation upon reporting organizations where they do not complete their duties. For those trusts that are created by DNFBPS or TCSPs obligations exist under the MLPA, MLPR and BFIU Circular 13 for the collection of relevant information. The BFIU Circular constitutes enforceable

means, and for DNFBPs (including TCSPs) who do not comply with its obligations, sanctions apply. These sanctions are addressed in s23 (5) onwards of the MLPA and are discussed at recommendation 35 above. The assessment team accepts that these constitute enforceable means however as noted in R35 above, considers that the sanctions for non-compliance are not sufficiently dissuasive and do not reflect the risk profile.

312. *Criterion 25.8* - Section 7 of the MLPA 2012 points towards sanctions on any entity that obstructs or does not cooperate in an investigation or fails to supply information. The penalty is directed towards individuals only and provides for a period of one years imprisonment or a fine not exceeding BDT25, 000 (US\$ 325) or both. Section 23 of the MLPA provides further requirements to provide the BFIU with any requested information. Penalties for non-compliance with section 23 are wider and include fines directed towards organizations. There are no sanctions contained in the Trusts Act or the Waqf Ordinance for a failure to provide access to trust information to competent authorities.

Weighting and Conclusion:

313. While there are binding registration obligations for certain categories of trust deeds, the compliance with those obligations is not well supported, particularly in relation to religious trusts. In any case, there are doubts as to how such information can be easily accessed by law enforcement and other competent authorities. Compliant CDD obligations for ROs to conduct ongoing due diligence may not result in ROs having timely CDD information when there are changes to the trustees of a legal arrangement. There is no obligation on trustees to disclose their status to ROs at the point of commencing a business relationship. Relatively little weight is given to the fact that trust services may be undertaken by non-professionals who are not ROs and not obliged to conduct CDD. A significant gap also exists where Waqfs are concerned where the duties and responsibilities to provide accurate, current and speedy information concerning beneficial ownership does not appear to extend to the area of religious trusts. Given the sheer number of Waqfs in Bangladesh, there is a large scope of potential for abuse.

Bangladesh is rated partially compliant for R. 25.

Recommendation 26 – Regulation and supervision of financial institutions

314. In 2009, Bangladesh was rated PC for former R.23 due to a lack of coverage of the securities and insurance sectors and the limited depth of AML/CFT supervision of the banking sector. Since then, Bangladesh has issued a number of provisions to improve the supervision on reporting agencies. This includes revised monetary sanctions for AML/CFT breaches to ensure the sanctions are proportionate and dissuasive. BFIU has been appointed to be the central authority to supervise all reporting agencies on AML/CFT requirements and has used the available sanctions in response to AML/CFT breaches. The BFIU also has the power to issue regulatory instruments (directions, regulations) to all reporting agencies, which it has done since the last mutual evaluation.

315. *Criterion 26.1* - Pursuant to sections 23 (1) (d), (e) of MLPA Bangladesh Bank is authorised to issue directions to reporting organisations, monitor their compliance with AML/CFT requirements and carry out on-site inspections.. The same provisions are also delineated in section 15(1) of ATA. Other sector specific regulators are also responsible for supervising the compliance of the instruction of BFIU during their regular supervisory activities under Section 15 of MLPR.

Market Entry

316. *Criterion 26.2* - Banking is clearly defined as a licensed business under section 13 of the BCA. The conduct of business without a license is prohibited under section.10 of Banking Company Act. Section 11 IFSA also prohibit use of the word “bank”, “banker”, “banking” or any derivatives of these words capable of being construed as indicating or making representation for having a license to carry on Banking Business.

317. NBFIs are licensed under section 4(1) of Financial Institutions Act 1993. NBFIs include institutions include merchant banks, investment companies, mutual associations, mutual companies, leasing companies or building societies.

318. For capital market activities in the stock exchange, intermediaries must also be licensed by the BSEC. Section 8.1 of the Securities and Exchange Ordinance 1969 provides that no person shall transact any business in securities on any stock exchange unless he is a member thereof. Rule 4(g)-BSEC (Stock Dealer, stock Broker and Authorized Representative) Rules, 2001 provides that no person will be eligible to get a license to be a stock dealer or stock broker unless he/she first obtains approval to employ its Chief Executive, or appoint any member of the Board of Directors, by the concerned stock exchange. Rule 27(1)(g) of BSEC (Mutual Fund) Rules 2001 and Rule 5(3) of the Securities and Exchange Commission (Merchant Banker and Portfolio Manager) Rules 1996 also provide the requirement for asset managers and merchant bankers to get a license from BSEC.

319. For the provision of insurance, section 8 of the Insurance Act 2010 provides that no person is permitted to carry on insurance business unless such person has obtained a certificate of registration from the competent authority.

320. Money changers are required to be licensed based on section.4 of FERA 1947 and renew their license every year. BB only renews licenses providing money changers obtain a satisfactory on-site inspection report about activities and fulfil capital requirements.

321. Only scheduled banks may act as local partner of the international MVTS providers. The contract/drawing arrangement between the banks and MVTS providers are required to be approved by BB. Only inward foreign remittance is allowed through international MVTS. Scheduled banks are allowed to provide outward remittance under the FERA and Guidelines for Foreign Exchange Transactions. MVTS in the local market are required to be licensed by Bangladesh Bank under the Bangladesh Bank Order-1972, Guidelines on Mobile Financial Services for Banks-2011 and Bangladesh Payment & Settlement System Regulations-2014. The government-owned Bangladesh Post Office has authority for providing MVTS as part of its postal service under The Post Office Act 1898.

322. Under rule 15 of MLPR, BB shall not approve the establishment of, or continued operations of, shell banks in Bangladesh. In addition to the above requirements, BFIU circular no 10 dated 28 December 2014 also prohibits banks establishing, or continuing, any business relationship with any shell banks.

323. *Criterion 26.3* - Under 15, 17, 18, 21, 46 & 47 of the BCA, directors and senior management of banks are evaluated on the basis of “fit and proper” criteria including checking their expertise, integrity and criminal background. Checks do not explicitly extend to associations with known criminals (domestic or foreign) and any adverse findings by a supervisory or regulatory authority. Further, the “fit and proper” measures do not extend to beneficial owners.

324. Sections 4, 5, 25 & 26 Financial Institutions Act 1993 empowers Bangladesh Bank to adopt the necessary measures to prevent any person who is not suitable from controlling or participating,

directly or indirectly, in the directorship of the institutions. Directors and senior management of NBFIs are also evaluated on the basis of “fit and proper” criteria according to FID Circular no.10 Dated 12-12-2002. These “fit and proper” measures do not, however, extend to beneficial owners.

325. Rule 4(2) of the Securities and Exchange Commission (Stock Dealer, Stock Broker and Authorised Representative) Rules 2000 prohibit criminals to obtain a licence or registration from BSEC. However, there is no formal mechanism or processes for the supervisors to evaluate the shareholders or senior management. These checks do not extend to criminal histories and associations with known criminals (domestic or foreign) and any adverse findings by a supervisory or regulatory authority. There are no similar regulations (or Rules) in relation to “fit and proper” testing of portfolio managers and mutual fund managers.

326. Limited measures are in place to prevent criminals or their associations from holding a license or managing an insurance company. Section 127 (6) of the Insurance Act 2000 forbids the granting, or renewal, of a license of insurance surveyors if the person has been found guilty of criminal misappropriation or criminal breach of trust, cheating or forgery, or an abetment of or attempt to commit any such offence by a Court of a competent jurisdiction. This provision is relatively narrow (for example ML convictions are not included) and does not extend to associations with known criminals (domestic or foreign) and any adverse findings by a supervisory or regulatory authority.

327. For money changers, “fit and proper” evaluation is based only on meeting capital requirements, a confidential report from the money changer’s bank regarding financial soundness and the statement of indebtedness of the applicant.

328. For money remitters, for banks, there is no separate “fit and proper” test required to obtain an MFS license (it is given to banks that are already licenced). Fit and proper tests are not conducted for payment system operators.

Risk-Based Approach to Supervision and Monitoring

329. *Criterion 26.4* - The powers available to Bangladesh Bank to regulate and supervise state-owned commercial banks are not in keeping with the core principles. Bangladesh Bank strives to regulate and supervise private commercial banks in accordance with Core Principles, but there are gaps with risk management. It is not clear that BSEC regulates and supervises proper management of risk and ensures principles 6 (capital), 8 (credit) and 12 (country and transfer) are implemented. IDRA has commenced to regulate and supervise in keeping with the IAIS Principles, but has not fully implemented its approach. Other sectors such as the NBFIs and MVTs are regulated and supervised by Bangladesh Bank.

330. *Criterion 26.5* - Bangladesh Bank has commenced a risk based approach to determining the frequency and intensity of on-site and off-site AML/CFT supervision of banks based on the institutions risk profile and Bangladesh’s assessments of risk. Sectors beyond banks are not under this approach; neither BSEC nor IDRA have moved to a risk-based approach to supervision. Each bank’s head office is inspected every year and branches are selected for inspection depending on risk. Risks are assessed based on offsite inspection results, media reporting, STR and CTR reporting, branch rating, geographical areas where the number of transaction is very high, and complaints received from different entities or persons. Special inspections are conducted when irregularities are found during the system check inspection made by BFIU. If the bank repeatedly gets a lower rating in the system inspection, it will be the subject to a special inspection. However, this more comprehensive risk-based approach has not been expanded to sectors beyond banks.

331. *Criterion 26.6* - Section 21 of MLPR requires FIs to conduct periodic risk assessment and to submit the risk assessment report to BFIU. BFIU will conduct vetting on the report. However, there is no formal mechanism or processes for the supervisors to update their assessment of sectoral ML/TF risks when there are major events or changes to a particular financial institution or sector.

Weighting and Conclusion

332. Prudential regulation and supervision in keeping with the Core Principles relevant to AML/CFT is not well implemented and is particularly absent from state-owned commercial banks and securities firms. Fit and proper checks of banks and financial institution shareholders appear to not extend to beneficial ownership. There is no formal mechanism or processes for the supervisors to evaluate the shareholder or senior management of stock dealer, stock broker and their authorised representative. There is no regulation on evaluation of portfolio managers and mutual fund directors and senior management. Limited measures are in place to prevent criminals or their associations from holding a license or managing an FI. Offsite supervision has not considered ML/TF risks present in the country and the characteristics of the FIs or groups, in particular the diversity and number of FIs and the degree of discretion allowed to them under the RBA. The RBA on on-site supervision has not been expanded beyond banks. There is no formal mechanism or processes for the supervisors to update their assessment of sectoral ML/TF risks when there are major events or changes to a particular financial institution or sector. These appear to be significant gaps.

Bangladesh is rated partially compliant with R.26.

Recommendation 27 – Powers of supervisors

333. Bangladesh was rated PC for former R.29 as supervisors lacked adequate powers to monitor and ensure compliance by the securities sector with AML/CFT requirements and the lack of inclusion of the insurance sector.

334. *Criterion 27.1* - BB (specifically BFIU) has specific powers to examine and supervise any FI to ensure its compliance with AML/CFT requirements (section 23 (1) of MLPA and in section 15(1) of ATA). This includes both offsite and on-site supervision and monitoring.

335. Under rule 15 of MLPR, other respective sector specific supervisor (BSEC and IDRA) are also responsible for supervising the AML/CFT compliance including give proper attention on AML/CFT compliance while conducting its regular inspection, supervision and monitoring.

336. *Criterion 27.2* - As per section 23 (1) (e) of MLPA, BFIU is authorised to carry out on-site inspections on the reporting organisations.

337. Other than BFIU, Section 17A of BSEC Act, 1993 empower BSEC to conduct inspection or enquire of any person mentioned in subsection (1) of section 10 and section 15 (10) of Insurance Act 2010 empowers IDRA to conduct inspection on insurance companies.

338. *Criterion 27.3* - As per section 23(1) of MLPA BFIU is empowered to compel production of additional information for the purpose of analysing, or reviewing, cases received from the reporting organisations. BFIU has authority to ask for any information, or report, from the reporting organisations with regard to any transaction in which there are reasonable grounds to believe that the transaction is involved in ML or a predicate offence.

339. As per section 15 (1)(a) of the ATA, the BFIU may take necessary steps to prevent and identify any transaction carried out by any reporting organisation with intent to commit an offence under this Act. Bangladesh Bank has the power to call for a report relating to any suspicious transaction from any reporting organisation, analyse or review the same, to collect additional information and maintain records of them. Bangladesh Bank may provide the information or a report of the case to the police, or other law enforcement agencies to take necessary action.

340. Other supervisors are also empowered to compel production of following information relevant to monitoring compliance with the AML/CFT requirements. The BSEC has the power under section 8 (2)(jj) of BSEC Act, BB under section 51 of BCA, section 19 of FERA and section 12 of Financial Institutions Act and IDRA under section 15 (10) of Insurance Act.

341. *Criterion 27.4* - Under section 23 (3), (4), (5), and (6) of MLPA 2012 BFIU is empowered to impose a fine if FIs fail to provide the requested information timely, or provides false information or statement when requested, or fails to comply with any instruction given, or fails to comply with any order for freezing or suspension of transaction. BFIU is also empowered to impose fine against the responsible owner, directors, officers and staff or persons employed of the respective reporting organisation (section 23(8) MLPA). However there is no sanction if a financial institution refuses to consent to the entry in the premises of the financial institution and the concern from the 2009 MER that monetary sanctions set out in the (then in force) MLPO are very low, ranging from BDT10,000 – 500,000 (US\$ 130 – 6,493) still remain.

342. According to the MLPA and ATA, BFIU may suspend the registration or license of the organisation, or any of its branches, service centres, booths or agents for the purpose of closing its operation within Bangladesh or, as the case may be, shall inform the registration or licensing authority about the fact so as to the relevant authority may take appropriate measures against the said organisation.

343. Other supervisors may also impose penalties (sections 130- 133 & 143 of Insurance Act 2010 and section 18 of BSEC Act) but these are not related directly to AML/CFT regulation. Under rule 15 of MLPR, other respective sector specific supervisor shall take immediate action on request of the BFIU to impose sanctions.

344. Bangladesh Bank does not directly have a suitable range of sanctions available in relation to state-owned commercial banks, under the Banking Companies Act or the MLPA, when it comes to sanctioning the board or management.

Weighting and Conclusion

345. Particular weight is given to weaknesses with sanctions available to the regulator to take actions to replace the board and management and other sanctions against state-owned commercial banks.

Bangladesh is rated largely compliant with R.27.

Recommendation 28 – Regulation and supervision of DNFBPs

346. Bangladesh was rated non-compliant with former R.24. The 2009 MER concluded that there is no regime for AML/CFT regulation and supervision of DNFBP. R.28 contains new requirements with a focus on the risk-based approach to supervision of DNFBPs both in terms of resources

allocated by the supervisor and the specific process of supervising institutions. In 2013, Bangladesh issued the MLPR and Circular 13 which contains detailed requirements for DNFBBs.

347. *Criterion 28.1* – this criterion is not applicable as casinos are not allowed in Bangladesh.

348. *Criterion 28.2* - BFIU is the designated competent authority for monitoring and ensuring compliance of DNFBBs with AML/CFT requirements. As per Section 23 (1) of the MLPA, BFIU is empowered to monitor whether the reporting organizations have properly submitted information and reports requested by BFIU and whether they have duly complied with the directions issued by it, and where necessary, carry out on-site inspections of the reporting organizations to ascertain the same.

349. As per section 8 (2) of the MLPR the BFIU exercises the power of Bangladesh Bank vested under the MLPA, the ATA and the existing other laws. Section 16 of the MLPR also describes the role of the Self-Regulatory Bodies (SRBs) and Associations.

350. *Criterion 28.3* - Bangladesh has only taken limited steps to ensure that DNFBBs are subject to systems for monitoring compliance with AML/CFT obligations. These have been limited to offsite supervision with only a few DNFBB sectors.

351. *Criterion 28.4* - BFIU has adequate powers to perform its functions, including powers to monitor compliance as per section 23(1), 25 (2) of the MLPA 2012 and section 15 of ATA, 2013.

352. As per Section 23 (1) of the MLPA, BFIU is empowered to monitor whether the reporting organizations have properly submitted information and reports requested by BFIU and whether they have duly complied with the directions issued by it, and where necessary, carry out on-site inspections of the reporting organizations to ascertain the same. As per section 8 (2) of the MLPR, the BFIU exercises the power of Bangladesh Bank vested under the MLPA, the ATA and the existing other laws.

353. As per Section 25 (2) of MLPA, 2012, if any reporting organization violates the provisions of sub-section 25(1) of MLPA, 2012 Bangladesh Bank may impose sanctions. As per Section 15(1) of ATA, 2013 Bangladesh Bank may take necessary steps to prevent and identify any transaction carried out by any reporting agency with intent to commit an offence under this Act and for this purpose it shall have the powers and authority to take relevant measures. This is discussed further in R35.

354. There are significant gaps with market entry fit and proper for DNFBBs. There is no requirement regarding the prevention of criminals or their associates from being professionally accredited, or holding a significant or controlling interest, or holding (or being the beneficiary owner of) a management function in a DNFBB. Checks do not extend to considering any adverse findings by a supervisory or regulatory authority.

355. *Criterion 28.5* - BFIU has begun taking into account the ML/TF risk profile of those DNFBBs as mentioned in the NRA but has not yet determined the frequency and intensity of AML/CFT supervision of DNFBBs on ML/TF risk profile.

Weighting and Conclusion

356. Particular weight is given to weaknesses with market entry fit and proper controls for DNFBBs and steps taken to ensure DNFBBs are subject to monitoring compliance with AML/CFT obligations.

Bangladesh is rated partially-compliant with R.28.

Recommendation 29 - Financial intelligence unit

357. Bangladesh was rated partially compliant with former R. 26. The 2009 MER noted a lack of timely access to information required to effectively analyse STRs and concerns over security of the BFIU. Statistics suggested decreasing effectiveness of STR analysis and dissemination.

358. *Criterion 29.1* - The BFIU is the competent authority established within the Bangladesh Bank in 2012 under section 24(1) of MLPA. BFIU serves as a national central agency for receipt, analysis and dissemination of STR and other relevant information relating to suspected ML or FT activities under rule 8 of the MLPR. It also works as the competent authority for exchange of information related to ML and TF as per rule 2(6) of MLPR.

359. *Criterion 29.2* - Under rule 8 of MLPR, the BFIU serves as a national central agency for receipt, (and analysis and dissemination) of STRs and other relevant information relating to ML associated predicate offences or TF. Section 2(w) of MLPA outlines the various reporting organisations (ROs) that provide data to the BFIU. ROs are required to report any identified suspicious transaction to BFIU without delay under section 16(1) of ATA and section 25(1)(d) of the MLPA. The BFIU Circulars issued to ROs pursuant to section 23(1)(d) of the MLPA and section 15(1)(d) of the ATA confirm the requirement on ROs to file STRs and CTRs with the BFIU. The BFIU has direct access to the database of BB which covers wire transfer reports and foreign exchange declaration reports and cash transaction reports (CTRs) for transactions over approximately US\$ 12,000.

360. *Criterion 29.3* - Under section 23 (1)(a) of MLPA and 15(1)(a) of ATA 2009, BFIU is empowered to collect any additional information from any reporting agency for the purpose of analysing or reviewing the data/ suspicious transactions. Section 24(2) of the MLPA provides BFIU with the ability to request information from any governmental, semi-governmental, autonomous organisation or other relevant institution. This includes law enforcement and regulatory information.

361. *Criterion 29.4* - The BFIU has made significant improvements in analysis support with the goAML system becoming operational in June 2013. The BFIU has an analysis wing which conducts operational analysis relating to reports received (STRs and CTRs), complaints received, or adverse media reports. The analysis wing of the BFIU traces activities and transactions relating to potential proceeds of crime to determine links between targets, identify PEPS and third parties who harbour their proceeds of crime related to predicate offences and ML/TF. The BFIU asset tracing powers add to this operational analysis capability. The BFIU uses the goAML software program to support the BFIU's operational analysis.

362. BFIU carries out some strategic analysis, however the scope of such analysis needs to be further developed. The BFIU has trained four officers on strategic analysis. They are guided by the Egmont Strategic process and the BFIU manual. Members of the strategic analysis team participated in the NRA process and the sectoral risk assessments of banks, FIs and DNFBPs. The strategic analysis team has recently focused on drug trafficking and gold smuggling and previously multi-level marketing schemes.

363. *Criterion 29.5* - Under sections 23(1)(a) and 23(2) of MLPA, 2012 and section 15(2) of ATA, 2009, the FIU is able to disseminate, spontaneously and upon request, information and the results of

its analysis to relevant competent authorities. LEAs are registered with the goAML software and are able to obtain information from the BFIU securely through this channel.

364. *Criterion 29.6* - The BFIU has physical security measures in place including secure office space not accessible to those outside the BFIU. Access to the database room where confidential analysis takes place is also restricted. Rules 9(9)(a) and 9(9)(b) of the MLPR provides the BFIU with the Key Performance Installation (KPI) as designed by the government. All employees of the BFIU are permanent employees of the BB although the legislation does allow for a transfer of individuals from other organisations (rule 9(10)(a) MLPR). In the event of this occurring, the employee must have a background check carried out by the Head of the BFIU and a security clearance from law enforcement where it deems fit (rule 9(10)(b)) MLPR. Prior to appointment with the BB, a security clearance from the Police as well as from National Security Intelligence are required. Confidentiality agreements are required and there are sanctions for breach of confidentiality under s6 of the MLPA

365. *Criterion 29.7* - At the time of the assessment, the BFIU was headed by the BB Deputy Governor and carried out its functions with a reasonable degree of autonomy. Whilst its core functions were separate to that of its host, the BB, the management of the FIU was not wholly independent of the BB, however the core functions were suitably distinct from those of the BB. BB does not have an independent budget, but this has not influenced the operational independence as the BB budget has been very generous.

366. Section 24 of the MLPO established the BFIU as an independent central agency with operational autonomy. Section 24(3) of the MLPA provides that the BFIU may upon request or spontaneously provide ML/TF related information to other government agencies. The BFIU is also able to exchange information with foreign FIUs (section 24(4)). Oversight of the BFIU is shared between the government and the BB. The effect of the new institutional arrangements on operational independence and autonomy is not yet clear. In particular, in line with the amendments to the MLPA the BFIU still remains subject to funding, staffing and administrative benefits from the BB. It is yet to be demonstrated therefore that that the funding structure remains free from any undue interference which may compromise its operational independence.

367. *Criterion 29.8* - The BFIU achieved Egmont membership in July 2013.

Weighting and Conclusion

368. There are some weaknesses in the scope of the strategic analysis function and recent legislative changes to governance and oversight may, in the future, have an effect on operational independence. Neither of these are large gaps.

Bangladesh is rated largely compliant with R.29.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

369. Bangladesh was rated partially compliant with former R. 27. The 2009 report noted concerns with the designation of investigating agency, the conduct of parallel ML investigations and the effectiveness of ML and TF investigations. R.30 contains new requirements that were not assessed under R.27 of the 2004 Methodology.

370. *Criterion 30.1* - With the amendment of the MLPA in 2015, the authorised investigation agency for the predicate offence under the existing law may also investigate offences under the MLPA.

Therefore, each respective LEA may investigate ML in parallel with the predicate offence. This includes Customs and NBR, Bangladesh Police and the CID, BGB, and DNC. The ACC remains the core investigation agency for corruption offences. Bangladesh Police are responsible for the investigation of TF offences under section 21(1) of the ATA.

371. There are number of procedural elements in the MLPA, CCP, ATA and ACCA setting overly restrictive time limits on investigations which would not allow LEAs the time to effectively conduct complex financial investigations. ACCR allow 30 working days to complete an enquiry and the ACCA 2004 (amended in 2013) allows 120 working days to complete an investigation. Such time limits for a corruption or ML case would appear to inhibit a successful investigation. However, given these provisions are not viewed as being mandatory, in practice, authorities advise they are not restrictive.

372. Criterion 30.2 - The MLPA allows for LEAs of predicate offences to conduct parallel investigations for any related ML/TF offences (section 2(1) MLPA). The LEA must also inform the BFIU of the commencement of an investigation under the MLPA. Under the ATA the Bangladesh Police is the relevant investigating agency for terrorism offences. Agencies that currently investigate other predicate offences include Bangladesh Police, BGB, Bangladesh Customs, the NBR and BSEC. Within the Bangladesh Police, the CID has a specialist ML team and a specialist counter-terrorism unit has been established within the Dhaka Metropolitan Police to conduct investigations under the ATA, encompassing both financial and criminal investigations.

373. *Criterion 30.3* - The BFIU, ACC and other LEAs are designated to trace assets and initiate provisional measures. The ACC and LEAs may also exercise investigation powers available to them under any other law (section 9(3) MLPA). LEAs have the power to apply to the Court to seek provisional measures to freeze or attach property (section 14(1) MLPA). The BFIU gathers asset tracing powers under s23 of the MLPA which provides them with wide powers to gather information or reports from ROs and trace transactions. They may further issue orders to ROs to suspend or freeze transactions of any account (section 23 MLPA).

374. *Criterion 30.4* - Competent authorities which are not LEAs, such as the BSEC and NBR, are able to exercise functions under this Recommendation pursuant to their respective legislative powers (see R.31). BSEC and the NBR are investigation agencies under the MLPA and are also able to utilise the powers contained in that act to investigate and seek provisional measures.

375. *Criterion 30.5* - The ACC is an independent commission to investigate corruption and ML offences and was established pursuant to the ACCA in 2004. The powers of the ACC to identify, trace, seize and freeze assets are all contained in both the ACCA (sections 19 and 20 which gives the ACC full powers of an officer-in-charge of a police station) and the MLPA (section 14). In relation to tracing and identifying money in accounts held with FIs, the ACC may only obtain this information via a court order or through the BFIU (section 23(7A) MLPA). For all other lines of investigation the ACC has the power under section 19 to call for information from any person or call for discovery or presentation of any document in its investigation.

Weighting and Conclusion

376. Bangladesh has designated key agencies responsible for the investigation of ML, TF and related predicate offences. With the amendment to the MLPA in 2015, all agencies investigating the predicate offences have powers under the MLPA to seek provisional measures. The BFIU is the designated FIU and is provided with wide asset tracing and freezing powers.

Bangladesh is rated compliant with R.30.

Recommendation 31 - Powers of law enforcement and investigative authorities

377. Bangladesh was rated partially compliant with former R. 28. Under the ACC Act at that time special investigation powers available to the ACC to investigate corruption were not available in relation to ML. Further, effective use of the available powers was not demonstrated. The requirements under this Recommendation have expanded substantially and require LEAs to have a much wider range of powers.

378. Criterion 31.1 (a): production of records held by FIs, DNFBPs and other natural or legal persons - Competent authorities conducting investigations of ML, predicate offences and TF are able to obtain necessary documents and information for use in investigations and prosecutions.

379. Under the MLPA the BFIU may request information from reporting organisations for the purpose of analysing or reviewing information and provide such information to the investigating agency (which may also request such information from the BFIU). The investigating agency may obtain documents and information related to a customer of a bank or FI through an order of the Court or the BFIU (section 23(7)(A) MLPA).

380. The ACC has wide powers under section 19 ACCA to compel production of documents, to summons notices to witnesses, interrogate them and call for public records. They also have powers of an officer in charge of a police station and can utilise those powers contained in the CCP.

381. Section 94 of the CCP contains powers to compel the production of documents via a court order or search warrant (with limited exceptions to documents in the custody of banks, which is covered by the MLPA in any event) for investigating ML, TF or predicates. This power is available to officers in charge of a police station which also includes the ACC pursuant to the operation of the ACCA.

382. Customs officers, officers of the Bangladesh Coast Guard, BGB or police officers may under certain circumstances enter premises and seize documents relating to evidence of the commission of the offence (section 36 NCA).

383. LEAs can access any document or file of any bank either with an order of the court or with approval of the BFIU (section 15(7)).

384. *Criterion 31.1 (b) search of persons and premises* - Under section 20 of the ACCA, the ACC has powers of an officer in charge of a police station. Section 94 of the CCP provides that when a Court or officer in charge of a police station considers the production of a document or other thing is necessary for an investigation, the Court may order production of that thing to the Court. However where a Court believes that a person to whom such a summons has been issued will not produce the document or thing, they may issue a search warrant and the person to whom the warrant is directed may search or inspect in accordance therewith. These powers are available to the Police, the ACC and Customs (under section 161(6) of the Customs Act). The NCA contains provisions for searches of persons and premises for Customs officers, DNC officers and police officers in suspected drug cases (sections 36 and 37).

385. *Criterion 31.1 (c) taking witness statements* - Under the CCP, the police can interrogate witnesses and reduce such interrogation to writing however that witness statement shall not be signed by the person making it and it can only be used in certain circumstances. Magistrates who are not police officers may record a statement or confession made to them in the course of an investigation and such statements are recorded and signed (section 164 CCP). The ATA under s21

allows for the taking of a witness statement with consent, or it can be recorded by a Magistrate under section 22 of the ATA. Section 19 of the ACCA allows for the interrogation of a witness and the taking of evidence.

386. *Criterion 31.1 (d) seizing and obtaining evidence* - The powers under the CCP available to officers in charge of a police station in relation to the seizing and obtaining of evidence are contained at section 103. Section 103 allows for the searching of premises and the ability to seize evidence. At section 104 the Court can impound any document or thing produced before it under the Code. Further section 550 of the CCP any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Section 21 of the ATA provides investigating authorities with powers to investigate TF including examination of individuals and taking witness statements and seizing evidence or terrorist property. The ACC has wide powers as discussed above due to section 20(3) of the ACCA providing them with full powers of an officer in charge of a police station.

387. *Criterion 31.2* - The ACC has the power under section 23 of the ACCA to call for information from other government agencies to assist in its investigation of ML. This can include a request to the Telecommunication Regulatory Commission, but does not provide a basis for accessing computer systems. Section 97A of the Bangladesh Tele-Communication (Amendment) Act 20016 provides a basis 'sometimes' for the Ministry of Home Affairs to give power to an officer of the intelligence unit or investigation agency for a certain period to prevent sent messages and conversation by users of telecommunication services, preserve the record or collect related information.

388. Section 42a of the NCA provides for controlled delivery and undercover operations in relation to drug matters. A statutory basis to support controlled delivery in cases outside of narcotics matters is not available. The ACCA gives the ACC wide powers under section 19(f) to undertake 'any other matter required for realising and fulfilling the aims and objectives of this law'. This power is only available to the ACC and not to other LEAs.

389. For all other ML and predicate offences investigated by LEAs other than the ACC, the ability to intercept communications in limited circumstances, conduct undercover operations and access computer systems is not available which is a significant gap in LEA investigative powers.

390. *Criterion 31.3* - As a result of the MLPO 2015, section 23(b) of the MLPA allows the BFIU to obtain 'necessary information or report from reporting organisations.' This wide and largely undefined power could allow the BFIU to collect (natural or legal persons) customer information in circumstances where the matter does not relate to an STR on an on-going investigation. Technically, an LEA could then make a request for that information pursuant to section 23(2) provided they demonstrate a nexus to ML or a suspicious transaction. It is also noted that the information that the ROs hold may not include the full range of beneficial ownership information which will inhibit the authorities' ability to investigate those who control accounts. This issue is discussed further at R.24.

391. The power is again provided, in a more narrow form, in the MLPA at section 23(a) which allows the BFIU to collect any information from any RO in relation to CTRs and STRs. Further, under section 23(7A) MLPA any investigation agency may obtain documents and information related to the customer of a bank or FI through an order of the competent Court or the BFIU. This only relates to matters under enquiry or investigation however and does not provide a general power for an LEA to access this information in the absence of an investigation or enquiry.

392. In relation to the authorities' ability to identify assets without prior notification to the owner, the BFIU is able to conduct enquiries with all ROs in relation to accounts held with them. However,

for other assets under investigation such as real property, motor vehicles and company information for example, Bangladesh has not demonstrated how authorities ensure the confidentiality of requests made to the various registries that hold such information.

393. *Criterion 31.4* - LEAs can obtain information from the FIU in an investigation, under MLPA section 23(2). However it must relate to ML or a suspicious transaction and the BFIU must provide it unless there is an obligation for the BFIU under any other existing law or for any other reason. No examples have been provided as to what other reasons might be. Under section 24(3) of the MLPA the BFIU may, if necessary, spontaneously provide other LEAs with the information relating to ML and TF. This power is not mandatory on the BFIU but does provide the BFIU with the ability to provide the information where it considers it necessary. Overall, given the very general power contained in section 24(3) of the MLPA, the mechanism exists for an LEA to ask the BFIU for relevant information however the LEA would have to prove a nexus to ML or TF to satisfy the provision.

Weighting and Conclusion

394. Gaps in relation to undercover operations accessing computers and controlled delivery for purposes of investigations are given particular weight.

Bangladesh is rated largely compliant with R.31.

Recommendation 32 – Cash couriers

395. Bangladesh was rated partially compliant with former SR IX in the 2009 MER as the cross-border declaration system was not targeted to detect cash couriers related to ML and TF.

396. *Criterion 32.1* - Bangladesh has implemented a declaration system for incoming and outgoing cross-border transportations of currency and BNI which are required for all travellers (cash couriers), through the mail or in cargo. There is no upper limit for in bound cross-border transportation of currency and negotiable instruments however any amount of US\$ 5000 or above must be declared. The definition of 'currency' includes bearer negotiable instruments (section 2(b) FERA).

397. Sections 8(1) & 8(2) of FERA and section 16 of the CA provide the power to restrict currency and other items being transported across the Bangladeshi border. The FERA allows any Bangladeshi National or Foreign National holding foreign currency in Bangladesh to carry up to US\$ 7000 in cash with an endorsement in the passport when travelling to a country other than a SAARC country. When travelling to a SAARC country they may only carry up to US\$ 5000 in cash. Foreign passport holders may carry out no more than the amount brought into Bangladesh in cash as declared to customs.

398. Bangladesh issued FE Circular No. 23 to all dealers of foreign exchange and all licensed money changers in Bangladesh outlining the form and obligations to report all cash and negotiable instruments in foreign currency over the value of US\$ 5000. The Finance Ministry circular of February 2011 instructed Customs and other relevant organizations to preserve and collect data/intelligence related to ML and TF and share it with the BFIU. The FMJ form (declaration for foreign exchange by incoming passengers) was amended vide F.E. Circular no 23 dated 29 December 2011. Bangladesh Bank receives cross-border declarations in manual form.

399. *Criterion 32.2* - All persons bringing into Bangladesh US\$ 5000 or more (or equivalent in another currency) must provide a written declaration to Customs

400. *Criterion 32.3* - Bangladesh has a written declaration system where declarations are required to be truthful and made in the prescribed form to Customs. Section 19A of the FERA allows Bangladesh Bank to ask any concerned individual/institution to provide any information where necessary.

401. *Criterion 32.4* - Bangladesh Bank and Custom officers have the authority to obtain further information from the carrier with regard to the origin of the currency or BNIs and their intended use (section 166 Customs Act).

402. *Criterion 32.5* - Contravention of any provisions of the FERA can lead to imprisonment for a term up to four years and/or a fine.

403. *Criterion 32.6* - BFIU has the direct access to the declaration information collected by the Customs Authority. Customs Authority collects the declaration forms and sends copies to the Foreign Exchange Operation Department of Bangladesh Bank.

404. *Criterion 32.7* - Bangladesh has some coordination mechanisms to support the cooperation between FIU, Customs Authority and other relevant authorities in the implementation of R.32. Both Customs and the BFIU are present on the NCC and the working committee and in this regard work together to support coordinated efforts. There is a Task Force at Central and Regional level for coordinating with the agencies involved with preventing ML and illegal remittance activities. However, it is unclear to what extent agencies such as Customs, BFIU and RAB work more closely together to properly coordinate efforts to detect the illegal movement of cash across the border.

405. *Criterion 32.8* - If there is any false declaration/disclosure or a suspicion of smuggling currency or documents relating thereto, the Customs Authority may search a person under section 158 of the Customs Act, 1969. Under section 169 of the Customs Act, the officer may seize goods liable to confiscation. The definition of goods includes currency and negotiable instruments.

406. *Criterion 32.9* - The Bangladesh Bank/BFIU receives all cross-border declarations from customs and stores them electronically on the Bangladesh Bank dashboard. This information is preserved for a minimum period of 5 years.

407. *Criterion 32.10* - The customs declaration only requires travellers or person who moves cash and other means to declare it and does not impede trade payments between countries. Any amount brought in with declaration to customs in the form MFJ and up to US\$ 5000 brought in without any declaration can be deposited in foreign currency account in any Bank. Thus, the cash declaration system does not appear to limit the movement of capital.

408. *Criterion 32.11* - Contravention of the FERA carries a dissuasive sanction of up to four years imprisonment or a fine. Section 25B of the Special Power Act 1974 contains further sanctions for carrying out of Bangladesh items, including taking out or bringing in to Bangladesh, currency, may be sentenced to death or life imprisonment, and/or with a fine. Whilst this penalty is dissuasive it would not be proportionate in most circumstances. Section 156 lists offences under the Customs Act and include smuggling goods into or out of Bangladesh which attracts a fine of up to ten times the value of the goods and further a term of imprisonment not exceeding 6 years along with confiscation of the goods.

Weighting and Conclusion

409. There is a minor shortcoming with the extent of cooperation between FIU and Customs to support implementation.

Bangladesh is rated largely compliant with R.32.

Recommendation 33 – Statistics

410. Bangladesh was rated non-compliant with former R. 32 due to a lack of comprehensive statistics for investigations, provisional measures and confiscation, cross -border declarations and MLA

411. *Criterion 33.1 - STRs:* AML/CFT statistics are maintained comprehensively by the BFIU, including CTRs and STRs received, along with the number of complaints and the dissemination of STRs and CTRs to LEAs. The statistics demonstrated the number of cases enquired, investigated and prosecuted by LEAs based on STRs from the BFIU. They showed the prioritization of STRs and comprehensively demonstrated the source of STRs broken down into the relevant sectors.

412. ML/TF investigation: Bangladesh maintains statistics on the number of ML and TF investigations, prosecutions, convictions and the related prosecution of predicate offences. However, statistics provided to the team in various forms including via power-point presentations, annual reports and through the effectiveness response were not consistent. This is pertinent as until an amendment to the MLPA in 2015 the ACC were the only agency investigating ML. Further, the statistics were not able to be broken down into related predicate offences and did not indicate whether they related to 3rd party laundering or self-laundering. Bangladesh were able to indicate that the four ML convictions obtained since 2010 related to third party laundering and foreign predicate offences however this breakdown was not provided in relation to enquiries and investigations undertaken.

413. Property frozen, seized and confiscated - statistics provided by the BFIU for asset tracing and freezing accounts were comprehensive. The statistics demonstrated the number of debit restrictions and accounts frozen by the BFIU. A total figure of sums frozen over a five year period was provided.

414. The ACC demonstrated that they record details of accounts that were frozen via Court order however these were not broken down into the relevant predicate or ML offences. Some detail was provided outlining the total number of cases where seizing/freezing and confiscation was pursued between 2010 – 2015. They were able to demonstrate which of these related to foreign and domestic predicate offending.

415. The statistics provided by LEAs was able to assist reviewing effectiveness by the DNC, BGB, Customs and NBR. Detail regarding seizures of some proceeds of crime and instrumentalities, drugs and gold was provided generally over a 5 year period. These statistics were relatively comprehensive. NBR provided details of the current amounts subject to freeze orders.

416. MLA and other international requests for cooperation: Statistics were not well maintained for LEA to LEA international cooperation. FIU to FIU statistics were reasonably well maintained. Regulatory statistics were well maintained. Statistics on formal international cooperation were not well maintained such that the case management could be well supported or effectiveness could be monitored by Bangladeshi authorities. This is generally due to the operation of two central authorities for MLA in Bangladesh (MOHA and AGO) and the absence of central databases or case

management systems. For example, Bangladesh was able to provide the number of requests made to foreign countries over the preceding 5 year period but these figures were not broken down into relevant offending or to which jurisdiction they were made to. Statistics were provided in relation to the formal co-operation provided by Bangladesh over a five year period with no further detail other than the raw figures provided. Neither set of statistics were broken down into the type of assistance requested or provided and did not indicate the timeliness of responses by Bangladesh.

Weighting and Conclusion

417. Overall, Bangladesh does not maintain sufficiently comprehensive statistics pertaining to the effectiveness and efficiency of AML/CFT systems. The BFIU maintains comprehensive statistics relating to the work they undertake. However, the gaps and inconsistencies in the ML enquiries, investigations, prosecutions and convictions by the ACC raise concern that Bangladesh is not accurately tracking the effectiveness of the system in relation to ML. MLA and international co-operation statistics demonstrate the difficulty that two central authorities pose on the effectiveness and timeliness of responding to and making MLA requests.

Bangladesh is rated partially compliant with R.33.

Recommendation 34 – Guidance and feedback

418. Bangladesh was rated partially compliant with former R. 25. The 2009 report concluded that guidance has not been issued to insurance, securities, remittance or money changer sectors.

419. *Criterion 34.1* - The BFIU is the AML/CFT Regulator and Supervisor in Bangladesh. BFIU has issued Guidance Notes (including AMLD circulars) for Banks, Insurance, Money Changers, Non-Bank Financial Institutions, Capital Market Intermediaries, DNFBPs and NGO/NPOs. These were recently consolidated into Master Circulars which provide detailed guidance on ROs AML/CFT obligations and compliment the obligations contained in the legislation. The issuance of the Master Circulars did mean that some previous circulars were no longer in force however many also remained in force.

420. BFIU publishes annual reports with some general feedback on activities of ROs. This report also includes some case studies for different sectors which highlights the typologies of the ML/TF. Rule 9(4) of MLPR requires the BFIU to publish an annual report every year. BFIU arranges annual conferences for CAMLCOs of banks, FIs and insurance companies each year and provides feedback to the chief compliance officers. BFIU also receives feedback from the CAMLCOs. BFIU provides feedback at the Central Task Force and Regional Task Forces where banks, FIs and insurance companies are members in the task forces. An earlier Guidance document was prepared with the bankers association, and while elements of it are out of date following various statutory amendments, it includes elements of useful guidance for banks but is at a fairly general level.

421. Bangladesh has note produced guidance covering the most pressing elements of risk, including those arising from domestic PEPs, corruption risks (e.g. public sector procurement), fraud risks, smuggling risks, TF risks and persistent risks in the capital market and state-owned commercial banks.

Weighting and Conclusion

422. There is a need for additional detailed guidance on high risk areas and updates to earlier guidelines to reflect amended legal frameworks.

Bangladesh is rated partially compliant with R.34.

Recommendation 35 – Sanctions

423. Bangladesh was rated partially compliant with R.17 in its 2009 MER as the available monetary fines were very low and not proportionate or dissuasive, BSEC regulated entities were not subject to AML related sanctions, there was very weak implementation of available AML/CFT-related sanctions, most of the sanctions and penalties that had been applied were not relevant to AML/CFT cases, and implementation had not been demonstrated beyond the banking sector.

424. *Criterion 35.1* - Section 20A(5) of the ATA sets out a fine of up to BDT2,500,000 (US\$ 32,467) and the suspension of registration or license by BB (or BB shall inform the registering or licensing authority to take appropriate action) for a reporting organisation which fails to comply with the requirements of R.6. Section 20A(2) also provides for imprisonment of up to four years and/or a fine equivalent to twice the value of the property subject to the freeze or attachment order, for violation of a freeze or attachment order. Section 16(2) of the ATA also places obligations on Directors or CEOs to pay fines or be removed from office in the event of non-compliance. Requirements under R6 are reiterated in the Master Circulars issued to Banks, NBFIs, money changers, insurance companies and DNFBPs. Section 15(8) carries a penalty for a failure to comply with the directions issued by BB under this section – to be determined and directed by BB not exceeding BDT2 500 000(US\$ 32,467) and the BB may suspend the registration or licence with intent to stop operation of the agency or any of its branches, service centres, booths or agents within Bangladesh. Failure to pay the fine allows the BB to recover the amount from the RO by debiting its accounts maintained in any other bank or FI or in BB or apply to the court for recovery. These sanctions may not be dissuasive or proportionate.

425. As discussed in R.8 above, Bangladesh has placed strict requirements on all of its NGO and NPOs. As they are now brought into the purview of reporting organisations, there are strict rules and sanctions for non-compliance with the many obligations placed upon them. A full discussion of the sanctions relating to NPOs is contained within R8.5 above with the conclusion reached that the sanctions applied to NPOs and NGOs are potentially disproportionate.

426. Sanctions for failure to comply with R.9 to R.23 are set out across sections 23(5), s.25(2) and s6(3) of the MLPA and in section 15(8) of the ATA.

427. Within the MLPA, there are sanctions for divulging information regarding any investigation, or related information (2 years imprisonment or a fine not exceeding BDT 50 thousand or both) and for obstruction or non-cooperation in an investigation or failure to submit a report or obstruction in the supply of information (1 year imprisonment or a fine not exceeding BDT 25 thousand). Further sanctions are available for providing false information regarding the source of funds or self-identity or the identity of an account holder or beneficiary or nominee of an account. Contravention of this provision can lead to imprisonment not exceeding 3 years or a fine not exceeding BDT 50,000 (less than US\$ 700) or both. The available monetary penalties are not proportionate or dissuasive.

428. Failure to provide the BFIU with any information requested may lead to a fine which may extend to a maximum of BDT 500,000 (US\$ 6,493) and if an organisation is fined more than 3 times in one financial year, the BFIU may suspend the registration or license of the organisation or any of its branches. If a RO provides false information to the BFIU then they are subject to a fine not less than BDT 20 thousand but not exceeding BDT 500,000 and being fined more than 3 times in one

financial year can lead to licence or registration suspension. Again, the fines are not proportionate or dissuasive.

429. The BFIU are also empowered under section 23(d) of the MLPA to issue directions to ROs necessary for the prevention of ML. The BFIU has issued a number of circulars and guidelines to FIs, insurance companies, DNFBPs, money changers, NGOs and NPOs and NBFIs. The sanctions for failure to comply with any instruction given by Bangladesh Bank under the MPLA is the imposition of a fine of up to BDT 500,000 (US\$ 6,493) at the rate of BDT 10,000 (US\$ 130) per day for each day of non-compliance. If any organisation is fined more than three times in one financial year Bangladesh Bank may suspend their registration or licence, or shall inform the relevant registration or licensing authority so they may take appropriate action. The result of these circulars and guidelines being issued under section 23(d) of the MLPA makes all circulars and guidelines issued by the BFIU valid enforceable means. However, the sanctions for non-compliance of the circulars and guidelines are not sufficiently dissuasive and do not reflect the risk profile in Bangladesh.

430. Under section 25(2) of the MLPA, failure for a reporting institution to comply with the requirement to maintain correct information about the identify of customers, to preserve transaction records for five years from the closure of an account and to report suspicious transactions to the Bangladesh Bank can result in a fine of at least BDT 50,000 (US\$ 650), but no greater than BDT 2,500,000 (US\$ 32,467) and the cancellation of the licence or authorisation for carrying out commercial activities.

431. Sanctions for reporting organisations failure to comply with directions issued by Bangladesh Bank related to taking measures to prevent TF, proliferation of WMD and reporting suspicious transactions without delay are captured under sections 15(8) and 16(3) of the ATA. These include a fine not exceeding BDT2,500,000 (US\$ 32,467) and the suspension of registration or license by Bangladesh Bank (or Bangladesh Bank shall inform the registering or licensing authority to take appropriate action).

432. *Criterion 35.2* - Section 23(8) of the MLPA allows for fines from BDT 10,000 (US\$ 130) up to BDT 500,000 (US\$ 6,493) to be imposed on the owner, directors, officers and staff or persons employed by a reporting organisation when a reporting organisation has been fined. In addition, Bangladesh may where necessary direct the reporting organisation to take necessary administrative actions.

433. Section 16(4) of the ATA empowers Bangladesh Bank to impose a fine against the Board of Directors or the Chief Executive Officer up to BDT 2,500,000 (US\$ 32,467), and Bangladesh Bank may remove such persons from office (or inform the relevant competent authorities about the matter for appropriate action to be taken), for failure to take necessary measures to prevent and identify TF.

Weighting and Conclusion

434. The monetary sanctions provided for in the MLPA and ATA for failure to comply with R.6, and R.8 to R.23 are not proportionate or sufficiently dissuasive.

Bangladesh is rated partially compliant with R.35.

Recommendation 36 – International instruments

435. Bangladesh was rated PC for the previous R.35 and SR.1 in 2009. The key deficiencies were that Bangladesh was not a party to the Palermo Convention and Bangladesh had not fully implemented UNSCRs 1267 and 1373. R36 now includes the requirement to become party to, and fully implement the United Nations Convention against Corruption.

436. *Criterion 36.1* - Bangladesh is a party to the four relevant conventions. Bangladesh ratified the Vienna Convention on 11th October 1990. Bangladesh acceded to the TF Convention on 26th August 2005; the Merida Convention on 27 February 2007 and the Palermo Convention on 13th July 2011.

437. *Criterion 36.2* - Bangladesh has promulgated a wide range of laws that allows it to implement the majority of articles of the Vienna and TF conventions. Nevertheless, deficiencies still remain affecting the implementation of the Merida and Palermo Conventions. Bangladesh has not criminalized the bribery of foreign public officials or corruption between private individuals as required for under the Merida Convention. Gaps with the coverage of predicate offences of smuggling of migrants and market manipulation may impede Bangladesh's ability to fulfil international cooperation obligations, in particular to the implementation of the Palermo Convention.

Weighting and Conclusion

438. Deficiencies still remaining with the implementation of the Merida and Palermo Conventions are given particular weight.

Bangladesh is rated largely compliant with R.36.

Recommendation 37 - Mutual legal assistance

439. Bangladesh was rated partially compliant with R.36 in 2009 due to a lack of specific legislation to implement MLA and a lack of clear procedures for dealing efficiently with MLA requests.

440. *Criterion 37.1* - Bangladesh has remedied the deficiencies identified in the 2009 MER by enacting the Mutual Legal Assistance in Criminal Matters Act 2012 (MLA Act) and the Mutual Legal Assistance in Criminal Matters Rules 2013 (MLA Rules). Section 8 of the MLA Act 2012 clearly state that mutual legal assistance can be rendered upon the request of a foreign state with or without a treaty, as long as it is provided on the basis of reciprocity and this extends to a wide range of possible assistance.

441. *Criterion 37.2* - By virtue of SRO No. 52 (ka)-Ain/2014, both the AGO and the MOHA were declared as "Central Authority". Whilst Bangladesh fulfils the technical requirement of having a "Central Authority", there is a significant problem with overlap or poor coordination with two such authorities. Limited case management procedures to monitor and support the progress of MLA requests there is a lack of guidelines on how MLA requests are prioritized or any timelines that have to be adhered to. Whilst Bangladesh records MLA statistics, doubts remain as to whether these statistics are accurately captured.

442. *Criterion 37.3* - Bangladesh's MLA legislation does not present any unreasonable or unduly restrictive conditions.

443. *Criterion 37.4* - Refusal of Assistance is governed by section 11 of the MLA Act as well as rule 10 of the MLA Rules. These provisions do not indicate that a request can be refused if the offence pertains to fiscal matters or allow a request to be refused on the basis of confidentiality or financial secrecy requirements.

444. *Criterion 37.5* - Confidentiality provisions are present under Section 13 of the MLA Act as well as Rule 27 of the MLA Rules.

445. *Criteria 37.6 and 37.7* - Section 8 (1) of the MLA Act provides that Bangladesh shall provide the best MLA in respect of committing any offence and if the offence is punishable under the laws of the foreign country on the basis of reciprocity. This therefore implies that dual criminality is not a precondition for the provision of MLA. However section 8(2) does require dual criminality in circumstances where there is no agreement between the requesting state and Bangladesh regarding MLA. Agreement is defined in the MLA as any treaty, convention or other international contract in which Bangladesh is a party and there contains one or more provisions regarding mutual assistance in criminal matters.

446. *Criterion 37.8* - Investigative Powers under R.31 are available for use in response to mutual legal assistance as provided by the MLA Act.

Weighting and Conclusion

447. Bangladesh has a firm legislative basis for mutual legal assistance and does not place any restrictive conditions that hinder the provision of MLA. Bangladesh lacks well established procedures for MLA case management and mechanisms to prioritise requests and coordinate matters through the unusual system of two central authorities.

Bangladesh is rated largely compliant with R.37.

Recommendation 38 – Mutual legal assistance: freezing and confiscation

448. Bangladesh was rated partially compliant with former R.38 as Bangladesh's MLPO was limited when giving effect to foreign freezing and confiscation orders in ML Cases. The coverage of predicate offences under the MLPO was lacking.

449. *Criterion 38.1* - Bangladesh has the appropriate provisions to respond to requests by foreign countries to identify, freeze, seize and confiscate proceeds of crime, instrumentalities and property (Section 22 of the MLA Act 2012, rule 22 of the MLA Rules, section 26 (4) of MLPA 2012). Bangladesh also has provisions under its law to execute and enforce judgements of confiscation orders by foreign courts (section 23 (1) MLA Act; rules 6 and 18 of the MLA Rules). One concern however is that while "proceeds of crime" is defined under the MLA Act, there appears to be no definition of property under the MLA legislation. As such, it appears unclear whether all the requisite forms of property are adequately covered. The gap identified at R.4 in relation of provisional measures over property of corresponding value to proceeds of crime is a gap for international cooperation.

450. *Criterion 38.2* - Bangladesh authorities state that Section 17 (2) of the MLPA provides the necessary legal basis for assistance to requests for cooperation made on the basis of non-conviction based proceedings. This is demonstrated by the fact that the section has been invoked in one case where monies were returned to a foreign jurisdiction without a conviction being rendered in the foreign state. It is also observed that Bangladesh has no provisions covering the ability to confiscate

property when accused persons are unavailable by reason of death, flight, absence or if unknown. Section 17 (3) appears to deal with accused persons who are dead or absconded but is limited in its application as the person has to be convicted of ML first.

451. *Criterion 38.3* - Legislative provisions allow for foreign countries to coordinate seizure and confiscation actions. Section 19 of the MLA Act allows for officers from foreign jurisdictions to attend and participate in the search procedure. Section 20 of the MLPA meanwhile details the procedure to deal with the disposal of confiscated property. Section 21 provides the legal basis for the appointment of a manager or caretaker for taking care of the frozen, attached or confiscated property.

452. *Criterion 38.4* - Bangladesh is able to share confiscated property with countries by virtue of section 25 of the MLA Act. Bangladesh has also conducted a case where property representing proceeds of crime was shared with another foreign jurisdiction which is indication that this arrangement has worked in practice. In that case, Section 17 of the MLPA which was referred to previously in criterion 38.2 was utilized as the legal basis to give effect to this cooperation.

Weighting and Conclusion

453. The absence of the definition of property in the MLA Act provides uncertainty as to what can be subject to a MLA request and the gap in Bangladesh's ability to take provisional measures for property of corresponding value are key deficiencies. Finally, it is not clear whether Bangladesh can provide MLA relating to property the subject of a request where the accused person is unavailable by reason of death or flight.

Bangladesh is rated largely compliant with R.38.

Recommendation 39 – Extradition

454. Bangladesh was rated NC with former R.39 in 2009 as ML and TF were not extraditable offences, there was no provision as to whether Bangladesh can extradite its own nationals and a lack of measures to ensure requests and proceedings were handled without delay.

455. *Criterion 39.1* - The Extradition Act 1974 governs Bangladesh's extradition regime. ML and TF are now included in the schedule of the Act by virtue of SRO no 31-Law/2011 dated 14/2/2011. Extradition processes are handled by the MHA. There is a lack of a case management system with any clear timelines or processes of prioritization. Whilst Bangladesh operates a fairly unrestrictive extradition policy whereby Section 4 of the Extradition Act allows for the extension of such proceedings to states without a treaty, the process of gazette notification may appear to be an impediment to ensuring that requests and proceedings are handled without delay.

456. *Criterion 39.2* - Bangladesh does not appear to prohibit extradition on the basis of nationality.

457. *Criterion 39.3* - Dual criminality is not a mandatory requirement for extradition. An offence is extraditable in Bangladesh if it falls within the schedule of offences under the Extradition Act 1974.

458. *Criterion 39.4* - There is a lack of simplified extradition mechanisms in place. There is no evidence of any simplified extradition mechanisms present with neighbouring countries in the region nor any simplified extradition procedures that allow for extradition by consent, minister-to-minister transmission of requests or extradition on the basis of certificates of conviction.

Weighting and Conclusion

459. The deficiencies in the lack of a comprehensive case management system as well as a lack of simplified extradition procedures are the two minor gaps.

Bangladesh is rated largely compliant with R.39.

Recommendation 40 – Other forms of international cooperation

460. Bangladesh was rated partially compliant on R.40 and SR.V as there was no clear basis for competent authorities to cooperate internationally in relation to TF offences; existing cooperation channels were not being utilised for AML/CFT purposes and deficiencies in MLA and extradition legislation hampered cooperation. Bangladesh has enacted a number of provisions to improve its international co-operation measures.

General Principles

461. *Criterion 40.1* - The MLPA gives the BFIU powers to exchange information related to ML and TF with foreign FIUs. The BFIU can provide information both on request as well as spontaneously. Specifically, Rules 33- 36 of the MLPR provides further statutory basis for FIU-FIU exchange of information along with the ability of financial supervisors, LEAs and other competent authorities to exchange information with foreign counterparts. In practice, LEAs in particular use Interpol, Europol or EuroJust as a platform in which to exchange such information whilst Customs use RILO along with other informal exchanges.

462. *Criterion 40.2* - Section 24 of MLPA states the BFIU shall provide information relating to ML or TF or any suspicious transaction to FIU of another country, and may do spontaneously. Rule 33(2) of MLPR directly mirrors the requirement of R. 40.2(b). Rules 31, 33(1) & (2) of the MLPR, set out the processes for exchanging of information between the BFIU and Foreign FIUs. Rules 34 and 35 of the MLPR addresses exchange of information of other competent authorities such as financial supervisors and other LEAs and competent authorities. However, Bangladesh did not demonstrate clear processes for the prioritisation and timely execution of requests. There are also no demonstrated safeguards for the information received.

463. *Criterion 40.3* - Section 26 (1) of MLPA empowers Bangladesh to contract with any foreign country under any bilateral or multilateral agreement, convention or by any other means recognized by international law. In addition, Rule 31 of the MLPR states that where competent authorities need bilateral or multilateral agreements or arrangements to co-operate these shall be negotiated and signed in a timely way and with widest range of foreign counterpart.

464. *Criterion 40.4* - Rule 31 of the MLPR mirrors this requirement.

465. *Criterion 40.5* - Rule 32 of the MLPR mirror the requirements set out in R. 40 (a) – (d).

466. *Criterion 40.6* - Rule 31 of the MLPR require the competent authority to ensure appropriate control, safeguard and confidentiality provisions apply to the exchanged information.

467. *Criterion 40.7* - Rule 32 of the MLPR requires competent authorities to maintain appropriate confidentiality of information exchanged. Competent authorities also have the power to refuse to provide information if the requesting authority cannot protect the information.

468. *Criterion 40.8* - Rule 32 of the MLPR authorises competent authorities to conduct inspections or inquiries on behalf of foreign counterparts and exchange this information with their foreign counterparts.

Exchange of Information Between FIUs

469. *Criterion 40.9* - Under the MLPA 2012 and the MLPR, the BFIU is able to provide information to both foreign FIUs as well as other competent authorities. The BFIU can provide this information both on request as well as spontaneously.

470. *Criterion 40.10* - Rule 33 of the MLPR mirror the requirements of this criterion.

471. *Criterion 40.11* - Rule 33 of the MLPR mirror the requirements of this criterion.

Exchange of Information Between Financial Supervisors

472. *Criterion 40.12* - The MLPA enables Bangladesh to enter into contract with any foreign state under bilateral or multilateral agreements, through conventions or by any other means recognized by international law. The MLPR set out the circumstances and process of information sharing between financial supervisors under rule 34 which mirrors the FATF standards. In addition to this, the prudential supervisors have enabling provisions in their sectoral legislation. Under the Bangladesh Bank Order 1972, Bangladesh Bank can exchange supervisory information as and when required with its foreign counterpart with the approval of the Governor. Under the Bangladesh Securities and Exchange Commission Act, the BSEC can sign agreements with local or foreign authorities or organization, on securities related co-operation and exchange of information with prior approval of the Government.

473. *Criterion 40.13* - The MLPA and MLPR provide for information sharing between financial supervisors in keeping with the FATF standards.

474. *Criterion 40.14* - Rule 34(2) of MLPR directly mirror the requirements of this criterion.

475. *Criterion 40.15* - Rule 34(3) of MLPR authorises the Bangladesh Bank to conduct inquiries on behalf of foreign counterparts but does not extend to allow financial supervisors to authorise foreign supervisors, as appropriate, to conduct inquiries themselves in Bangladesh. Section 26 of the MLPA enables the BFIU to enter into agreements with any other foreign organisation to seek necessary information or intelligence. Under this provision, the BFIU may be able to obtain information from foreign supervisors.

476. *Criterion 40.16* - Rule 34(4) of MLPR requires financial supervisors to ensure that they have the prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use of that information for supervisory and non-supervisory purposes.

Exchange of Information Between Law Enforcement Authorities (LEAs)

478. *Criterion 40.17* - Rule 35 (1) of the MLPR mirrors the requirements of this criterion in relation to ML, predicate investigations and TF. In addition, the provision at section 15(6) of the ATA. The specified powers contained in the MLPR supplements those already available to LEAs through the use of Interpol, Europol, Eurojust, RILO.

479. *Criterion 40.18* - Rule 35(2) of the MLPR mirrors the requirements of this criterion.

480. *Criterion 40.19* - There are no direct prohibitions on Bangladeshi LEAs taking policy decisions to form joint investigative teams with foreign counterparts allowing them to investigate the same or related targets in a coordinated manner. Bangladesh has some experience of this in specific ML cases with related intelligence exchange and evidence sharing (MLA). There is additional procedural support provided in s.19(2) of the Mutual Legal Assistance in Criminal Matter Act 2012, where the court may issue search warrants and include permission to LEA officers from foreign countries to attend and participate in search procedure as part of an ongoing investigation.

Exchange of Information Between Non-Counterparts

481. *Criterion 40.20* - Rule 36 of the MLPR directly mirrors the requirements of this criterion. The effect of ATA section 15(6) provides the FIU with a basis for diagonal cooperation in relation to TF investigations.

Weighting and conclusion

482. Gaps with allowing foreign supervisors, as appropriate, to conduct inquiries in Bangladesh and with clear processes for the prioritisation and timely execution of requests are given particular weight. There are also no demonstrated safeguards for the information received.

483. **Bangladesh is rated largely compliant with R.40.**

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	<p>There are gaps in identifying and analysing the threats facing Bangladesh such as the actors, crime types, source and destination of proceeds of crime.</p> <p>Major ML risks posed by state-owned commercial banks are not considered in sufficient detail.</p> <p>TF risk findings are not shared with the private sector in any detail.</p> <p>Policies that apply a risk-based approach to allocating resources and prioritising activities to address identified threats are not sufficiently developed.</p>
2. National cooperation & coordination	LC	National policies do not sufficiently prioritise key risk areas such as state-owned commercial banks and the securities sector.
3. Money laundering offence	LC	<p>Whilst the ML offence covers all categories of predicate offences, the underlying conduct for smuggling of migrants, insider trading and corruption (bribery of foreign officials and private sector corruption) is not sufficiently criminalised.</p> <p>The low monetary penalty for sanctioning the ML offence is not sufficiently dissuasive.</p>
4. Confiscation and provisional measures	LC	<p>The MLPA does not provide for confiscation in the absence of a ML conviction except for property of corresponding value.</p> <p>There is no mechanism to allow a Court to set aside any transaction or void actions that prejudice its ability to freeze or seize property subject to confiscation.</p> <p>There is a gap to order a freeze for property of corresponding value where the property involved has been dissipated or otherwise cannot be located.</p>
5. Terrorist financing offence	LC	The monetary penalties for sanctioning the TF offence is not sufficiently dissuasive.
6. Targeted financial sanctions related to terrorism & TF	C	The recommendation is fully met
7. Targeted financial sanctions related to proliferation	LC	There is no mechanism to ensure that authorities prevent a designated person or entity from making a payment due under a contract entered into prior to their listing.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
8. Non-profit organisations	LC	Competent authorities lack dissuasive enforcement powers and suitable compliance monitoring with registration and filing requirements for certain categories of NPOs and persons working on behalf of those NPOs.
9. Financial institution secrecy laws	PC	Bangladesh has not issued exemptions for FIs to undertake information sharing in relation to FATF R.13, R.16 and R.17
10. Customer due diligence	LC	There is no requirement to conduct CDD when carrying out occasional transactions above the applicable designated threshold.
11. Record keeping	C	The recommendation is fully met
12. Politically exposed persons	LC	No requirement for insurance companies to determine whether the beneficiaries and/or, where required, the beneficial owner of the beneficiary are PEPs. No PEP obligations on the non-bank money remitters and the requirement does not cover the situation where PEPs are identified as the beneficial owner
13. Correspondent banking	LC	No requirement to check the reputation of the correspondent institution No requirement to provide CDD information to the correspondent bank in 'payable-through-accounts' relationships.
14. Money or value transfer services	LC	No clear requirement in law on natural or legal persons providing MVTS except banks to be licensed or registered.
15. New technologies	C	The recommendation is fully met
16. Wire transfers	PC	No requirement for FIs to collect a unique transaction number in the absence of an account number. No explicit prohibition on ordering banks executing wire transfer if requirements about wire transfer are not met
17. Reliance on third parties	LC	There is no requirement for FIs to determine which countries third parties that meet the conditions can be based, dependent on the level of that countries risk.
18. Internal controls and foreign branches and subsidiaries	PC	No specific requirement for FIs to implement group-wide AML/CFT policies and procedures no requirements on foreign branches or subsidiary branches for insurance companies, capital market intermediaries and money changers

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
19. Higher-risk countries	PC	No statutory basis for binding obligations to implement countermeasures. Limited mechanisms in place to advise ROs of concerns with higher risk jurisdictions.
20. Reporting of suspicious transaction	C	The recommendation is fully met
21. Tipping-off and confidentiality	C	The recommendation is fully met
22. DNFBPs: Customer due diligence	LC	No requirements for DNFBPs to take into account an agent's country risk when considering who to instruct as agents.
23. DNFBPs: Other measures	LC	the requirement for foreign branches and subsidiaries of DNFBPs to apply the AML/CFT measures consistent with Bangladesh requirements is absent from the instructions given by the BFIU
24. Transparency and beneficial ownership of legal persons	PC	Bangladesh has some technical gaps in relation to the registration of companies. Compliance and monitoring of registration requirements is not well supported by dissuasive sanctions or capacity of regulators. Companies are not required to record beneficial ownership and while ROs are required to obtain beneficial ownership information, this may not adequately allow LEAs to obtain accurate and up to date B.O information. There are no controls on share warrants.
25. Transparency and beneficial ownership of legal arrangements	PC	There is no requirement in law for information held pursuant to this recommendation to be kept accurate and up to date and updated on a timely basis. This is also the case for religious trusts. Obligations in the MLPA and BFIU circulars do not extend to a positive obligation on trustees to disclose their status to a financial institution or DNFBP when forming a business relationship the sanctions for non-compliance are not sufficiently dissuasive and do not reflect the risk profile. the duties and responsibilities to provide accurate, current and speedy information concerning beneficial ownership does not appear to extend to the area of religious trusts

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
26. Regulation and supervision of financial institutions	PC	<p>Fit and proper checks for banks and FI shareholders do not extend to beneficial owners.</p> <p>No formal mechanism or process for supervisors to evaluate the shareholder or senior management for stock dealers, stock brokers and authorised representatives.</p> <p>Limited measures are in place to prevent criminals or their associates from holding a licence or managing a FI.</p> <p>The RBA to on-site supervision has not been expanded beyond banks</p> <p>There is no formal mechanism or processes for the supervisors to update their assessment of sectoral ML/TF risks when there are major events or changes to a particular financial institution or sector</p>
27. Powers of supervisors	LC	<p>No clear power to sanction FIs in a case where they refuse to consent to supervisors entering premises for the purpose of inspection;</p> <p>available monetary penalties are low for administrative sanctions</p>
28. Regulation and supervision of DNFBPs	PC	<p>Limited steps to subject DNFBPs to systems for monitoring compliance with AML/CFT obligations.</p> <p>insufficient fit an proper requirements on DNFBP and existing fit and proper checks do not extend to considering any adverse findings by a supervisory or regulatory authority.</p> <p>the frequency and intensity of AML/CFT supervision of DNFBPs does not yet reflect the ML/TF risk profile, although BFIU has begun considering DNFBPs ML/TF risk profile of DNFBPs as mentioned in the NRA but has not yet determined</p>
29. Financial intelligence units	LC	<p>Recent legislative changes to the BFIU's governance and oversight are yet to be implemented, leaving some doubts regarding future operational independence.</p> <p>There were small weaknesses in the scope of the strategic analysis undertaken at the time of the onsite visit.</p>
30. Responsibilities of law enforcement and investigative authorities	C	The recommendation is fully met
31. Powers of law enforcement and	LC	The mechanism for an LEA to seek BFIU information only relates to ML/TF investigations and not predicate offences.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
investigative authorities		<p>There is no basis for LEAs to access computer systems or to intercept telecommunications.</p> <p>There is no legal basis for undercover operations when investigating ML, TF or predicates.</p> <p>There is no identified process in place for authorities to identify assets (other than those held in accounts) without prior notification to the owner.</p>
32. Cash couriers	LC	<p>it is not clear to what extent agencies such as Customs, BFIU and RAB work closely together to properly coordinate efforts to detect the illegal movement of cash across the border.</p> <p>Penalties, whilst dissuasive, may not be proportionate.</p>
33. Statistics	PC	<p>There are gaps in statistics relating to the conduct of investigations, including use and results of powers of investigation</p> <p>There are gaps in the for amounts of seizures/confiscations, and the number of cases in which seizures and confiscation occurred.</p> <p>Statistics are not well maintained for creation and regulation of legal persons and arrangements or for the registration of NPOs.</p> <p>Statistics are not well maintained for informal cooperation.</p>
34. Guidance and feedback	PC	<p>Insufficient guidance on TF risks</p> <p>Bangladesh has not produced guidance covering the most pressing elements of ML risk, including those arising from domestic PEPs, corruption (e.g. state owned commercial banks, public sector procurement,), fraud, smuggling, and the capital market</p>
35. Sanctions	PC	<p>The monetary penalties provided in the MLPA and ATA for failure to comply with R.6 and R.9 through to 32 are not proportionate or sufficiently dissuasive.</p> <p>Available sanctions under various statutes for NPOs failing to follow registration and information filing requirements are not proportionate or dissuasive.</p>
36. International instruments	LC	<p>Bangladesh has not criminalized the bribery of foreign public officials or corruption between private individuals as required for under the Merida Convention</p> <p>Gaps with the coverage of some conduct relating to predicate offences of smuggling of migrants and market</p>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		manipulation may impede Bangladesh's ability to fulfil international cooperation obligations under the Palermo Convention.
37. Mutual legal assistance	LC	<p>The system of two central authorities in Bangladesh leads to overlap in processes and coordination challenges</p> <p>There is a lack of clear processes and case management procedures to prioritise requests</p> <p>There is no case management system for monitoring MLA requests.</p>
38. Mutual legal assistance: freezing and confiscation	LC	<p>No legal basis to take provisional measures against property of corresponding value</p> <p>There is no definition of property in the MLA Act.</p> <p>it is not clear whether Bangladesh can provide MLA relating to property the subject of a request where the accused person is unavailable by reason of death or flight.</p>
39. Extradition	LC	<p>There is a lack of a case management system with clear timelines and processes for prioritisation.</p> <p>No simplified extradition mechanisms in place.</p>
40. Other forms of international cooperation	LC	<p>Rule 34(3) of MLPR authorises the Bangladesh Bank to conduct inquiries on behalf of foreign counterparts but does not extend to allow financial supervisors to authorise foreign supervisors, as appropriate, to conduct inquiries themselves in Bangladesh.</p> <p>Bangladesh did not demonstrate clear processes for the prioritisation and timely execution of requests. There are also no demonstrated safeguards for the information received.</p>

TABLE OF ACRONYMS

ACC	Bangladesh Anti-corruption Commission
ACCA	Anti-Corruption Commission Act 2004
ACCR	Anti-Corruption Commission Rules 2007
AGO	Attorney General's Office
AML/CFT	Anti-money laundering/countering the financing of terrorism
APG	Asia/Pacific Group on Money Laundering
AQIS	Al-Qaeda in the Indian sub-continent
ATA	Anti-Terrorism Act 2009
ATR	Anti-Terrorism Act Rules 2013
BAMLCO	Branch Anti-Money Laundering Compliance Officer
BIMSTEC	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
BB	Bangladesh Bank
BCG	Bangladesh Coast Guard
BDT	Bangladesh Taka
BFID	Bank and Financial Institution Division (Ministry of Finance)
BFIU	Bangladesh Financial Intelligence Unit
BO	Beneficial owner
BGB	Border Guard Bangladesh
BNI	Bearer negotiable instruments
BSEC	the Bangladesh Securities and Exchange Commission
CA	The Companies Act 1994
CAMLCO	Chief Anti-Money Laundering Compliance Officer
CID	Criminal Investigation Department of the Bangladesh Police
CCP	Code of Criminal Procedure
CDD	Customer due-diligence
CMI	Capital Market Intermediaries
CT	Counter terrorism
CTR	Cash transaction report
DIG	Deputy Inspector General of Police
DGFI	Directorate General of Forces Intelligence
DFI	Defence Forces Interest
DMP	Dhaka Metropolitan Police
DNC	Department of Narcotics Control
DNFBP	Designated non-financial businesses and professions
DPRK	the Democratic Peoples Republic of Korea
Egmont	the Egmont Group of Financial Intelligence Units
e-GP	Electronic government procurement
e-TIN	Electronic tax payer identification number
FATF	the Financial Action Task Force
FCB	Foreign controlled bank
FERA	Foreign Exchange Regulation Act, 1947
FI	Financial institution
FIR	First Instance Report
FIU	Financial intelligence unit
IDRA	the Insurance Development and Regulation Authority Bangladesh
ISIL	the Islamic State of Iraq and the Levant
JATI	Judicial Administrative Training Institute
JMB	Jamaat-ul-Mujahideen Bangladesh

JSC	the Judicial Services Commission
KYC	Know your customer
LEA	Law enforcement agency
MFS	Mobile Financial Services
MOF	the Bangladesh Ministry of Finance
MOHA	the Bangladesh Ministry of Home Affairs
MOU	Memorandum of understanding
MFA	the Bangladesh Ministry of Foreign Affairs
MLA	Mutual legal assistance
MLJPA	Ministry of Law, Justice and Parliamentary Affairs
MLM	Multi-level marketing company
MLPA	Money Laundering Prevention Act 2012
MLPR	Money Laundering Prevention Rules 2013
ML/TF	Money laundering/terrorism financing
MRA	Microcredit Regulatory Authority
MVTS	Money or value transfer service
NBFIs	Non-bank financial institutions
NBR	National Board of Revenue
NCC	The Bangladesh National Co-ordination Committee on AML and CFT
NCA	Narcotics Control Act 1990
NCC	National Co-ordination Committee
NGOAB	NGO Affairs Bureau
NGO/NPO	Non-government organisation/Not-for-profit organisation
NRA	National risk assessment
NSIA	National Security Intelligence Agency
PCB	Private commercial bank
PEP	Politically exposed person
PF	Proliferation financing
PMO	Prime Minister's Office
RAB	Rapid Action Battalion
RBA	Risk-based approach
RILO	Regional Intelligence Liaison Offices
RJSC	the Registrar of Joint Stock Companies and Firms
RO	Reporting organisation as defined under s2(w) of the MLPA
SAARC	South Asian Association for Regional Cooperation
SB	Special Branch, Bangladesh Police
SOP	Standard operating procedures
SRO	Statutory Regulatory Order
STR	Suspicious transaction report
TC	technical compliance
TF	Terrorism financing
TFS	Targeted financial sanctions
UNCAC	United Nations Convention against Corruption
UNHCR	United Nations High Commission for Refugees
UNSCR	United Nations Security Council Resolution
VTC	Voluntary Tax Compliance
WCO	World Customs Organisation
WMD	Weapons of mass destruction



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October 2016

Anti-money laundering and counter-terrorist financing measures – Bangladesh

3rd Round APG Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML)/countering the financing of terrorism (CFT) measures in place in Bangladesh as at October 2015. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Bangladesh's AML/CFT system, and provides recommendations on how the system could be strengthened.