2007年中華臺北接受
亞太防制洗錢組織相互評鑑報告





法務部調查局 編印

2007年中華臺北接受亞太防制洗錢組織相互評鑑報告

法務部調查局 編印



·法務部調查局洗錢防制中心·
電話：02-29148134 傳真：02-29148127

ISBN 978-986-01-2796-6
GPN:1009604399



亞太防制洗錢組織
（ASIA/PACIFIC GROUP ON MONEY LAUNDERING）

中華台北相互評鑑報告
(APG MUTUAL EVALUATION REPORT ON Chinese Taipei)

--依據防制洗錢金融行動工作組織2003年40項建議及9項特別建議--
(Against the FATF 40 Recommendations (2003) and 9 Special Recommendations)

2007年7月24日通過亞太防制洗錢組織會員大會審查
(ADOPTED BY APG MEMBERS25 JULY 2007)



法　務　部　調　查　局　編　譯
中　華　民　國　九　十　六　年　十　二　月

序　　言

我國為「亞太防制洗錢組織」(APG)創始會員之一，對於該組織會務活動一向積極參與，歷年來績效卓著，獲得國際社會的肯定與讚許。

2007年1月28日至2月9日，我國接受「亞太防制洗錢組織」第二輪相互評鑑，法務部調查局（以下簡稱本局）洗錢防制中心負責整個評鑑過程之協調聯繫及相關資料綜整作業，國內計有43個政府機關、相關公會、特定專業人士、金融機構及非營利組織接受評鑑團實地拜會訪談，過程極為順利，而評鑑結果之報告亦於2007年7月24日在澳洲舉行之年會中為大會審查通過，並獲得極高評價。聯合國毒品犯罪防制署(UNODC)於2007年8月27日出刊之全球防制洗錢新聞通訊(GPML Global Press Review)特別報導我國獲得「亞太防制洗錢組織」相互評鑑極高評等，並讚許我國在防制洗錢作為上之努力與卓越成就。

本局洗錢防制中心鑑於我國接受「亞太防制洗錢組織」相互評鑑之報告為一重要文件，且諸多評鑑團提出之評述意見與建議，需要作後續追蹤與改進，實有必要譯成中文，分送國內有關機關與金融機構參考改善及各界研究之用，以彰顯我國政府重視防制洗錢與打擊資助恐怖分子之決心與績效，乃由該中心同仁譯成中文，並以中英對照編排方式，方便各方閱讀。

由於本報告內容繁多，跨越不同專業領域，又倉促付梓，疏漏舛誤之處在所難免，至盼各界先進不吝指正賜教。

局長 葉盛茂 謹識

中華民國九十六年十二月

目　錄(TABLE OF CONTENTS)

前言 – 本次評鑑相關訊息及使用之方法論(**PREFACE - INFORMATION AND METHODOLOGY USED FOR THE EVALUATION**) 6

簡要摘述(EXECUTIVE SUMMARY) 3

1 概述 (GENERAL) 12

1.1 中華台北 一般綜合性概況及其經濟 (GENERAL INFORMATION ON CHINESE TAIPEI) 12

1.2 洗錢和資助恐怖分子之一般狀況 (GENERAL SITUATION OF MONEY LAUNDERING AND FINANCING OFTERRORISM) 15

1.3 金融行業及「特定非金融事業體與專門職業人士」之概述(OVERVIEW OF THE FINANCIAL SECTOR AND DNFBP) 17

1.4 有關法人管理及法律合意之商業法律與機制概述(OVERVIEW OF COMMERCIAL LAWS AND MECHANISMS GOVERNING LEGALPERSONS AND ARRANGEMENTS) 23

1.5 防制洗錢及資助恐怖分子策略概述(OVERVIEW OF STRATEGY TO PREVENT MONEY LAUNDERING AND TERRORIST FINANCING) 24

2 法律體系和相關制度上作爲(LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES) 35

2.1 洗錢罪刑化--建議第 1、2 項(CRIMINALISATION OF MONEY LAUNDERING (R.1 & 2)) 35

2.2 資助恐怖分子罪刑化--「特別建議」第 II 項 (CRIMINALISATION OF TERRORIST FINANCING (SR.II) 54

2.3 凍結、扣押及沒收犯罪資產--建議第 3 項 (CONFISCATION, FREEZING AND SEIZING OF PROCEEDS OF CRIME - R.3) 60

2.4 凍結被用以資助恐怖分子之資金--「特別建議」第 III 項 (FREEZING OF FUNDS USED FOR TERRORIST FINANCING - SR.III) 71

2.5 金融情報中心及其功能--建議第 26、30 及 32 項(THE FINANCIAL INTELLIGENCE UNIT AND ITS FUNCTIONS (R.26, 30 & 32)) 75

2.6 執法、檢察及其他權責機關-負責調查、起訴相關犯罪及沒收與凍結--「建議」第 27、28、30 及 32 項 (LAW ENFORCEMENT, PROSECUTION AND OTHER COMPETENT AUTHORITIES – THE FRAMEWORK FOR THE INVESTIGATION AND PROSECUTION OF OFFENCES, AND FOR CONFISCATION AND FREEZING--R.27, 28, 30 & 32) 86

2.7 跨國境現金攜帶申報或揭露--特別建議第 IX 項(CROSS-BORDER DECLARATION OR DISCLOSURE--SR.IX) 99

3 預防性作爲-金融機構(PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS) 105

3.1 洗錢或資助恐怖分子風險(RISK OF MONEY LAUNDERING OR TERRORIST FINANCING) 106
3.2 客戶審查，包括強化或刪減之措施--建議第 5-8 項(CUSTOMER DUE DILIGENCE, INCLUDING ENHANCED OR REDUCED MEASURES--R.5 TO 8)) 109
3.3 透過仲介或第三者進行部分客戶審查項目--建議第 9 項(THIRD PARTIES AND INTRODUCED BUSINESS - R.9) 150
3.4 金融機構秘密法或機密法--建議第 4 項(FINANCIAL INSTITUTION SECRECY OR CONFIDENTIALITY (R.4)) 155
3.5 紀錄保存和電匯規則--建議第 10 項及特別建議第 VII 項 (RECORD-KEEPING AND WIRE TRANSFER RULES -- R.10 & SR.VII) 157
3.6 金融交易與生意往來之監控 - 建議第 11 及 21 項（MONITORING OF TRANSACTIONS AND RELATIONSHIPS - R.11 & 21） 170
3.7 可疑交易報告和其他報告 - 建議第 13-14、19、25 項及特別建議第 IV 項（3.7 SUSPICIOUS TRANSACTION REPORTS AND OTHER REPORTING - R.13-14, 19, 25 & SR.IV) 179
3.8 內控、遵循、稽核與國外分支機構-建議第 15 及 22 項（INTERNAL CONTROLS, COMPLIANCE, AUDIT AND FOREIGN BRANCHES-R.15 & 22) 189
3.9 空殼銀行 - 建議第 18 項 （SHELL BANKS-R.18） 212
3.10 監理與監督系統--有關機關與自律組織之角色、功能、責任與權力 (包括制裁)-建議第 17,23,25,29,30&32 項（THE SUPERVISORY AND OVERSIGHT SYSTEM – COMPETENT AUTHORITIES AND SRO'S ROLE, FUNCTIONS, DUTIES AND POWERS (INCLUDING SANCTIONS)-R.17, 23,25,29,30 &32) 215
3.11 金錢或有價物品移轉服務-特別建議第 VI 項(MONEY OR VALUE TRANSFER SERVICES-SR.VI) 267
4 預防性措施-「特定非金融事業體與專業人士」(PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS) 274
4.1 客戶審查和紀錄保存-建議第 12 項並涵蓋第 5 至 10 項之適用 (CUSTOMER DUE DILIGENCE AND RECORD-KEEPING - R.12, applying R.5 to 10) 275
4.2 可疑交易申報-建議第 16 項 (SUSPECT TRANSACTION REPORTING - R.16) 288
4.3 規範、監理和監控 - 建議第 24-25 項 (REGULATION SUPERVISION AND MONITORING - R.24-25) 295
4.4 其他類型之「特定非金融事業體與專業人士」及確保交易安全技術（建議第 20 項）-(OTHER NON-FINANCIAL BUSINESSES AND

PROFESSIONS – MODERN SECURE TRANSACTION TECHNIQUES - R.20) 314
5 法人、法律合意及非營利組織 (LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS) 316
5.1 法人-利益所有權與控制權等資訊之取得-建議第 33 項 (LEGAL PERSONS – ACCESS TO BENEFICIAL OWNERSHIP AND CONTROL INFORMATION -R.33) 316
5.2 法律合意-利益所有權與控制權資訊之取得-建議第 34 項(LEGAL ARRANGEMENTS – ACCESS TO BENEFICIAL OWNERSHIP AND CONTROL INFORMATION - R.34) 326
5.3 非營利組織--特別建議第 VIII 項 (NON-PROFIT ORGANISATIONS - SR.VIII) 333
6 國內與國際合作 (NATIONAL AND INTERNATIONAL CO-OPERATION) 338
6.1 國內合作與協調-建議第 31 項 (NATIONAL CO-OPERATION AND COORDINATION - R.31) 338
6.2 國際公約與聯合國特別決議案-建議第 35 及特別建議第 I 項 (THE CONVENTIONS AND UN SPECIAL RESOLUTIONS - R.35 & SR.I) 344
6.3 司法互助-建議第 36-38 項及特別建議第 V 項(MUTUAL LEGAL ASSISTANCE - R.36-38, SR.V) 346
6.4 引渡—建議第 37 項、第 39 項及特別建議第 V 項(EXTRADITION - R.37 & 39, & SR.V) 369
6.5 其他形式之國際合作-建議第 40&特別建議第 V 項 (OTHER FORMS OF INTERNATIONAL CO-OPERATION - R.40 & SR.V) 375
7 其他問題(OTHER ISSUES) 386
7.1 資源與統計(RESOURCES AND STATISTICS) 386

亞太防制洗錢組織對中華台北進行相互評鑑之評鑑報告
(APG MUTUAL EVALUATION REPORT ON Chinese Taipei)

--依據防制洗錢金融行動工作組織 2003 年 40 項建議及 9 項特別建議--
(Against the FATF 40 Recommendations (2003) and 9 Special Recommendations)
2007 年 7 月 24 日通過亞太防制洗錢組織會員大會審查
(ADOPTED BY APG MEMBERS24 JULY 2007)
譯者：法務部調查局洗錢防制中心調查專員　藍家瑞

前言 – 本次評鑑相關訊息及使用之方法論(PREFACE - INFORMATION AND METHODOLOGY USED FOR THE EVALUATION)

對中華台北反洗錢與打擊資助恐怖分子體制之評鑑是依據防制洗錢金融行動工作組織（FATF）2003 年反洗錢 40 項建議及 2001 年打擊資助恐怖分子 9 項特別建議，並採用 2004 年之「反洗錢與打擊資助恐怖分子評鑑方法論」（AML/CFT Methodology 2004）。本次評鑑係由中華台北提供相關法規及其他素材，再由評鑑團於 2007 年 1 月 28 日至 2 月 10 日進行現地評鑑及後續所蒐集之相關資訊所彙集而成。評鑑團於現地評鑑期間拜會相關政府部門及私部門代表，詳如本評鑑報告之附錄 2。

The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Chinese Taipei was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004. The evaluation was based on the laws, regulations and other materials supplied by Chinese Taipei, and information obtained by the evaluation team during its on-site visit to Chinese Taipei from 28 January to 10 February 2007, and subsequently. During the on-site the evaluation team met with officials and representatives of all relevant Chinese Taipei government agencies and the private sector. A list of the bodies met is set out in Annex 2 to the mutual evaluation report.

評鑑團係由亞太防制洗錢組織之法律專家、執法專家及金融管理專家組成，成員包括：

- Mr Razim Buksh，斐濟聯邦準備銀行金融情報中心處長，代表金融專家。
- Ms Hyun Soo Kim，韓國金融情報中心副處長，代表金融專家。
- Mr. Craig Hamilton，紐西蘭警政署警長，代表執法專家。
- Ms Janet Maki，庫克群島監察史，代表法律專家。
- Mr Ian Knight，代表亞太防制洗錢組織秘書處。

The evaluation was conducted by a team of assessors composed of APG experts in criminal law, law enforcement and financial regulatory issues. The evaluation team consisted of:

- Mr Razim Buksh, Director, Financial Intelligence Unit, Reserve Bank of Fiji – financial expert,
- Ms Hyun Soo Kim, Deputy Director, Korea Financial Intelligence Unit – financial expert,
- Detective Sergeant Craig Hamilton, New Zealand Police Force – law enforcement expert, and
- Ms Janet Maki, Ombudsman, Cook Islands – legal expert; and
- Mr Ian Knight - APG Secretariat.

評鑑團之專家們檢視中華台北相關制度架構、反洗錢與打擊資助恐怖分子法律、規定、指引及

The experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other

其他要求、偵測透過金融機構及特定非金融事業體與專業人士進行洗錢與資助恐怖主義之現有管理機制與其他系統、檢查這些系統之量能、執行效率等。

systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), as well as examining the capacity, the implementation and the effectiveness of all these systems.

本評鑑報告綜合中華台北於現地評鑑當時或隨後採行之反洗錢與打擊資助恐怖分子作爲，並加以說明、分析，進而提供如何強化系統之建議（參考附表2），同時亦列出中華台北遵循FATF40+9項建議之評等（參考附表1）。

This report provides a summary of the AML/CFT measures in place in Chinese Taipei as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened (see Table 2). It also sets out Chinese Taipei's levels of compliance with the FATF 40+9 Recommendations (see Table 1).

簡要摘述(EXECUTIVE SUMMARY)

1. 背景資訊(Background Information)

1) 政府區分爲中央、省/市及縣/市層級，每一層級都有其明確之自治權力，司法制度屬大陸法系。

1) The government of Chinese Taipei is divided into central, provincial/municipal, and county/city levels, each of which has specifically defined powers. Chinese Taipei has a civil law legal system.

2) 非常重視反洗錢作爲，但較少強調打擊資助恐怖分子作爲，主要可以從資助恐怖分子尚未罪刑化之事實得到印證。

2) There is a strong focus on anti money laundering (AML) measures, but less emphasis on measures to combat the financing of terrorism (CFT) – evidenced primarily by the fact that terrorist financing is not yet criminalized.

3) 統計資料顯示過去 4 年因洗錢起訴之案件逐年增加。

3) The statistics provided reflect an increasing number of money laundering prosecutions with the number increasing each year for the last 4 years.

4) 毒品扣押數量顯示非法毒品交易在中華台北境內屬有利可圖之交易，而毒品案件缺乏有關洗錢之起訴值得關切。

4) Drug seizures indicate a lucrative trade in illicit drugs in Chinese Taipei. This is of some concern, given a lack of ML prosecutions arising from narcotics investigations.

5) 由不同機關監理銀行、保險、期貨及證券等行業，而單一的金融業監理機關（金融監督管理委員會）已經立法成立並於 2004 開始運作。

5) Chinese Taipei has various authorities that supervise the banking, insurance, futures and securities industries. The supervisory authority of the financial industry and creation of a single financial regulator (the Financial Supervisory Commission) was achieved through legislation that became effective in July 2004.

6) 銀行業擁有資產新台幣 36 兆 9707 億元（美金約 1 兆 1 千零 54 億元）。

6) Chinese Taipei had an established banking industry with assets of NT$36,970.7 billion (USD 1,105.4 billion).

7) 保險業有 24 家產物保險及 30 家人壽保險公司，而保費收入分別爲美金 35 億 4300 萬元及美金 434 億 7400 萬元。

7) The Insurance industry has 24 non-life and 30 life insurance companies with premium income of USD 3,543 million and USD 43,474 million respectively.

8) 有關於特定非金融事業體及專業人士：賭場屬於非法；不動產業於 2004 年有 727,537 筆土地交易及 418,187 筆房屋交易；銀樓扮演一個金融機構主要替代角色，除了黃金寶石交易外，

8) In respect of the DNFBPs in Chinese Taipei, casinos are outlawed; real estate (in 2004) recorded 727,537 transactions in land and 418,187 transactions in housing; jewellery shops play a major substitute role of financial institutions and exchange large amounts of money to foreign currency in addition to dealing in gems and gold; lawyers have broad scope of business and notaries exist in civil practice as well as

亦從事大量外幣交換；律師從事廣泛業務而公證人則有民間及法院兩種；會計師有2398位（至2005年12月資料）；所有信託業務均透過銀行運作而其營業金額有美金85.5億元之規模（至2005年12月資料）。

within the court system; accountants number 2,398 (as at December 2005); all trust business is conducted by banks and as at December 2005 was USD 85.5 billion in size.

2. 法律系統與相關制度上之作爲(Legal Systems and Related Institutional Measures)

9) 洗錢防制法是中華台北的主要反洗錢法律，對於洗錢前置犯罪採用門檻方式並列舉一些特定犯罪。該法定義前置犯罪門檻設定過高，且法條內容缺乏維也納公約第3(1)(b)(c)條及巴勒莫公約第6(1)條所闡述之某些要素，而洗錢犯罪之證明必須有前置犯罪之定罪爲先決要件。

9) The Money laundering Control Act (MLCA) is the principal law on AML in Chinese Taipei. A threshold approach applies for defining predicate crimes, along with some specifically listed crimes. The threshold for defining predicate crimes is too high and the offence provision lacks some of the elements outlined in Article 3(1)(b)(c) of the Vienna Convention and Article 6(1) of the Palermo Convention. A conviction for a predicate offence is required to prove the money laundering offence.

10) 有關機關起訴相當大量之洗錢案件，而其中大部分源自經濟犯罪，統計資料顯示，在2005年有1678名嫌疑犯被起訴，洗錢金額約新台幣77億元（約美金2億4000萬元），扣押金額約新台幣2億1300萬元（約美金660萬元）。主要洗錢管道爲銀行業，只有5件透過非金融行業洗錢（如地下通匯、不動產業或銀樓業）。

10) The authorities are prosecuting a significant number of cases for ML, with the bulk originating from economic crime areas. Statistics suggest that in 2005 a total of 1,678 suspects were identified, about NT$ 7.7 billion (US$240 million) was laundered and NT$213 million (US$6.6 million) was seized. The majority of ML cases involved the use of banking channels with only 5 cases being identified as using non-financial industries (underground banking, real estate or jewellery stores).

11) 尚未將資助恐怖分子罪刑化，反恐怖行動法已草擬但尚未排入立法院審議。

11) Chinese Taipei has not yet criminalised terrorist financing. A draft Counter-Terrorism Bill has been prepared but has not yet been tabled with the Legislative Yuan.

12) 金融情報中心角色由洗錢防制中心擔任，該中心是一個成熟、具備良好功能且有效能之金融情報中心。

12) The FIU of Chinese Taipei is embodied in the Money Laundering Prevention Centre (MLPC), which presents as a mature, well functioning and effective FIU.

13) 有兩個主要執法機關配合檢察官負責洗錢與資助恐怖分子案件之調查，而大量洗錢

13) There are two key law enforcement agencies which, in partnership with prosecutors, have primary responsibility for ML/FT investigations. It is

起訴案件源自於經濟犯罪且大部分犯罪標的金額少於美金 3 萬元，這與洗錢起訴應源自大量毒品犯罪調查案件有相當落差。

apparent that the bulk of money laundering prosecutions emanate from economic crime investigations – and predominantly relate to amounts of less than USD 30,000. There is an obvious gap in terms of money laundering prosecutions arising from narcotic investigations – given the high number of predicate narcotics investigations.

14) 統計資料顯示對於跨國境現金搬移出現明顯弱點，需要重新檢討未申報及現金走私之制裁。

14) Statistics reflect a significant weakness in relation to cross-border currency movements. There is a need to review sanctions for non-declaration and the smuggling of cash.

15) 有關沒收、凍結及扣押犯罪資產之法律條文散見於數個不同法律之中，包括洗錢防制法、刑法、刑事訴訟法、毒品危害防制條例、警察職權行使法及組織犯罪防制條例。

15) Legal provisions that provide for the confiscation, freezing and seizing of proceeds of crime (POC) are scattered throughout several laws, namely the MLCA; the Criminal Code; the Criminal Procedure Code; the Statute for Narcotic Hazards Control; the Police Powers Act and the Organised Crime Prevention Act.

16) 洗錢無法單獨構成財產犯罪，亦即必須有依附前置犯罪。

16) ML is not a qualifying offence for POC, i.e there must be a predicate offence.

3. 預防作爲 – 金融機構(Preventive Measures – Financial Institutions)

17) 對金融機構大致上具備相當專業的反洗錢與打擊資助恐怖分子作爲，然而許多作爲都採用指引方式，違反 FATF 對於相關作爲應從法律、規章或其他具強制力措施才屬合宜之建議，客戶審查設定之門檻仍然很高，另將利益擁有狀態併入客戶審查之一部分，尚需要有更明確之規範。

17) Chinese Taipei has implemented a system of generally comprehensive AML/CFT measures for financial institutions. However, many of the measures take the form of guidelines; this is contrary to the FATF Recommendations, which provide that laws, regulations or other enforceable means are the appropriate instruments. Thresholds for Customer Due Diligence (CDD) obligations remain high and there is a need for clearer requirements to establish beneficial ownership as part of CDD.

18) 對於第三人與中介業務及金融機構保密義務均符合國際要求標準。

18) Chinese Taipei is compliant with international standards regarding third parties and introduced business as well as the financial institution secrecy or confidentiality obligations.

19) 現有紀錄保存規定在某些方面尚有不足，包括非現金交易紀錄保存、低於 1 百萬元以下之現金交易紀錄保存、紀錄保存要足以重建證據目的之

19) Record-keeping requirements are inadequate in areas including records for non-cash transactions, records for cash transactions below NT$1 million, requirement to keep records capable of reconstruction for evidentiary purposes, requirement to keep records for five years following completion

要求、交易完成或帳戶終結後要保有紀錄5年以上之要求、國際性交易未被納入要求範圍、未要求保存帳戶檔案或生意往來資料。金融機構通常僅遵循現有有關交易及客戶紀錄保存之相關規定。

of a transaction or termination of an account, international transaction records are not captured, and no requirement to keep account files or business correspondence. Financial institutions in Chinese Taipei are generally complying with those transaction and customer record-keeping rules that are in place.

20) 除銀行業外，並未課以金融機構對複雜、異常大額或無明顯經濟或合法目的之異常型態交易進行監視及保存紀錄之特別義務。

20) With the exception of the banking sector, there are no specific obligations on financial institutions to monitor and keep record of complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.

21) 對於資助恐怖分子可疑金融交易申報之要求不符合國際最低要求標準。

21) Requirements for reporting suspicious transactions for terrorist financing fall short of the minimum requirements.

22) 對於金融機構要有反洗錢內控及系統之要求是建構在相關法律上，並且有良好監理作爲加以執行，概言之，金融機構內控義務之規範具有相當全面性，然而對證券業之要求仍不符獨立稽核之要求。總之，法務部調查局、金融監理機關及相關自律機構已經在金融機構間-包括這些機構之高階管理階層，發展出一套良好的反洗錢與打擊資助恐怖分子文化。

22) The requirement to maintain AML internal controls and systems by financial institutions in Chinese Taipei is embedded in the laws and is well supported by regulatory initiatives. Overall the obligations on financial institutions to have internal controls are comprehensive. However, requirements imposed on the securities sector fall short of the independent audit function requirement. Overall, the Ministry of Justice Investigation Bureau (MJIB), financial sector regulatory and supervisory authorities, and relevant self regulatory organizations (SROs) have developed a good AML/CFT culture among the financial institutions – evident also at the executive management levels of those institutions.

23) 雖然對於空殼銀行之設立與運作、其跨國通匯業務關係及空殼銀行所使用之國外帳戶沒有特別法律或規章直接禁止，但這些活動在銀行法規定下，已間接被否決。

23) Although there is no specific direct prohibition in Chinese Taipei's laws and regulations on the establishment and operation of shell banks, permission to enter into correspondent banking relationships with shell banks, and use in foreign country of accounts by shell banks, such activities are indirectly not permitted under the banking laws.

24) 洗錢防制中心透過出版案例彙編、教育宣導及提供有關反洗錢與打擊資助恐怖分子資訊之作爲，積極與金融機構建立良好互動。

24) The MLPC engages proactively with financial institutions by publishing case studies, conducting AML/CFT education and providing AML/CFT information.

25) 金融監督管理委員會是單一

25) The Financial Supervisory Commission (FSC) is

金融監理機關，負責金融機構和金融事業體在反洗錢與打擊資助恐怖分子之監理與監督。而該會對於銀行業違反遵循規定之制裁尚有不足，而值得注意的是保險代理人及經紀人目前亦未納入反洗錢與打擊資助恐怖分子規範，最近外幣兌換處則納入規範。

the single financial sector regulator in Chinese Taipei and is the competent authority in charge supervisory and oversight system for financial institutions and financial businesses for AML/CFT. The sanctions imposed by the FSC are assessed as inadequate in view of levels of findings of compliance breaches for the banking sector. It is also noted that insurance agents and brokers are exempted from the current AML/CFT requirements and that they have only recently been introduced for money changing services and the foreign currency exchange sector.

26) 除了銀行法第29條禁止非銀行不得提供國內或國外匯款服務，並無任何特別法律或規章對於金錢或有價物品傳送服務業（money or value transfer service providers）加以規範。

26) Apart from Article 29 of the Banking Act that bars non-banks from providing domestic or foreign remittance services, Chinese Taipei does not have any specific laws or regulations governing the money or value transfer service providers.

27) 對於金錢或有價物品傳送服務業之證照核發、管理與監理機制不明確，而相關反洗錢與打擊資助恐怖分子之監視與遵循架構亦不明確。

27) The licensing, regulation and supervision of money or value transfer service providers is unclear. The AML/CFT monitoring and compliance framework for the money or value transfer service providers is also not clear.

4. 預防性作爲 – 特定非金融事業體及專業人士(Preventive Measures – Designated Non-Financial Businesses and Professions)

28) 洗錢防制法只涵蓋有銀樓業者一種特定非金融事業體及專業人士，現行並無特別針對律師、公證人、不動產經紀、會計師或信託及公司服務提供者之反洗錢與打擊資助恐怖分子要求。

28) Dealers in precious metal and stones are the only category of the DNFBP sector covered under MLCA Act and there are currently no specific AML/CFT requirements imposed on lawyers, notaries, real estate agents, accountants, or trust and company services providers.

29) 所有金融機構對於客戶審查及交易紀錄保存，包括銀樓業者，均僅限於現金交易超過新台幣 1,000,000 元（約美金 31,000 元），超出國際標準。

29) The scope of CDD and record-keeping for all covered financial institutions, including the dealers in precious metals and stones, is applied for cash transactions above NT$1,000,000 or US$31,000 which is well above the international standard.

30) 課以銀樓業者反洗錢與打擊資助恐怖分子之預防性作爲與國際標準有相當落差，且對於特定非金融事業體及專

30) AML/CFT obligations on dealers in precious metal and stones fall substantially short of requirements for preventive measures under the standards and no obligations are in place for other categories of

業人士並無相關要求。

DNFBPs.

31)在特定非金融事業體及專業人士類別中，只有銀樓業被要求申報疑似洗錢交易，迄今亦無任何申報紀錄，其成效值得懷疑。

31) Dealers in precious metal and stones are the only DNFBP sector that is required to report suspicious transactions, however, the effectiveness is in doubt due to lack of any STR being made to date.

32)對於確保反洗錢與打擊資助恐怖分子義務，包括申報疑似洗錢交易，及於所有特定非金融事業體及專業人士有其急迫性。

32) There is an urgent need to ensure AML/CFT obligations, including STR reporting, apply to all DNFBP sectors in Chinese Taipei.

33)對於權責機關確保所有類別之特定非金融事業體及專業人士遵循 FATF 要求標準之能力值得關切。對於銀樓業之監理與監督在目前架構下並非及於所有業者，目前僅限公司型態之業者，以致大部分業者未受到監理。

33) There are concerns about the capacity of competent authorities to ensure and enforce full compliance with the FATF requirements for all categories of the DNFBP sector. Supervision and monitoring of dealers in precious metal and stones is not fully covered under the current framework – with supervision only occurring in the incorporated end of the market – leaving a large group unsupervised.

34)監理不動產業之暫時性作爲在很多方面與要求標準之重點仍有差距。

34) The interim measures for monitoring the real estate sector fall short of the essential criteria in many ways.

35)反洗錢與打擊資助恐怖分子之管理體制尚未涵蓋律師及會計師。法務部及洗錢防制中心少有與法律專業，包括律師公會，討論或諮詢有關評估該行業面對洗錢與資助恐怖分子威脅所曝露之弱點，另對會計師亦只有提供少量有關洗錢與資助恐怖分子之警示。

35) Chinese Taipei's AML/CFT regulatory regime does not cover lawyers and accountants. There has been little or no discussion and consultation initiated by the MLPC or the Ministry of Justice (MOJ) with the legal profession including the bar association to assess ML/FT vulnerability for the sector. Only little awareness has been provided to the Certified Practicing Accountant (CPA) sector.

5. 法人與法律合意及非營利組織(Legal Persons and Arrangements & Non-Profit Organisations)

36)境內具有下列法人型式：無限公司、有限公司、兩合公司及股份有限公司。

36) Chinese Taipei recognizes the following types of corporations: Unlimited Company; Limited Company; Unlimited Company with Limited Liability Shareholders; and a Company Limited by Shares.

37)使用中央集中公司註冊系統，權責機關具備維持法人

37) Chinese Taipei utilizes a combination of a central registration system and the authorities' general

透明化權力，但僅限於法人所登記擁有者所宣告之資料，與國際標準要求辨識利益擁有者尚有落差，利益擁有者係指對法人或法律合意擁有最終有效控制之自然人。

compulsory powers to maintain transparency of legal persons. These obligations are limited to legal persons declaring details of immediate ownerships. The obligation falls short of a requirement to identify beneficial ownership, that is the natural persons who exercise ultimate effective control over a legal person or arrangement.

38) 個人信託不受任何上述揭露或註冊登記要求之限制，有關機關取得個人信託利益擁有者及控制架構之資訊幾乎全靠本身擁有之權力所進行之檢查或調查。

38) Private trusts are not subject to any upfront disclosure or registration requirement. The competent authority's ability to get information about the beneficial ownership and the control structure of private trusts relies almost entirely on their powers to conduct inspection or investigation.

39) 對於慈善信託，管理機關得不時進行檢查作爲並得在發現未遵循監理命令時撤銷信託許可。有關信託事業，有關機關可以依銀行法規定，有權對業者進行檢查並提供必要文件。

39) For charitable trusts, the regulatory authority of the relevant industry may carry out inspections from time to time and may revoke approvals granted to the trusts if they are in breach of the conditions trust or if they disobey supervisory orders. With respect to trust enterprises, the powers to conduct examination and to require submission of documents given to the competent authorities under the Banking Act apply mutatis mutandis.

40) 對於全國性非營利組織已有相當健全及全面性之防護作爲，另外有超過 10,000 家的小型非營利組織由地方政府監理，透過風險基礎方式檢視這些地方性非營利組織顯露非常低之風險，所以對這些組織及其管理並未進行評鑑。

40) There are robust and thorough safeguards in place in place with regards national NPOs. Additionally there are in excess of 10,000 smaller NPOs, which are supervised at a local government level. The risk-based approach appears to be robust and identifies that local charities pose a very low risk and on this basis the 10,000 local charities and their regulation was not assessed.

6. 國內與國際合作(National and International Co-operation)

41) 中華台北尚未簽署或成爲聯合國維也納公約、巴勒莫公約或資助恐怖分子公約之成員，亦未完全履行相關公約。

41) Chinese Taipei has not signed or become a party to the UN Vienna, Palermo or Terrorist Financing Conventions. Chinese Taipei has still not fully implemented the relevant conventions.

42) 透過與美國簽署之司法互助協定條款及其作業要點，訂出有關同意提供美國司法互助之進一步程序。當一個國家與中華台北訂有司法互助協定，中華台北可以經由司

42) Through the provisions of the US Mutual Legal Assistance Agreement with Chinese Taipei and the Guidance decree made setting out further processes in terms of granting assistance to the US, it is open to conclude that where a jurisdiction enters into a MLAA with Chinese Taipei, the widest possible range of assistance is available given that Chinese

法權力提供最廣泛之反洗錢與打擊資助恐怖分子協助，包括調查、起訴及相關法律作爲。對於無司法互助協定之國家，中華台北僅能透過法院或正式請求函，提供司法協助。

Taipei is able to utilise all the legal authority or power that is available for their own domestic AML/CFT investigations, prosecutions and related proceedings. So for jurisdictions with no MLAA with Chinese Taipei, they can only receive Mutual Legal Assistance (MLA) through court order or letters rogatory.

43) 中華台北目前已完成臥底偵查法草案，將提供臥底偵查員之權利保障，並賦予警察運用此法之權力。

43) Chinese Taipei currently has a draft Undercover Investigation Act that is aimed at protecting the rights and interests of undercover investigators and through this, enable police to utilise this provision.

44) 值得注意的是中華台北對於沒收財產的分享要由任何參與之機關提出申請，然而因爲不明原因，迄今尚無任何沒收財產經由此一機制進行分享。

44) It is of interest to note Chinese Taipei's policy of distributing confiscated property upon application by any department that was involved in the confiscation of the property in question. However, for reasons that are not clear, no property has yet been distributed under this process.

45) 基於引渡法第 4 條第 2 項規定，已經被起訴之國人沒有其他法律或程序可以和請求國進行合作，而資助恐怖分子尚未被罪刑化，因此不屬於引渡法可以進行引渡之犯行。

45) Chinese Taipei has no law or processes that requires it to cooperate with a requesting jurisdiction when it comes to prosecuting its own nationals under Article 4 paragraph 2 of the Extradition Law. As Terrorist Financing offences have not been criminalized, they are not extraditable offences under the Extradition Law.

46) 由於中華台北在國際政治的地位，目前並未收到或提出任何引渡之請求，而是以驅逐出境的方式代替引渡。

46) Chinese Taipei authorities have not received or made any extradition requests due to Chinese Taipei's international political status. As a result Chinese Taipei authorities advised that Chinese Taipei uses "deportation procedures" instead of extradition.

47) 2006 年緝毒年報顯示調查局已經直接與超過 20 個國家或地區進行聯繫，包括歐洲、美洲、香港、澳門、東南亞及東北亞地區等，以 2005 年爲例，中華台北在毒品方面與其他國家交換資訊達 811 件，經與涵蓋菲律賓、越南、澳洲、美國、日本、馬來西亞、香港及澳門等共同合作，成功的完成諸多緝毒案件之調查。

47) The Drug Crime Prevention Year Book 2006 states that the MJIB have direct communication with over 20 countries or territories in Europe, America, Hong Kong, Macau, Southeast Asia and North East Asia. During 2005, for example, 811 cases of intelligence exchange took place between Chinese Taipei and other countries in relation to narcotics. A number of examples where Chinese Taipei has worked with other countries including Philippines, Vietnam, Australia, United States, Japan, Malaysia, Hong Kong and Macau to successfully conclude drug investigations.

48)從統計等資訊顯示，中華台北具備與其他國家交換資訊之有效系統，特別是透過洗錢防制中心。然而包括警察機關在內之其他機關僅有少量資訊交換及查詢之統計資料。鑑於洗錢防制中心依據作業要點具備法律授權可以交換資訊及進行查詢，其他機關則無此權力。

48) It would appear from the information provided including statistics, that Chinese Taipei has effective systems in place to exchange information with other jurisdictions, particularly through the MLPC. However, there appears to be little information in terms of exchanging information and enquiries made by other competent authorities including the police. Whereas the MLPC has legal authority under its operations Regulations to exchange information and conduct enquiries, other competent authorities do not.

附表 1：FATF 遵循評等(Ratings of Compliance with FATF Recommendations)

附表 2：改善反洗錢與打擊資助恐怖分子之建議行動計畫(Recommended Action Plan to improve the AML/CFT system)

附表 3：有關機關對於評鑑之回應--如有必要(Authorities' Response to the Evaluation -- if necessary)

附表 4：前次相互評鑑後之進展(Progress since the last Mutual Evaluation)

相互評鑑報告(MUTUAL EVALUATION REPORT)

1 概述 (GENERAL)

1.1 中華台北一般綜合性概況及其經濟 (GENERAL INFORMATION ON CHINESE TAIPEI)

1) 中華台北目前司法管轄區涵蓋台灣、澎湖、金門、馬祖等島嶼，總人口數爲 2,283 萬（2006 年 10 月底數據）。

1) The area over which the government of Chinese Taipei exercises administrative control encompasses the islands of Taiwan, Penghu (the Pescadores), Kinmen, Matsu, and a number of smaller islands. The total population was about 22.83 million as of October 2006.

2) 政府架構可以分爲中央、省／市及縣／市等層級，每一層級政府都有明確的權力劃分，中央政府由總統府、國會及五院組成，分別爲行政院、立法院、司法院、考試院和監察院。

2) The government is divided into central, provincial/municipal, and county/city levels, each of which has specifically defined powers. The central government consists of the Office of the President and five branches (called "Yuan"), namely the Executive Yuan, Legislative Yuan, Judicial Yuan, Examination Yuan, and Control Yuan.

3) 行政院爲國家最高行政機關，下分 8 部及 28 個同級機關。該院設有行政院長一位、副院長 一位，多位部會首長及不管部會政務委員。院長係由總統指定，而副院長、部會首長及不管部會政務委員則由行政院長提請總統任命。

3) The Executive Yuan is the highest organ of the State and there are currently 8 ministries and 28 ministerial-level organizations under the Executive Yuan. The Yuan has a president (usually referred to as the premier), a vice president (vice premier), a number of ministers, heads of commissions, and ministers without portfolio. The president of the Executive Yuan is appointed by the president of the republic.

4) 立法院爲國家最高立法機關，由人民選出之立法委員組成，任期三年，得連選連任。立法院爲國家最高立法機關，由人民選出之立法委員組成，任期三年，得連選連任。

4) The Legislative Yuan is the highest legislative body of the state, consisting of popularly elected representatives who serve for three years and are eligible for re-election.

5) 中華台北採用大陸法系司法制度，該司法制度重點在於強調成文法更甚於判例法，當進行審判時，法院會依序從憲法、法典、法規、條例

5) Chinese Taipei has a civil law legal system. The emphasis of the legal system is placed on statutes rather than case law. When trying to make a decision, the Courts look to what the Constitution states first and then to codes, statutes, and ordinances.

尋找相關規定。

6) 司法院爲國家最高司法機關，掌理釋憲、統一解釋法律命令、審判民事、刑事、行政訴訟案件、公務員懲戒或審議權、政黨違憲解散案件審判權等，中華民國司法制度可以分爲三級：地方法院及其分院負責民事、刑事之第一審判決；高等法院及其分院負責不服一審判決上訴案件之審判；最高法院爲終審法院，負責審查下級法院之審判是否遵循法令規定，而事實審判則由第一、二審決定，因此只有在法律引用有問題才會由最高法院處理。然而，例外情形爲有關內亂、外患及妨害國交之罪，則以高等法院爲第一審，最高法院爲上訴法院。

6) The Judicial Yuan (Judiciary) is the highest judicial organ and its chief powers are to interpret the Constitution, to unify the interpretation of laws and orders, and to adjudicate civil, criminal, administrative cases, cases concerning disciplinary sanctions of public functionaries, and cases concerning the dissolution of political parties violating the Constitution. The judiciary of Chinese Taipei has three levels: district courts and their branches that hear civil and criminal cases in the first instance; high courts and their branches at the intermediate level that hear appeals against judgments of district courts or their branches; and the Supreme Court at the highest appellate level, which reviews judgments by lower courts for compliance with pertinent laws or regulations. Issues of fact are decided in the first and second levels, while only issues of law are considered by the Supreme Court. However, there are exceptions to this system. Criminal cases relating to rebellion, treason, and offenses against friendly relations with foreign states are handled by high courts, as the court of first instance; and appeals may be filed with the Supreme Court.

7) 檢察機關配合法院審級亦分爲三級，第一層級爲最高法院檢察署，第二層級爲高等法院檢察署及其分院檢察署，第三層級爲地方法院檢察署。基於檢察一體原則，由最高法院檢察署檢察總長依法指揮監督所有不同層級之檢察官實施犯罪偵查、提起公訴、實行公訴、協助自訴、擔當自訴、指揮刑事裁判之執行及執行其他法令所定之職務。

7) Matching the judiciary system, the procuratorial organ in Chinese Taipei also has three levels. The first level is the Prosecutor's Office of Supreme Court. The intermediate level is the prosecutor's offices of high courts and the branches, and the third level is the prosecutor's offices of district courts. Based on the principle of the unity of the procuratorial organ, the attorney general of the Supreme Court directs and supervises all the prosecutors from the various levels of prosecutor's offices to investigate criminal activities, carry out public prosecution, assist private prosecution, command the execution of criminal punishment and execute other functions which are vested by laws and decrees.

8) 中華台北在2005年由於外貿強勁，經濟成長率達 4.03%。

8) The annual growth of the Chinese Taipei economy reached 4.03% in 2005 due to the strong growth of external trade.

重要經濟指標					
項目	單位	*2002*	*2003*	*2004*	*2005*
經濟成長率（實質國內生產毛額增加）	%	4.25	3.43	6.07	4.03
國民生產毛額	US$ billion	301.8	309.3	333.4	355.4

平均國民生產毛額	US$	13,476	13,752	14,770	15,690
消費者物價指數	%	-0.20	-0.28	1.62	2.30
匯率	新台幣對美金	34.58	34.42	33.43	32.18
失業率	%	5.17	4.99	4.44	4.13
外匯存底	美金10億	161.7	206.6	241.7	253.3
資料來源: 行政院主計處、中央銀行					

Major Economic Indicators					
Item	*Unit*	*2002*	*2003*	*2004*	*2005*
Economic growth rate (real GDP increase)	%	4.25	3.43	6.07	4.03
Gross national product (GNP)	US$ billion	301.8	309.3	333.4	355.4
Per capita GNP	US$	13,476	13,752	14,770	15,690
Changes in consumer price index (CPI)	%	-0.20	-0.28	1.62	2.30
Exchange rate (average)	NT$ per US$	34.58	34.42	33.43	32.18
Unemployment rate	%	5.17	4.99	4.44	4.13
Foreign exchange reserves (year end)	US$ billion	161.7	206.6	241.7	253.3
*Preliminary figures					
Source: Directorate-General of Budget, Accounting and Statistics, CBC					

9) 中華台北是全世界排名第 16 位之經濟體及第 15 位之貿易國，並擁有排名第 3 位的外匯存底。2005 年國內經濟概況如下，國內生產毛額爲 3,464 億美元，國民生產毛額爲 3,554 億美元，平均國民生產毛額爲 15,690 美元，平均國內生產毛額爲 15,291 美元，經濟成長率爲 4.03%，自然資源僅有少量之煤、天然氣、石灰石、大理石及石棉等。在國內生產毛額中，農業占 1.7%、工業占 24.97%、製造業占 21.40%、服務業占 73.33%。服務業主要是批發及零售業，占國內生產毛額 18.27%，金融及保險占 10.72%，不動產及租賃業 8.31%。貿易總額爲 3,810 億美元，涵蓋出口 1,984 億美元，進口 1,826 億美元，主要出口市場爲中國 21.99%、香港 17.15%、美國 14.67%、日

9) Chinese Taipei is the world's 16th largest economy and 15th largest trading nation and it has the third largest foreign exchange reserves in the world. The economic profile of 2005 is as follows, GDP: US$346.4 billion; GNP: US$355.4 billion; Per Capita GNP: US$15,690; Per Capita GDP: US$15,291; Economic Growth Rate: 4.03%; Natural Resources: Small deposits of coal, natural gas, limestone, marble, and asbestos; Agriculture: 1.7% of GDP; Industry (including Manufacturing): 24.9% of GDP; Service: 73.33% of GDP. The service sector consists chiefly of wholesale and retail (18.27% of GDP), finance and insurance (10.72%), as well as real estate and leasing (8.31%). The total trade volume is US$381 billion which including exports US$198.4 billion and imports US$182.6 billion. The major export markets include China (21.99%), Hong Kong (17.15%), United States (14.67%), Japan (7.62%), Singapore (4.05%), and the major import countries include Japan (25.22%), United States (11.59%), China (11.0%), Korea (7.25%) and Germany (3.38%). The approved inward/outward investment is US$4.22 billion/ US$2.45 billion. Foreign exchange reserves are US$253.29 billion.

本 7.62%、新加坡 4.05%，主要進口市場爲日本 25.22%、美國 11.59%、中國 11.0%、韓國 7.25%、德國 3.38%。經核准之對內／對外投資分別爲 42.17 億美元及 24.47 億美元，外匯存底爲 2,532.9 億美元。

1.2 洗錢和資助恐怖分子之一般狀況 (GENERAL SITUATION OF MONEY LAUNDERING AND FINANCING OFTERRORISM)

10) 由過去幾年起訴統計資料顯示，重大犯罪對洗錢威脅依序（由重至輕）爲經濟犯罪、貪瀆犯罪、毒品犯罪、重大刑案及其他。以 2005 年爲例，共有 1,173 案被起訴之洗錢案件，其中 1,081 案爲經濟犯罪、7 案爲貪瀆犯罪、2 案爲毒品犯罪，2 案爲組織犯罪，另外 78 案爲其他類型之犯罪，涉案人數爲 1,678 人，洗錢標的金額約新台幣 77 億元（美金 2 億 4000 萬元），扣押金額新台幣 2 億 1300 萬元（約美金 660 萬元）。

10) As shown by the statistics for the past few years of prosecuted cases, the money laundering threats from serious crimes are as follows (in order from serious to less serious): economic crimes, corruption, drug related crimes, racketeering and others. Taking the statistics of 2005 as an example, there are 1,173 prosecuted money laundering cases, which includes 1,081 cases from economic crimes, 7 cases from corruption, 2 cases from drug related crimes, 2 cases from organized crimes and 78 from others. There were 1,678 suspects in total, about NT$ 7.7 billion (US$240 million) being laundered and NT$213 million (US$6.6 million) being seized.

11) 一般而言，有諸多行業被利用爲洗錢管道，而其中銀行業是最常見的洗錢管道，以 2005 年爲例，有 871 案洗錢案件係透過銀行進行清洗不法收益、287 件透過郵局、6 案透過信用合作社、2 案透過農漁會信用部、2 案透過證券業，另外 5 件透過非金融行業（地下通匯、不動產業或寶石商）。

11) Generally speaking there are many industries being used as money laundering channels and the banking industry is the most common way. In 2005, there were 871 money laundering cases in which the illegal proceeds were laundered through banks, 287 cases through postal offices, 6 cases through credit unions, 2 cases through farmers' and fishermen's credit associates, 2 cases through securities companies and 5 cases through non-financial industries (underground banking, real estate or precious stone stores).

12) 在本地區常見的洗錢手法包括現金攜帶、分散處置、購買可轉讓金融商品、匯款、地下通匯、境外銀行與境外

12) The usual methods to launder money in this jurisdiction include cash couriers, structuring, purchasing portable valuable commodities, wire transfers, alternative remittance systems, using offshore shell companies/corporations, using

公司、利用親屬或第三者、使用外國帳戶及利用僞變造身分等，而新興的洗錢威脅包括利用電子科技、跨國境金融交易、現金攜帶及人頭帳戶等，在最近幾年的洗錢案件中亦經常出現。

offshore banks and offshore businesses, using family members or third parties, using foreign bank accounts and using false identification etc. The emerging trends of money laundering threats include utilizing new technological methods, cross-border financial transactions and currency movement, and increasing use of mule accounts. These new threats have materialised in recent years.

13) 洗錢防制中心從分析疑似洗錢交易報告、大額通貨交易報告及追查許多犯罪案件不法資金流向的統計資料中發現 ，許多非營利組織有可能被濫用從事非法活動，包括洗錢、背信、侵占及逃漏稅等。

13) From the analysis of statistics from STRs and CTRs and tracing illegal funds in criminal cases, the MLPC (FIU of Chinese Taipei) has found many non-profit organizations might be abused to engage in illegal activities, including money laundering, breach of trust, embezzlement, tax evasion etc.

14) 有關機關已經查覺洗錢案件涉及使用銀樓業者經營之替代性匯款系統，該替代性匯款系統並經常透過專人以跨國境現金攜帶方式進行。

14) Authorities have identified money laundering cases that involved alternative remittance systems operated by jewellery stores and which usually use couriers to move currency cross-border.

15) 中華台北深切體認恐怖行動所帶來之威脅，特別是在美國在 2001 年 9 月 11 日遭到恐怖攻擊行動之後，在當年 10 月 9 日，總統即親臨主持由各有關機關首長參加的專案會議，尋求打擊恐怖行動之對策，之後採取 一連串遏止恐怖行動的作爲，包括打擊恐怖行動之立法、阻絕資助恐怖主義、加強國際合作、預防恐怖攻擊行動、遵循國際社會有關反恐要求，並在行政院設立一個「反恐怖行動管控辦公室」，專責協調、計畫管控。

15) Chinese Taipei recognized the threats from terrorist activities after the event of 11 September 2001. On 9 October 2001, the president presided over a project meeting attended by the heads of related authorities seeking measures to combat terrorism. A series of plans on curbing terrorist activities, including legislation to combat terrorism, interruption of terrorism financing, enhancement of international cooperation, prevention of terrorist attack, compliance the requirements from international community and an office named “Antiterrorism Action Control and Supervision Office” in charge of the coordination and project control, has been established under the Executive Yuan.

16) 爲遏止新興洗錢趨勢所帶來之威脅並爲遵循國際社會在「反洗錢與打擊資助恐怖分子」之新標準，中華台北已在 2003 年通過洗錢防制法之修正，增加洗錢財產凍結

16) For curbing the new threats from emerging trends of money laundering and complying with the new standards of the international community on AML/CFT, Chinese Taipei passed amendments to the MLCA in 2003, adding clauses to allow the freezing and confiscating of assets related to money laundering. In addition, the drafted “Anti Terrorist

與沒收之條款，另在「反恐怖行動法」草案中，亦列入有效凍結與沒收涉及恐怖行動財產之條款。

Activities Act" also includes a clause for freezing and confiscating assets related to terrorist financing.

1.3 金融行業及「特定非金融事業體與專門職業人士」之概述(OVERVIEW OF THE FINANCIAL SECTOR AND DNFBP)

17) 金融業在中華台北的經濟發展上扮演重要的角色，且對整體經濟的貢獻漸增。以往中華台北並未有單一金融監理機構，對銀行、保險、證券期貨業之監理，係屬不同機關之職掌，對銀行之實地金融檢查亦係由中央銀行、財政部與中央存款保險公司等不同機關執行。爲實踐金融監理一元化目標及滿足金融產業對單一金融監理機構之需求，「行政院金融監督管理委員會組織法」（以下簡稱金管會組織法）經立法院三讀通過，並經總統於九十二年七月二十三日公布。

17) The financial sector has played an important role in the economic development of Chinese Taipei and accounts for an increasing share of the economy. Chinese Taipei does not have a single financial regulator; instead, there are different authorities to supervise the banking, insurance, futures and securities industries. Furthermore, on-site examinations of banks are carried out by three different agencies - the Central Bank, the Ministry of Finance and the Central Deposit Insurance Corporation. In order to integrate the supervisory authority of the financial industry and meet the need for a single financial regulator, the "Organic Act Governing the Establishment of the Financial Supervisory Commission, Executive Yuan" (hereafter referred to as the FSC Organic Act) was passed by the Legislative Yuan and promulgated by the President on July 23, 2003.

18) 「行政院金融監督管理委員會」（簡稱金管會）於九十三年七月一日設立，爲一整合銀行、證券期貨及保險業監理業務之單一金融監理機關。按金管會組織法第 2 條，金管會主管金融市場及金融服務業之發展、監督、管理及檢查業務；前述金融市場包括銀行市場、票券市場、證券市場、期貨及金融衍生商品市場、保險市場及其清算系統；所稱金融服務業包括金融控股公司、金融重建基金、中央存款保險公司、銀行業、證券業、期貨業、保險業、電子金融交易業及其他金融服務業；但金融支付系統，由中央銀行主管。

18) The Financial Supervisory Commission ("FSC") was set up on 1 July 2004 as a single financial regulator that consolidates the functions of monitoring and rule setting for the banking, securities, futures, and insurance industries. Pursuant to Article 2 of the FSC Organic Act, the FSC is in charge of the development, supervision, administration, and examination of the financial markets and financial service industry. The above-mentioned financial markets comprise the banking market, bills market, securities market, futures and derivatives market, insurance market, and clearance system. The financial service industry includes financial holding companies, the Financial Restructuring Fund, Central Deposit Insurance Corporation, the banking industry, securities industry, futures industry, insurance industry, electronic financial transactions, and other financial service industries. However, the Central Bank is the competent authority in charge of the financial payment system.

19)總而言之，金管會係中華台北金融業相關法令之主管機關。另農業金融法自 2004 年 1 月 30 日正式施行，行政院農業委員會農業金融局依據「行政院農業委員會農業金融局組織條例」亦於同日掛牌成立，負責農業金融機構之監理及政策性農業專案貸款之規劃推動。

19) In sum, the FSC is the competent authority in charge of laws and regulations governing the financial institutions and financial businesses of Chinese Taipei. In addition, the Agricultural Finance Act was officially implemented on 30 January 2004. The Bureau of Agricultural Finance (BOAF), COA, Executive Yuan, as prescribed in the "Organizational Act of the Bureau of Agricultural Finance, Council of Agriculture, Executive Yuan" was established on the same day. The BOAF is responsible for supervising agricultural finance institutions, planning and promoting agricultural loans in policy aid.

20)在中華台北境內的金融行業，主要包括銀行業、證券期貨業、保險業及農業金融機構。

20) The financial sector in Chinese Taipei mainly includes banking institutions, securities and futures institutions, insurance institutions and agricultural finance institutions.

銀行業(Banking industry)

21)截至 2005 年底，中華台北計有本國銀行 45 家、外國銀行在台分行 36 家、信用合作社 29 家、農會信用部 253 家、漁會信用部 25 家、信託投資公司 2 家、票券金融公司 14 家、及郵政公司儲匯處 1 家，其總分支機構合計 5,853 家。全體銀行服務之員工人數超過 16 萬人，資產總額新台幣 369,707 億元，存款總餘額 239,235 億元，放款總餘額爲 171,984 億元，總體逾期放款比率爲 2.19%。（註：Net profit to Loss 應爲 NPL）

21) As of the end of December 2005, Chinese Taipei had 45 domestic banks, 36 foreign bank branches, 29 credit cooperatives, 253 farmers' association credit departments, 25 fishermen's association credit departments, 2 trust investment companies, 14 bills finance companies, and 1 Postal Savings System. The financial sector had 5,853 branch units, more than 160,000 bank service employees, assets of NT$36,970.7 billion, deposits of NT$23,923.5 billion, loans of NT$17,198.4 billion, and an average Net profit to loss ratio of 2.19%.

22)銀行業係指銀行機構、信用合作社、票券金融公司、信用卡公司、信託業、郵政機構之郵政儲金匯兌業務與其他銀行服務業之業務及機構。

22) The term "banking enterprise" includes banking institutions, credit cooperatives, bills finance companies, credit card companies, trust enterprises, the Postal Saving and Remittance Services of Chunghwa Post Co., and other businesses and institutions providing banking services.

證券與期貨行業(Securities & futures industry)

23)證券業、期貨業定義如下：
a)證券業係指證券交易所、證券櫃檯買賣中心、證券商、

23) Chinese Taipei defines "securities enterprise" and "futures enterprise" as follows:
a) The term "securities enterprise" includes securities

證券投資信託事業、證券金融事業、證券投資顧問事業、證券集中保管事業、都市更新投資信託事業與其他證券服務業之業務及機構。

b)ii) 期貨業係指期貨交易所、期貨商、槓桿交易商、期貨信託事業、期貨顧問事業與其他期貨服務業之業務及機構。

exchanges, OTC exchanges, securities firms, securities investment trust enterprises, securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, urban renewal investment trust enterprises, and other businesses and institutions providing securities services.

b) The term "futures enterprises" includes futures exchanges, futures commission merchants, leveraged transaction firms, futures trust enterprises, futures consulting enterprises, and other businesses and institutions providing futures services.

保險業(Insurance industry)

24)截至 2005 年底止，財產保險業公司（不含 2 家再保險公司）共 24 家(本國共 15 家，外國共 9 家)，全年保費收入約新台幣 118,502 百萬元；人身保險業公司共 30 家(本國共 21 家，外國共 9 家)，保費收入約新台幣 1,457,632 百萬元，全體總資產約 6,784,607 百萬元。

24) As of the end of 2005, Chinese Taipei had 24 non-life insurance companies (15 domestic, 9 foreign; not including 2 reinsurance companies), with aggregate premium income of NT$118,502 million for the year; and 30 life insurance companies (21 domestic, 9 foreign), with aggregate premium income of NT$1,457,632 million for the year, and aggregate assets of NT$6,784,607 million.

25)保險業係指保險公司、保險合作社、保險代理人、保險經紀人、保險公證人、郵政機構之簡易人壽保險業務與其他保險服務業之業務及機構。

25) The term "insurance enterprise" includes insurance companies, insurance cooperatives, insurance agents, insurance brokers, insurance surveyors, the simple life insurance business of Chunghwa Post Co., and other businesses and institutions providing insurance services.

「特定非金融事業體與專門職業人士」概述(Overview of designated non-financial businesses and professionals (DNFBPs))

賭場(Casinos)

26)中華台北並無法律允許賭場在領域內營運。

26) Chinese Taipei has no law to allow the operation of casinos in the jurisdiction.

不動產經紀商(Real estate agents)

地政士 (Land Administration Agent)

27)地政士屬於專門職業，主要係接受委託代理向地政機關申請不動產權利登記，攸關民眾財產權益，爲維護不動產交易安全，保障人民財產

27) A land administration agent is a kind of professional occupation. Its major work is to represent clients to register the rights of real estate, and it focuses on the property rights of the public. Based on the consideration of maintaining the security of real estate transactions and protecting the property rights

權益，地政士法規範地政士不僅應具專業知能，且應誠信執行業務。依該法規定，地政士應經地政士考試及格，領有地政士證書及開業執照並加入地政士公會後，始可掛牌執行業務。自1990年9月1日起至2006年1月底止，經審查符合資格發給證書者計有25,579人，已申領開業執照者有16,411人。

of public, the Land Administration Agent Act regulates all land administration agents who have to be qualified to operate a business based on sincerity and honesty. According to the Act, all land administration agents have to pass the qualification examination, own a certificate of land administration agent, obtain a business operation license and join the Association of Land Administration Agents before commencing operations. Since 1 September 1990 until the end of January 2006, there were 25,579 persons who had passed the qualification examination and received a certificate, and there are 16,411 persons who owned a business operation license.

不動產經紀業(Real Estate Broking Agency)

28)依不動產經紀業管理條例規定，凡經營不動產仲介或代銷業務者，應經主管機關之許可，辦妥公司登記或商業登記，及加入登記所在地之同業公會後方得營業，並應依規定繳存營業保證金及僱用具備不動產經紀人員資格者執行業務。又不動產經紀業僱用之從業人員有二類：一類爲不動產經紀人，其須經國家考試及格並領有證書，截至2006年1月底止，核發不動產經紀人證書計5,602張，其中；另一類爲不動產經紀營業員，其須經經紀人考試及格或經訓練合格，並經登錄及領有證明，截至2006年1月底止，登錄及核發不動產經紀營業員證明計63,946張。

28) According to the regulations of the Real Estate Broking Management Act, all real estate broking agencies, including real estate intermediators and dealers, need to obtain license from authorities, register to set up a company to operate a business, and join the membership of the local trade association before commencing operations. In addition, all real estate broking agencies are required to deposit a sum of money as a business guarantee and have to employ a certain number of qualified real estate agents to operate the business. The employees of real estate broking agency can be classified into two categories: 1) real estate agents who have passed the national qualification examination; and 2) business practicianers who own the qualification of real estate agent or complete the professional training course and have registered / received a certificate of authority. Up to the end of January 2006, the authorities have issued 5,602 certificates to real estate agents and 63,946 certificates to the business practicianers.

29)依據負責不動產登記與交易之不動產管理機關統計資料顯示，不動產交易規模如下：

29) According to the statistics from the real estate administration authorities in charge of the registration of real restate transactions, the market scale of real estate is as follows:

年　　度	土　地　交　易	房　屋　交　易
2001	517900筆	259494筆

2002	654745筆	320285筆
2003	639550筆	349706筆
2004	727537筆	418187筆

Year	Transactions of Land	Transactions of housing
2001	517900	259494
2002	654745	320285
2003	639550	349706
2004	727537	418187

30) 地政士及不動產經紀業受到法規的嚴格管理以及特殊的不動產登記制度，所有不動產交易在中華台北境內都必須向主管機關登記。

30) The business of Land Administration Agent and Real Estate Broking Agency has been strictly regulated by laws and decrees and the specific mechanism of real estate registration means that all real estate transactions have to register in Chinese Taipei.

貴金屬與寶石銷售商--銀樓業者(Precious metals and stones distributors--jewellery shops)：

31) 由於具備傳統上的隱密性及基於互利，一些銀樓業者樂於扮演正統金融機構的替代角色，提供客戶大量外幣現金、貴金屬及寶石之交易，此一情形已對執法機關在防制洗錢與打擊資助恐怖分子作爲上之重大挑戰。

31) Due to traditionally high confidentiality and based on mutual benefits, some jewellery shops are pleased to act as a substitute for formal financial institutions to exchange large amount of money to foreign currency, precious metals and stones for customers. This situation has become a significant challenge for law enforcement agencies to prevent money laundering and terrorism financing.

律師、公證人及其他獨立執業之法律專業人士(Lawyers, notaries and other independent legal professionals)

32) 律師：按中華台北律師係扮演有在野法曹之角色，故負有以保障人權、實現社會正義及促進民主法治爲使命之責，且應本於自律自治之精神，誠實執行職務，維護社會秩序及改善法律制度，中華台北律師法第 1 條定有明文。經中華台北律師考試及格者，於取得法務部所核發之律師證書，即具律師資格，且律師於執行職務時，

32) Lawyers: In Chinese Taipei, attorneys play the role of non-governmental jurists who are charged with the responsibility for safeguarding human rights, ensuring social justice and promoting democracy and the rule of law. They should discipline themselves and fulfill their duties honestly so that they can contribute to law and order in society and the improvement of the legal system. This is provided for in Article 1 of the nation's Attorney Regulation Act. As soon as one passes the bar examinations and obtains an attorney certificate issued by the Ministry of Justice, one can engage in the practice of law as an attorney. An attorney must be a member of a Bar Association to practice.

除應加入律師公會外，尚須向法院聲請登錄，惟於向法院聲請登錄前，應先完成職前訓練，中華台北律師法第 7 條、第 11 條第 1 項規定可資參照。另依律師法第 20 條第 1 項規定：「律師受當事人之委託或法院之指定，得辦理法律事務」。

Besides, he/she must apply for registration with the court. Before application for registration, and attorney has to go through pre-service training. This is provided for in Article 7 and Paragraph 1 of Article 11 of the Attorney Regulation Act. Still, Paragraph 1 of Article 20 of the same law states: "An attorney may engage in the practice of law when so employed by a client or appropriated by a court."

33) 公證人：按公證事務，由法院或民間之公證人辦理之，公證法第 1 條第 1 項定有明文。迄 2006 年 7 月，法院公證人有 47 人，依據公證法執行職務，另有民間公證人 178 人，其中律師兼辦文書認證事務之民間公證人計 121 人及專業公證人 57 人，其職務行爲受公證法相關法規規範。

33) Notaries: Matters of notarization are within the exclusive jurisdiction of court notary or civil notary as provided in Article 1, Paragraph 1 of the Notary Law. By the end of July 2006, there were 47 court notaries who perform their duties according to the Notary Law. In addition, the number of the civil notaries is 178, which includes 121 lawyer-notaries, who perform signatures and private writings authentication only, and 57 single-profession notaries, who perform all functions of a notary. The performance of a notary for the notarial affairs is governed by the Notary Law and related rules.

34) 會計師：按會計師法第 1 條規定：「中華民國人民，經會計師考試及格，取得會計師資格，領有會計師證書者，得充會計師。」第 9 條規定：「會計師應在公私機構擔任會計職務，或在會計師事務所擔任助理人員二年以上，向省（市）主管機關申請登錄後，方得開業。」截至 2005 年 12 月 31 日止，中華台北執業會計師人數爲 2,398 人。按會計師法第 15 條規定：「會計師得在登錄之區域內執行下列業務：

a) 受當事人之委託或受政府機關之指定，辦理關於會計之設計、管理、稽核、調查、整理、清算、鑑定、財務分析或資產估價等事項。
b) 承辦財務報告之查核、簽證。
c) 充任檢查人、清算人、破產

34) Accountants: Article 1 of the CPA Act provides that "a citizen of Chinese Taipei who has passed the CPA examination and holds a CPA certificate may practice as a CPA." And Article 9 of the same Act provides that "to file an application for registration, a CPA must have worked in the accounting field with a public or a private institution or as an assistant with a CPA firm, for at least two years." As of 31 December 2005, there were 2,398 practicing CPAs in Chinese Taipei. Article 15 of the CPA Act provides as follows: "A CPA may perform the following types of professional services within the area in which he is registered:

a) To perform, upon assignment by government agencies or judicial authorities or engagement by a client, services with regard to planning, management, auditing, verification, arrangement, liquidation, appraisal, financial statement analysis, and evaluation of assets as may be required in connection with accounting.
b) To perform services with regards to examination and certification of financial reports.
c) To serve as an inspector, liquidator, bankruptcy administrator, or executor of a will, or in any other fiduciary capacity.
d) To serve as an agent in cases involving taxation.

管理人、遺囑執行人或其他信託人。
d) 充任稅務案件之代理人。
e) 充任工商登記或商標註冊及其有關事件之代理人。
f) 代辦其他與會計有關之事項。

e) To serve as an agent in cases in connection with registration of business firms or trademarks, and in other cases relevant to such registration.
f) To perform services regarding other accounting matters.

35) 信託與公司服務業者：中華台北信託業務法制架構主要爲信託法於1996年1月26日公布；信託業法於2000年7月19日公布。信託業從事信託業務應遵循該二法及相關法規辦理。目前中華台北信託業均由銀行兼營。截至2005年12月31日止，計有54 家信託業在中華台北營業。其中本國銀行兼營者43家，外國銀行在台分行兼營者11家。在業務方面，信託業辦理信託業務之種類包括金錢信託、有價證券信託、動產信託及不動產信託等。至2005年12月31日止，信託市場規模已達新台幣 2.86兆元，其中以金錢信託之2.46 兆元所佔比率最大。此外，中華台北分別於2002年7月24日及2003年7月23日公布「金融資產證券化條例」及「不動產證券化條例」，提供信託業辦理證券化業務之法制基礎。

35) Trusts and company service providers: The legal framework for Chinese Taipei's trust business is provided by the Trust Act (promulgated on 26 January 1996) and the Trust Enterprise Act (19 July 2000). Trust enterprises conducting a trust business are required to abide by these two laws and related regulations. At this point in time, all trust business in Chinese Taipei is conducted by banks. As of 31 December 2005, Chinese Taipei had 54 trust enterprises, including 43 operated concurrently by domestic banks, and 11 concurrently operated by the Chinese Taipei branches of foreign banks. The types of trust business operated by trust enterprises include money trusts, securities trusts, chattel trusts, and real estate trusts. As of 31 December 2005, the size of the trust market in Chinese Taipei was NT$2.86 trillion, with money trusts accounting for far and away the greatest share (NT$2.46 trillion). In addition, Chinese Taipei promulgated the Financial Asset Securitization Act on 24 July 2002 and the Real Estate Securitization Act on 23 July 2003 to provide a legislative framework for the securitization activities of trust enterprises.

1.4 有關法人管理及法律合意之商業法律與機制概述(OVERVIEW OF COMMERCIAL LAWS AND MECHANISMS GOVERNING LEGALPERSONS AND ARRANGEMENTS)

36) 中華台北之信託業，係依信託業法規定經向主管機關提出申請並取得許可，而以經營信託爲業之機構。其型態可爲信託公司或由銀行兼

36) A trust enterprise in Chinese Taipei is defined as an institution that has applied with and obtained permission from the competent authority, pursuant to the provisions of the Trust Enterprise Act, to conduct a trust business. It may be organized as a trust company, or conducted concurrently by a bank. All

營。目前中華台北信託業均由銀行兼營，其應遵循之法律主要爲信託法及信託業法。

trust businesses in Chinese Taipei at this time are concurrently operated by banks. They are subject primarily to the Trust Act and the Trust Enterprise Act.

37) 中華台北信託業從事金融資產證券化業務，依「金融資產證券化條例」得採特殊目的信託(SPT)或特殊目的公司(SPC)方式辦理。目前實務上都爲特殊目的信託，並由信託業擔任受託機構，尚未有特殊目的公司之案例。

37) The Financial Asset Securitization Act provides that Chinese Taipei trust enterprises may engage in financial asset securitization by means of either a special purpose trust (SPT) or a special purpose company (SPC). All financial asset securitization in Chinese Taipei at this time is carried out by SPTs, with the SPT acting as trustee. No SPCs exist at this point.

1.5 防制洗錢及資助恐怖分子策略概述(OVERVIEW OF STRATEGY TO PREVENT MONEY LAUNDERING AND TERRORIST FINANCING)

a. 「反洗錢與打擊資助恐怖分子」策略與重點(AML/CFT Strategies and Priorities)

38) 中華台北對於反洗錢方面非常重視，但在打擊資助恐怖分子方面有些延遲，目前已將洗錢行爲罪刑化並立法凍結、扣押及沒收涉及洗錢資產，金融機構亦採取相當之預防性作爲，並加強國際合作。

38) Chinese Taipei has set a high priority on AML, but has had some delay in implementing the high priority on CFT. Chinese Taiepei has criminalised money laundering and legislated for the freezing, seizing and confiscating the proceeds related to ML, preventive measures taken by financial institutions and enhancement of international cooperation.

39) 反恐怖行動法已經草擬完成並已確立中華台北在打擊資助恐怖分子方面之目標，然而該法案尚未送到立法院審議。

39) The Anti-terrorism Activities Bill has been prepared and sets out the objectives of Chinese Taipei on CFT, however the draft Bill has not yet been tabled with the Legislative Yuan.

40) 中華台北已引進新科技運用在情報與執法系統上，包括洗錢防制中心及相關執法機關都已運用。

40) Chinese Taipei has introduced new technology into its intelligence and law enforcement systems, including the MLPC and related law enforcement agencies.

41) 內政部警政署依「警察機關執行洗錢防制工作重點」作爲洗錢防制工作重點，透過設置偵查經濟犯罪專責單位，嚴密監控組織幫派，阻絕黑金漂白，清查地下錢莊，阻斷地下匯兌洗錢管道，並辦理偵查洗錢犯罪專業訓練。

41) The National Police Administration (NPA) enforces the Government's policies for AML as set out in the "Major Objectives for Prevention of Money Laundering by the Police Administration". Their focus is on investigation, monitoring criminal organizations and ML prevention through establishing investigation units dedicated to economic crimes, raiding underground money lenders and exchange channels. They also focus on AML/CFT training.

未來「反洗錢與打擊資助恐怖分子」優先重點工作(New initiatives)

42)洗錢防制法已在進行第三次修法，修正範圍涵蓋：
a) 重大犯罪及金融機構範圍。
b) 對國際合作增列相關條文以建立完整機制。
c) 跨國境現金攜帶申報資料之通報法制化，並將申報範圍擴及可轉讓金融工具。
d) 延長涉嫌洗錢交易財產之凍結期限至 1 年。

42) Amendment of MLCA: The MLCA is undergoing third round amendments which willinclude:
a) revising the scope of 'serious crimes' - the predicate crimes of money laundering;
b) adding in some new Articles for establishing an integrated international cooperationmechanism on AML/CFT;
c) requiring in legislation that the declared information of cross-border currencymovement be forwarded to MLPC and expand the declaration scope to bearerfinancial instruments; and
d) prolonging the period of freezing the proceeds of money laundering to 1 year.

43)推動反恐怖行動法之立法：反恐怖行動法草案第二條明定所稱恐怖分子，係指實施恐怖行動或參加、資助恐怖組織之人員。亦即在中華台北境內資助恐怖組織之個人，將被視同恐怖分子，必須受到刑事制裁。

43) Promoting the legislation of Counter Terrorism Act: Article 2 of the Anti-Terrorism Activities Bill defines terrorists as people who perpetrate any terrorist act or join or finance any terrorist organization. Any individual who finances terrorist organization will be regarded as a terrorist and will face criminal sanction.

44)建立統一的指揮協調機制：已成立「反恐怖行動管控辦公室」，內政部警政署並策訂「反暴力恐怖攻擊應變計畫」，其中「犯罪偵查小組作業計畫」明訂有「防制洗錢」章項，以加強查緝洗錢，防止恐怖組織獲取從事恐怖活動資金。

44) Setting up a unified command and coordination mechanism: The "Anti Terrorism Activities Control and Command Office" has been established. Moreover, the NPA has formed a "Counter-Terrorism Response Program" and anti-money laundering prevention has been included in the chapter of the "Operation Program of Criminal Investigation Taskforce", so as to prevent terrorist organizations from funding their activities through money-laundering.

45)推動臥底偵查法之立法：本法草案已陳報行政院審核，正進入立法程序，未來完成立法之後，即可對臥底偵查建立完備法制，以有利隱密化、組織化等特定刑事案件之偵辦，並保障臥底偵查人員之權益。

45) Finalising Undercover Investigation legislation: The draft Undercover Investigation Act has been submitted to the Executive Yuan for further review and it will be transferred to the Legislative Yuan for completing the legislation in the near future. After the Act comes into force, it will provide the legal basis for undercover investigation and it will be helpful to detect concealed and organized crimes and protect the rights and benefits of undercover investigators.

46)加強取締地下通匯案件：調查局洗錢防制中心在 2006 年 4 月舉行之第 105 次「經

46) Investigation of underground remittance: The MLPC has raised a proposal in a meeting of the Economic Crime Prevention Forum (see paragraph 79 below) held in April 2006 with the following

濟犯罪防制會報」（參考第79段）特別提案「加強打擊地下通匯案件阻絕洗錢管道」，建議採取下列行動：

a) 導引金融機構提供快速、便捷、廉價之匯款服務，吸引客戶利用正規金融機構進行外匯交易及匯款，間接壓縮地下通匯業者生存之空間。

b) 請檢、警、調等執法機關加強查緝非法從事外匯買賣、匯兌、地下通匯及洗錢犯罪案件。

c) 請各檢察署及法院對於非法從事地下通匯案件應速審速結、從重量刑，以遏止此類犯罪。

d) 加強教育金融機構對於地下通匯業者交易模式之認識，對於出現相關可疑交易表徵時，要及時申報疑似洗錢交易報告。洗錢防制中心在2006年5月發行一份「銀行防制地下通匯指引」，內容詳細說明地下通匯之形成背景、危害性、刑事責任、經營概況、金融交易出現之表徵及案例研析等，並已分送相關金融機構參考。

47) 協助金融機構建立完整的洗錢防制機制：金融監理機關及調查局洗錢防制中心將持續從金融監理、建立相關指引及教育訓練著手，讓金融從業人員對客戶審查機制、異常金融交易、大額通貨交易申報及疑似洗錢交易申報有所認識與遵循。

48) 推動國際合作：除參加「亞太防制洗錢組織」及「艾格蒙聯盟」會務活動，善盡會

initiatives:

a) Guiding related financial institutions to provide a speedy, convenient and low cost remittance service for attracting customers to use the regulated financial institutions to transact foreign exchange and remittance that can partly compress the existing space of underground remittance businesses.

b) Encouraging prosecutor's offices and law enforcement agencies to reinforce detection on illegal activities of foreign exchange, remittance and money laundering.

c) Requiring prosecutor's offices and courts to speed up the process of prosecution and adjudication and consider heavier punishment for interrupting the related crimes.

d) Assisting financial institutions to recognize the financial transaction characteristics of underground remittance businesses utilizing regulated financial institutions to operate their business and promptly file STR to the MLPC when any financial transaction matches the suspicious indicators. The MLPC has published "Preventing Underground Remittance Guidance for Banks" guidance in May 2006 that describes the background, threats, criminal responsibilities, operating profile, financial transaction indicators of underground remittance and case studies. The guidance has been delivered to related financial institutions for reference.

47) Assisting financial institutions to establish an integrated mechanism of money laundering prevention: The financial supervisory authorities and the MLPC intend to continuously undertake proper measures including the improvement of financial supervision, publication of related guidance and education to the employee of financial institutions for strengthening the recognition and implementation of the related laws and regulations about CDD, STR and CTR.

48) International cooperation: In addition to actively participating in the activities held by the APG and the Egmont Group for implementing members'

員責任之外，將積極推動與其他國家在平等互惠原則下，簽署司法互助及「反洗錢與打擊資助恐怖分子」協定或合作備忘錄。

responsibilities, Chinese Taipei will positively seek any opportunity to sign a mutual legal assistance treaty, agreement or MOU with foreign counterparts based on the principles of equality and reciprocity.

b. 「反洗錢與打擊資助恐怖分子」的制度架構(The institutional framework for combating money laundering and terrorist financing)

政府相關部會(Ministry)

49) 法務部：法務部爲洗錢防制法之主管機關，負責洗錢防制之政策擬定及國際司法互助業務，並爲中華台北境內各檢察機關之司法行政主管機關，得擬定當前檢察政策，以落實刑事司法體系之犯罪偵查工作。目前法務部調查局所屬之洗錢防制中心，即爲中華台北之金融情報中心，負責國內金融情報之彙整、分析與國際洗錢情資交換。

49) The Ministry of Justice (MOJ): The MOJ is the central competent authority of the legislation of MLCA and is in charge of the formulation of policies and affairs regarding mutual legal assistance with other jurisdictions on AML/CFT, and is also the competent organization of judicial administration, including the administrative affairs of all prosecutors offices in the jurisdiction. With these, the MOJ can carry down the line criminal investigations under the criminal judicial system. Currently, the MLPC under the Ministry's Investigation Bureau (MJIB) also acts as the nation's FIU, which is in charge of the collection and analysis of domestic financial intelligence and information exchange with other jurisdictions' counterparts.

50) 財政部：負責建立跨國境現金攜帶申報機制之執行策略以及監督執行成效。

50) The Ministry of Finance (MOF): MOF is responsible for drawing up the strategies on establishing the cross-border currency movement declaration mechanism and supervising the effectiveness of implementation.

51) 外交部：在防制洗錢犯罪國際合作上扮演聯繫協調角色，特別是在增加與外國簽訂防制洗錢協定方面，以及協助相關機關及民間團體參與防制洗錢犯罪國際組織、會議與活動。

51) The Ministry of Foreign Affairs (MOFA): MOFA plays an important role in coordination with the international community on AML/CFT, especially by promoting such mechanisms to sign MOUs or other agreements with its counterparts in other countries. It also assists domestic authorities and private institutions to join international organizations and attend relevant activities and meetings on anti-money laundering crimes.

52) 內政部： 負責有關非營利組織（社會司、民政司）及不動產業者（地政司）在反洗錢與打擊資助恐怖分子之策略發展與實務運作上之監理。

52) Ministry of the Interior (MOI): MOI is responsible for drawing up the developing strategies on AML/CFT and supervising the operations of NPOs (the Department of Social Affairs and the Department of Civil Affairs) and Real Estate Agents (the Department of Land Administration).

刑事司法和執行機關(Criminal Justice and Operational Agents)

53)地區檢察機關：法務部所屬之檢察機關，包括：最高法院檢察署（指揮監督各級檢察署檢察事務）、臺灣高等法院檢察署（轄屬共四個高等法院分院檢察署以及十九個地方法院檢察署）、以及福建高等法院金門分院檢察署（轄屬金門地檢署、連江地檢署等，目前全國現職檢察官達一千餘人，依照刑事訴訟法、法院組織法等法律，從事實施偵查、提起公訴、執行刑事確定判決等檢察事務。

53) District Prosecutors' Offices: The prosecutorial offices under the Ministry of Justice include the Supreme Prosecutors Office (which commands the prosecutorial affairs of all prosecutors offices in the nation), the Taiwan High Prosecutors Office (which has four branch offices and 19 district prosecutors offices), the Kinmen Branch of Fujian High Prosecutors Office (which oversees the Kinmen District Prosecutors Office and the Lienchiang Prosecutors Office). There are a total of more than 1,000 prosecutors, in charge of field criminal investigations, indictments and execution of criminal penalties in accordance with the Criminal Procedure Code and the Organic Law of Courts.

54)調查局：爲國內重要執法機關之一，掌理有關危害國家安全與違反國家利益之調查、保防事項，主要職掌涵蓋：1）內亂防制事項；2）外患防制事項；3）洩漏國家機密防制事項；4）貪瀆防制及賄選查察事項；5）毒品防制事項；6）組織犯罪防制之協同辦理事項；7）重大經濟犯罪及洗錢防制事項；8）國內安全調查事項；9）上級機關特交有關國家安全及國家利益之調查、保防事項。

54) Investigation Bureau (MJIB): The MJIB is one of the major law enforcement agencies in Chinese Taipei and is responsible for the investigation oF violations against national security and interests, and matters concerning internal security. Its functions include the following nine areas of crime-prevention and investigation: 1) Sedition; 2) Treason; 3) Unauthorized disclosure of national secrets; 4) Corruption and bribery during election; 5) Drug trafficking; 6) Organized crime; 7) Major economic crime and money laundering; 8) National security; 9) Other matters relating to national security and interests, specifically assigned by superior government authorities.

55)全國性與地方性警力：依據「內政部警政署刑事警察局組織條例」第4條及第9條規定，內政部警政署刑事警察局設有不同任務之偵查科、隊等單位。

a)「偵查科」爲警察機關規劃洗錢防制業務幕僚單位，配合政府相關部門推動洗錢防制及查緝地下通匯、地下錢莊等經濟犯罪案件。

55) State and local police forces: In accordance with Articles 4 and 9 of the "Criminal Investigation Bureau Organization Act", the Criminal Investigation Bureau of the NPA has established various responsible departments:

a) The "Crime Investigation Affairs Section" is responsible for prevention of money laundering, and detecting economic crimes.

b) The International Criminal Affairs Section is responsible for cooperating with the counterparts of other countries for investigating transnational crimes. Criminal police liaison officers have also been deployed in the Philippines, Thailand and

b)「國際刑警科」負責與國際刑警組織及各國執法機關合作，偵辦跨國刑案，同時，目前在菲律賓、泰國、越南均成立有駐外刑事警察聯絡官。

c)「國際刑警電臺」係與國際刑警組織總部保持通訊。

d)「通訊監察中心」負責重大犯罪及其他危害國家安全、社會秩序情節重大犯罪行爲之通訊監察。

e)「偵查第七隊」專責經濟犯罪等案件之偵查。

Vietnam.

c) The "Interpol Radio Station" maintains contact with the headquarters of Interpol.

d) The "Electronic Monitoring and Surveillance Center" undertakes monitoring of communications involved in "serious crimes" and other crimes endangering national security or social order.

e) The 7th Investigation Brigade also investigates economic crimes.

56)關稅總局：財政部關稅總局轄有基隆、台北、台中、高雄四關稅局，負責管理理旅客攜帶大額外幣入出國境之申報系統。

56) Directorate General of Customs: Has four Customs Offices separately located in the harbour or airport of Keelung, Taipei, Taichung and Kaohsiung, and is responsible for managing Chinese Taipei cross-border declaration system.

57)洗錢防制中心：洗錢防制中心隸屬於法務部調查局，建制於 1997 年，扮演中華台北境內之金融情報中心角色。

57) Money Laundering Prevention Center (MLPC): MLPC, which is affiliated with the Investigation Bureau, was established in 1997. It performs the role of FIU in Chinese Taipei.

政府之金融監理部門(Financial sector bodies - government)

58)金融監督管理委員會：「行政院金融監督管理委員會」於 2004 年 7 月 1 日設立，主管金融市場及金融服務業之發展、監督、管理及檢查業務。金管會提供相關準則及督導銀行、證券、保險等金融機構確實依洗錢防制法規定辦理，爲了解金融機構對於洗錢防制法應配合措施之運作情形及其實施成效，持續派員實地訪查金融機構並辦理金融檢查，如有發現違反規定者，依洗錢防制法規定，處以罰鍰。

58) Financial Supervisory Commission (FSC): The FSC was established in 2004 as the competent authority for development, monitoring, regulation, provision of guidance and examination of financial markets and financial service enterprises. The FSC provides guidance to banks, securities firms, insurers, and other financial institutions and helps them properly abide by the MLCA. To keep abreast of the measures that financial institutions have adopted to comply with the MLCA, and to track the effectiveness of such measures, the FSC regularly dispatches personnel to conduct on-site financial examinations. Where legal infractions are discovered, the FSC will impose administrative fines in accordance with the provisions of the MLCA.

59)中央銀行：中央銀行經營之目標包括促進金融穩定、健

59) Central Bank of China (CBC): The primary operating objectives of the CBC include: promoting financial stability; guiding sound

全銀行業務、維護對內及對外幣值之穩定及於上列目標範圍內，協助經濟之發展。自2004年7月1日行政院金融監督管理委員會成立後，中央銀行已不對個別金融機構辦理包括防制洗錢及打擊資助恐怖分子業務之一般業務檢查。

banking operations; maintaining the stability of the internal and external value of the currency, and fostering economic development. After the establishment of FSC the CBC no longer supervises or regulates any individual financial institutions regarding AML/CFT.

60) 經濟部商業司：為銀樓業之監理機關，負責該行業防制洗錢與打擊資助恐怖分子之政策規劃、執行策略及監督執行成效。

60) The Ministry of Economic Affairs (MOEA): The MOEA is the supervisory authority of precious metals and stones distributors and in charge of the strategic planning, implementation and monitoring the effectiveness of AML/CFT in this sector.

61) 農業委員會農金局：負責農業金融機構之監理，主要角色在於改善監督及檢查系統、加強農業金融資訊透明化及資訊揭露。

61) The Bureau of Agricultural Finance (BOAF): The BOAF is responsible for supervising agricultural finance institutions. BOAF has a role in improving supervisory and inspection systems and improving information disclosure and transparency of agricultural finance.

金融團體 – 公會(Financial sector bodies - associations)

62) 銀行公會：中華民國銀行商業同業公會全國聯合會於2005年底，會員機構合計有64家。銀行公會訂有「銀行防制洗錢注意事項範本」，供會員機構據以訂定其內部之防制洗錢注意事項，經董事會通過後實施，並報請行政院金融監督管理委員會備查，修改時亦同。

62) Bankers Association: The Bankers Association had 64 member institutions as of the end of 2005. The Bankers Association has issued a "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks", which member institutions are to use as a basis for formulating their internal AML rules. Such rules are implemented upon approval by the institution's board of directors, and are also reported to the FSC; the same applies to any amendments.

63) 信用合作社聯合社：目前所有信用合作社都是中華民國信用合作社聯合社之社員。信用合作社同屬金融機構，須遵守「洗錢防制法」相關規定，並訂定防制洗錢注意事項。

63) Credit Cooperative Union: All credit cooperatives in Chinese Taipei are currently members of the Credit Cooperative Union. As credit cooperatives are financial institutions, they are required to abide by the applicable provisions of the MLCA and to adopt money laundering prevention guidelines and procedures.

64) 農訓協會：以辦理農民團體幹部聯合訓練為宗旨，在「反洗錢與打擊資助恐怖分子」

64) Agriculture Training Association: Formed to train members of farmers' groups, the Association has taken many measures on AML/CFT including

上採取了許多作爲，包括訂定了「防制洗錢注意事項範本」，供所屬農漁會信用部會員據以訂定本身之「防制洗錢注意事項」。

establishing a “Checklist of Money Laundering Prevention Guidelines and Procedures” for its members to develop their own money laundering prevention guidelines.

65) 證券投資信託暨顧問商業同業公會：中華民國證券投資信託暨顧問商業同業公會訂有「證券投資信託事業證券及投資顧問事業防制洗錢注意事項範本」，提供證券投資信託事業及證券投資顧問事業訂定內部相關規範參考。

65) Securities Investment Trust & Consulting Association (SITCA): SITCA has adopted a “Checklist of Money Laundering Prevention Guidelines and Procedures for Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises", which SITCA members are to use as a basis for formulating their internal AML rules.

66) 信託業商業同業公會: 信託業商業同業公會成立於 2001 年 3 月 7 日，其成立宗旨爲推廣信託觀念、保障委託人及受益人權益、協調同業關係，並增進同業共同利益等。該公會訂有「信託業防制洗錢注意事項」範本。

66) Trust Association: The Trust Association was established on 7 March 2001 for the primary purposes of educating the public about the basic concept of trusts, safeguarding the rights and interests of trust settlors and beneficiaries, coordinating relationships between Association members, and promoting the common interests of all trusts. The Trust Association has adopted a "Checklist of Money Laundering Prevention Guidelines and Procedures for Trust Enterprises”.

67) 證券商業同業公會：爲了協助監督反洗錢法規之執行，中華民國證券商商業同業公會爲會員訂定了防制洗錢注意事項範本。

67) Taiwan Securities Association: In order to help monitor the implementation of AML rules, the Taiwan Securities Association adopts a “Checklist of Money Laundering Prevention Guidelines and Procedures for Securities Firms”.

68) 期貨商業同業公會：中華民國期貨業商業同業公會已訂定「期貨商防制洗錢注意事項範本」，提供會員機構訂定內部防制洗錢作業之基礎。

68) Taiwan Futures Association (CNFA): The CNFA has adopted a “Checklist of Money Laundering Prevention Guidelines and Procedures for Futures Commission Merchants”, which CNFA members are to use as a basis for formulating their internal AML rules.

69) 人壽保險商業同業公會：依「洗錢防制法」第 6 條規定，人壽保險商業同業公會訂有「人壽保險業洗錢防制注意事項範本」，供會員機構據以訂定其內部之防制洗錢注意事項，並報請行政院金融監督管理委員會備查，修改時亦同。

69) Life Insurance Association: As required under Article 6 of the MLCA, the Life Insurance Association has issued a “Checklist of Money Laundering Prevention Guidelines and Procedures for Life Insurance Companies”, which member institutions are to use as a basis for formulating their internal AML rules. The checklist has to be submitted to the board of directors for approval prior to implementation reported to the FSC; the same applies to any amendments.

70)產物保險商業同業公會：依「洗錢防制法」第6條規定，產物保險商業同業公會訂有「產物保險業洗錢防制注意事項範本」，供會員機構據以訂定其內部之防制洗錢注意事項，並報請行政院金融監督管理委員會備查，修改時亦同。

70) Non-Life Insurance Association: As required under Article 6 of the MLCA, the Non-Life Insurance Association has issued a "Checklist of Money Laundering Prevention Guidelines and Procedures for Non-Life Insurance Companies". The member institutions are to use as a basis for formulating their internal AML rules. The checklist has to be submitted to the board of directors for approval prior to implementation and reported to the FSC; the same applies to any amendments.

特定非金融事業體與專門職業人士(DNFBP and other matters)

71)律師公會：按中華台北律師法第十一條第一項規定，律師非加入公會不得執行職務，因此，律師公會基於律師制度需要，爲依法必備之組織。又中華台北律師公會可分爲「全國律師公會聯合會」及16個縣市的「地方律師公會」。

71) Bar Associations: Paragraph 1 of Article 11 of the Attorney Regulation Act stipulates that an attorney at law is not entitled to practice until he/she has become a member of a bar association. Therefore, the bar association is an essential organization by law for attorneys to practice business, and all bar associations have to meet the legal requirements. In Chinese Taipei there are two forms of the associations, including the national bar association and 16 county/city (local) bar associations.

72)會計師公會：會計師如有不正當行爲或違反或廢弛其業務上應盡之義務，有犯罪行爲，受刑之宣告，或有違反有關法令，受有行政處分，情節重大，足以影響會計師信譽者暨其他違反會計師法規定者。會計師公會得依第17條、第39條及第41條規定，列舉事實並提出證據，報請所在地主管機關，核轉中央主管機關，亦即金融監督管理委員會，交付懲戒。

72) Certified Public Accountants Association: If a CPA engages in improper conduct, violates or neglects his professional duties, is sentenced to punishment for a criminal offence, receives administrative sanction for a legal infraction that is serious enough to affect the CPA's reputation, or otherwise violates any provision of the CPA Act, Articles 17, 39, and 41 of the CPA Act empower the Certified Public Accountants Association to report the pertinent facts and evidence to the local competent authority, which must refer the case to the central competent authority, i.e. the FSC, for disciplinary action against the CPA named.

不動產經紀相關同業公會(Real Estate related Associations)

73)地政士公會：組織分爲地區性及全國性地政士公會全國聯合會二級，目前已設立地區性地政士公會計有22個，分散在不同縣市，並設立中華民國地政士公會全國聯合會。

73) Associations of Land Administration Agent: there are two different levels of association at the local level and national level. The local level has 22 associations which are scattered in various municipalities, counties and cites and there is a national association.

74)不動產經紀業：目前地方層級之不動產仲介經紀商業同業公會計有21個及一個全國性聯合會，而不動產代銷經紀商在地方層級之公會設立11 個，尚未設立全國性公會。違反經紀業倫理規範者，並得依相關法規予以懲罰。

74) Associations of Real Estate Broking agencies: Real estate intermediators have established 21 associations at a local level and there is a national association. The real estate dealers have established 11 associations at local level and no national association. Any member of the associations who violates the Ethic Guidance shall be punished according to related laws and regulations.

75)銀樓公會：中華台北境內銀樓業者家數眾多，目前仍無統一的目地事業主管機關來約束銀樓業者的行爲，只有登記的主管機關，依公司行號分屬經濟部及地方政府所主管，加上沒有法令可以全面規範客戶在交易時，像銀行一樣先辦理開戶以取得客戶基本資料，致無法落實執行銀樓業者申報疑似洗錢交易之規定。目前各縣市銀樓公會已要求所屬會員配合檢調機關查緝犯罪，並採取適當作爲以防制洗錢及打擊資助恐怖分子，包括法律遵循教育訓練。

75) Jewellery Shops related Association: The number of jewellery shops in Chinese Taipei is very large. There is no exclusive competent authority in charge of supervising the business operation of jewellery shops, only the Department of Commerce, Ministry of Economic Affairs and local governments are respectively in charge of the registration and the management. Moreover, there is no decree to regulate the business to act as banks to require customers to open accounts for getting related information before conducting transactions. At present, the local jewellery associations have required members to actively cooperate with law enforcement agencies to investigate crimes and take proper measures on AML/CFT including law compliance training.

76)銀樓公會乃依據商業團體法、商業團體法施行細則及其他有關法令所成立之社團法人，凡在公會登記區域內經營銀樓業務暨包括各種珠寶首飾器皿製造加工買賣商業(工廠設有門市部者視同商業之公司行號)，經主管機關核准設立之公營或民營商業之公司行號,均應於開業後一個月內申請加入公會爲會員。

76) Jewellery associations are legal persons which are established according to the regulations of the Business Group Act, Enforcement Rules of Business Group Act and other relevant laws. Businesses dealing in jewellery including manufacture and trade of all kinds of jewellery and stones, have to join the local jewellery association.

c.「反洗錢與打擊資助恐怖分子」相關風險處理方式(Approach concerning risk)

77)依據洗錢防制法第 6 條規定，金融機構應根據洗錢及

77) According Article 6 of the MLCA, every financial institution has to establish compliance guidance based on the threats of ML/FT and submit it to the

資助恐怖分子之威脅訂定防制洗錢注意事項，報請金融監督管理委員會及目的事業主管機關備查。另同法第 7 條及第 8 條規定金融監督管理委員會要協調法務部、中央銀行及內政部，就有關認客戶身分、留存交易紀錄憑證及申報大額通貨交易與疑似洗錢交易等，訂定授權規定事項，其中對得免申報大額通貨交易之行業與交易類型亦同時加以規範，該免申報必須每年由金融機構報請洗錢防制中心核備。

FSC and the business supervisory authority for recording. In addition, Article 7 and Article 8 of the MLCA require the FSC to coordinate with the Ministry of Justice, the Central Bank and Ministry of the Interior for establishing the authorized regulations about verifying the identification of customer, keeping records of transaction and reporting CTRs and STRs. There are some exceptions in the authorized regulations that permit financial institutions to exempt from reporting CTRs under certain patterns of currency transactions which expose almost no risk to ML/FT and the exemption will be reviewed by the MLPC every year according the requests from financial institutions.

78) 在制訂「反洗錢與打擊資助恐怖分子」策略上，在行政院之下成立了「社會治安協調會報」，由行政院長親自主持，聚集各相關部會部長及執法機關首長討論新興犯罪趨勢、態樣及防制策略，當然包括「反洗錢與打擊資助恐怖分子」策略在內。然後由各權責機關，包括司法、執法及金融監理機關採取作爲，有效執行治安策略。

78) At the strategic level on AML/CFT, there is a specific forum called the "Public Security Coordination Forum" which is organized by the Executive Yuan and directly hosted by the Premier. In the forum, the Ministers from relevant Ministries and the CEOs of law enforcement agencies discuss the emerging criminal trends, typologies and the methods for addressing the issues - including AML/CFT. The authorities including judicial, law enforcement and financial supervisory agencies have to take measures for effectively implementing the strategies.

79) 在實務執行層面，法務部調查局成立了「經濟犯罪防制會報」，由司法、執法、金融監理、境管、國貿及情報等相關機關組成。有關經濟犯罪及洗錢防制在實務執行層面遭遇之問題及解決方案，都會在會中加以討論。

79) At the operational level on AML/CFT, there is a specific forum called "Economic Crime Prevention Forum" which is organized by the Investigation Bureau and attended by the representatives from judicial, law enforcement, financial supervisory, immigration, international trade and intelligence agencies. In the forum, all operational problems on economic crimes and money laundering are discussed and solutions sought.

d. 前次相互評鑑後之進展(Progress since the last mutual evaluation)

80) 中華台北於 2001 年 5 月接受第一輪相互評鑑時評鑑團提出之詳細建議目前進展情形與相關討論詳列在本報告表 4。

80) The first mutual evaluation report of Chinese Taipei (of May 2001) listed some detailed recommendations. Progress against those recommendations is outlined and discussed in detail at Table 4 of this report.

2 法律體系和相關制度上作爲(LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES)

法律與規範(Laws and Regulations)

2.1 洗錢罪刑化--建議第1、2項(CRIMINALISATION OF MONEY LAUNDERING-R.1 & 2)

2.1.1 說明與分析(DESCRIPTION AND ANALYSIS)

建議第1項(Recommendation 1)

81)洗錢行爲罪刑化是依據1996年開始施行之洗錢防制法，該法歷經二次修正，分別是在2003年2月及2006年5月。該法第2條規定：

本法所稱洗錢，係指下列行爲：

一 掩飾或隱匿因自己重大犯罪所得財物或財產上利益者。

二 掩飾、收受、搬運、寄藏、故買或牙保他人因重大犯罪所得財物或財產上利益者。

81) The offence of Money Laundering ("ML") is criminalised under the Money Laundering Control Act 1996 ("the MLCA"). The MLCA has been amended twice in February 2003 and May 2006. Article 2 of the MLCA provides as follows:

"As used in this Act, the crime of "money laundering" is defined as any person who –

1. Knowingly disguises or conceals the property or property interests obtained from a serious crime committed by themselves or;

2. Knowingly conceals, accepts, transports, stores, intentionally buys, or acts as a broker to manage the property or property interests obtained from a serious crime committed by others."

82)洗錢犯罪行爲之認定未涵蓋所有維也納公約第3(1)(b)(c)及巴勒莫公約第6(1)有關認定洗錢犯罪有關之下列標準：

a) 未納入「轉換….爲隱瞞或掩飾該財產的非法來源」；

b) 未特別訂定以協助任何涉案者逃避法律後果爲目的之不法行爲；

c) 未涵蓋隱匿財產來源、處置、所有權或有關權利之不法行爲；

d) 未涵蓋使用該「財產」之不法行爲；

e) 未涵蓋取得該「財產」之不法行爲。

82) . The offence of money laundering does not cover all the elements of Article 3(1)(b) and (c) of the Vienna Convention or Article 6(1) of the Palermo Convention in terms of the following:

a) It does not include "conversion…for the purpose of concealing or disguising the origin of the property;"

b) It does not specify the purpose as being one of helping any person involved evade legal consequences of action;

c) It does not cover concealment of the "source"; "disposition" or "ownership of" the property or "rights";

d) It does not cover "use" of property;

e) It does not cover "acquisition" of property.

83)對於「財產」或「財產上利

83) The terms "property" or "property interests" are

益」未予明確定義，但在洗錢防制法第4條規定：本法所稱因犯罪所得財物或財產上利益，係指下列各款之一者：

1.因犯罪直接取得之財物或財產上利益。

2.因犯罪取得之報酬。

因前二款所列者變得之物或財產上利益。但第三人善意取得者，不在此限。

not specifically defined but Article 4 of the MLCA provides: "As used in this Act, the "property or property interests obtained from the commission of the crime" means:

1. The property or property interests obtained directly from the commission of the crime.

2. The remuneration obtained from the commission of the crime.

The property or property interests derived from the above two subsections. This provision, however, is not applicable to a third party who obtains in good faith the property or property interests prescribed in the preceding two subsections."

84)第2條提到「因重大犯罪所得財物或財產上利益」及觀察其他法條對於重大犯罪之定義，第4條條文省略「重大」之文字，在其他許多國家可能會引發第4條與第2條有所衝撞問題，而在第12條是有關洗錢沒收條款，其中提及「犯第九條之罪者，其因犯罪所得財物或財產上利益…」，第9條是有關洗錢罪之懲罰。中華台北有關機關確認第4條及第12條省略「重大」之文字在目前無礙於這些條款運用在洗錢犯罪。

84) Article 2 refers to "property or property interests obtained from a serious crime" and bearing in mind that the term "serious crime" is defined, it is noted that Article 4 omits the word "serious" which in some jurisdictions would raise an issue as to whether Article 4 impacts upon Article 2 or not but Article 12 which sets out the confiscation regime for ML, refers to "the property or property interests obtained from the commission of a crime by an offender violating the provisions set forth in Article 9 of this Act". Article 9 is the penalty provision for the ML offence. The Chinese Taipei authorities have also confirmed that the omission of the word "serious" from Articles 4 and 12 does not present any legal difficulties in the application of these articles to the ML offence.

85)其他法規條文亦有關於財產沒收，但「財產」一詞還是未定義：

刑法第38條：

下列之物沒收之：

一、 違禁物。

二、供犯罪所用或犯罪預備之物。

三、 因犯罪所生或所得之物。

前項第一款之物，不問屬於犯罪行爲人與否，沒收之。

85) There are provisions set out in other statutes that refer to property that can be confiscated but the term "property" remains undefined:

The Criminal Code

Article 38

The following things shall be confiscated:

1. A prohibited thing [the word 'contraband' is used in another English version];
2. A thing used in the commission of or preparation for the commission of an offence;
3. A thing acquired through the commission of an offence.

A thing specified in item 1 of paragraph I of this Article shall be confiscated whether or not it belongs to the offender.

第一項第二款、第三款之物，以屬於犯罪行爲人者爲限，得沒收之。但有特別規定者，依其規定。

組織犯罪防制條例第 7 條：

犯第三條之罪者，其參加之組織所有之財產，除應發還被害人者外，應予追繳、沒收。如全部或一部不能沒收者，追徵其價額。

犯第三條之罪者，對於參加組織後取得之財產，未能證明合法來源者，除應發還被害人者外，應予追繳、沒收。如全部或一部不能沒收者，追徵其價額。

爲保全前二項之追繳、沒收或追徵，檢察官於必要時得扣押其財產。

毒品危害防制條例第 19 條：

犯第四條至第九條、第十二條、第十三條或第十四條第一項、第二項之罪者，其供犯罪所用或因犯罪所得之財物，均沒收之，如全部或一部不能沒收時，追徵其價額或以其財產抵償之。

爲保全前項價額之追徵或以財產抵償，得於必要範圍內扣押其財產。

犯第四條之罪所使用之水、陸、空交通工具沒收之。

A thing specified in items 2 or 3 of paragraph I of this Article may be confiscated only if it belonged to the offender; Provided, that if special provision has been made therefore, such provision shall apply.

Organised Crime Prevention Act

Article 7

The overall property of a criminal organization owned by an offender acting in contravention of Article 3 of this Act shall be traced for collection or confiscated after deducting any portion belonging to the victims. Where the property can not be confiscated in part or in whole, then an amount equivalent to the ascribed monetary value of the said property shall be traced and levied.

If the source of obtaining the property can not be legally established, any property obtained by an offender acting in contravention of Article 3 of this Act after participating in the criminal organization shall be traced for collection or confiscated subsequent to deducting the portion to be returned to the victims. Where the property can not be confiscated in part or in whole, then an amount equivalent to the ascribed monetary value of the aside property shall be traced for levied.

The prosecutor may where necessary sequester the property of the said offender referred to in the preceding two paragraphs to facilitate the process of tracing for collection, confiscation, or tracing for levying.

Narcotics Act

Article 19

In the case of a person who has committed any of the offenses set forth in Articles 4 through 9, article 12, Article 13 or Paragraph 1 or 2 of Article 14 thereof, the property either used in committing such offenses or acquired from his committing such offenses shall be confiscated. In the event the whole or a part of such property is nonconfiscable, the offender shall be required to pay the equivalent value of such property either by cash or by offsetting the price thereof with his/her property.

In order to secure the payment or offsetting the price of the nonconfiscable portion of the property under the preceding paragraph, the property of the offender may be judicially attached if it is deemed necessary.

The means of water, land and/or air transportation that have been used by the offender in committing the offense specified in Article 4 hereof shall be confiscated."

86)關於前置犯罪沒收之主要條款定義在刑法第 38 條（除了組織犯罪防制條例、毒品危害防制法所特別列舉者外），對於「違禁物」及「物」亦無定義，據此從刑法第 38 條或洗錢防制法第 5 條（應爲第 4 條之誤）是否涵蓋所有形式財產並不明確，亦即涵蓋不動產、固定資產、其他形式之經濟收入、強制權及其他無形或無實體財產，中華台北有關機關向評鑑團確保在實務上已涵蓋所有形式之財產。

86) The main provision relied upon in terms of the predicate offences (other than those listed for the Organised Crime Prevention Act, the Narcotics Hazards Control Act and paragraph 2 of Article 3), is Article 38 of the Criminal Code. The terms "prohibited thing" (or "contraband") and "thing" are not defined in the legislation. As it stands, it is not clear from either Article 38 of the Criminal Code or Article 5 of the MLCA whether these provisions cover "all forms of property" i.e. real property, capital, other forms of economic gain, enforceable rights of action and other intangible or incorporeal property although, the Chinese Taipei authorities assured the Evaluation Team that all types of property are covered in practice.

87)對於證明犯罪資產，法律並未明定無需前置犯罪判刑確定之條款。

87) When proving that property is the proceeds of crime, the legislation does not stipulate that it is unnecessary for someone to be convicted of a predicate offence.

88)洗錢前置犯罪定義在錢防制法第 3 條並採門檻及列舉方式：

88) The predicate offences for ML are defined in Article 3 of the MLCA and combine both a threshold and list approach:

本法所稱重大犯罪，係指下列各款之罪：

"As used in this Act, "serious crimes" include the following crimes:

一、最輕本刑爲五年以上有期徒刑以上之刑之罪。

1. The crimes of which the minimum punishment is 5 years or more imprisonment.

二、刑法第二百零一條、第二百零一條之一之罪。

2. The crimes prescribed in Articles 201 and 201-1 of the Criminal Code.

三、刑法第二百四十條第三項、第二百四十一條第二項、第二百四十三條第一項之罪。

3. The crimes prescribed in Paragraph 1 of Article 240, Paragraph 2 of Article 241, and Paragraph 1 of Article 243 of the Criminal Code.

四、刑法第二百九十六條第一項、第二百九十七條第一項、第二百九十八條第二項、第三百條第一項之罪。

4. The crimes prescribed in Paragraph 1 of Article 296, paragraph 2 of Article 297, Paragraph 2 of Article 298, and Paragraph 1 of Article 300 of the Criminal Code.

五、兒童及少年性交易防制條例第二十三條第二、四、五項，第二十七條第二項之罪。

5. The crimes prescribed in Paragraphs 2, 4, 5 of Article 23, and Paragraph 2 of Article 27 of the Act for the Prevention of Child Prostitution.

6. The crimes prescribed in Paragraph 2 of Article 8, and Paragraph 2 of Article

11, Paragraphs 1-3 of Article 12, Paragraphs 1 and 2 of Article 13 of the Statute for Fire Arms,

六、槍砲彈藥刀械管制條例第八條第二項、第十一條第二項、第十二條第一項至第三項、第十三條第一項、第二項之罪。

七、懲治走私條例第二條第一項、第三條第一項之罪。

八、證券交易法第一百七十一條所定違反同法第一百五十五條第一項、第二項、第一百五十七條之一第一項之罪。

九、銀行法第一百二十五條第一項之罪。

十、破產法第一百五十四條、第一百五十五條之罪。

十一、組織犯罪防制條例第三條第一項、第二項後段、第四條、第六條之罪。

下列各款之罪，其犯罪所得在新臺幣二千萬元以上者，亦屬重大犯罪：

一、刑法第三百三十六條第二項之罪。

二、政府採購法第八十七條至第九十一條之罪。

Ammunition and Harmful Knives Control.

7. The crimes prescribed in Paragraphs 1 and 2 of Article 2, Paragraph 1 and 2 of Article 3 of the Statute for Punishment of Smuggling.

8. The crimes prescribed in Article 171 of the Securities and Exchange Act, in violation of Paragraphs 1 and 2 of Article 155, and Paragraph 1 of Article 157-1 of the Securities and Exchange Act.

9. The crimes prescribed in paragraph I of Article 125 of the Banking Act.

10. The crimes prescribed in Articles 154 and 155 of the Bankruptcy Law.

11. The crimes prescribed in Paragraph 1 and 2 of Articles 3, 4 and 6 of the Organized Crime Prevention Act.

The following crimes also fall into the category of the "serious crimes" if the property or property interests obtained from the commission of the crime(s) exceeds NT 20 million dollars:

1. The crimes prescribed in Paragraph 2 of Article 336 of the Criminal Code.

2. The crimes prescribed in Articles 87 and 91 of the Government Procurement Act."

89)有關於「特定類型之犯罪」，中華台北尚未將恐怖主義罪刑化（包括資助恐怖分子）。

89) In terms of the "designated categories of offences", Chinese Taipei is yet to criminalise terrorism, including terrorist financing.

90)洗錢防制法第 3 條未提及或延伸洗錢前置犯罪及於發生地在其他國家。然而刑法第 5、6 條可以運用到某些境外犯罪，只要是犯刑落在洗錢防制法第 3 條所稱重大犯罪範圍且在發生地之國家亦構成犯罪的雙邊可罰犯罪即可成立。

90) Article 3 of the MLCA does not refer or extend to conduct that occurs in another country however, Articles 5 and 6 of the Criminal Code apply the Code to certain categories of offences committed outside the territory of Chinese Taipei, whereby dual criminality may apply if the offences fall within the scope of Article 3 of the MLCA and constitute an offence in the other jurisdiction:

"Article 5

刑法第 5 條：
本法於凡在中華民國領域外犯下列各罪者，適用之：
一、 內亂罪。
二、 外患罪。
三、 第一百三十五條、第一百三十六條及第一百三十八條之妨害公務罪。
四、 第一百八十五條之一及第一百八十五條之二之公共危險罪。
五、 偽造貨幣罪。
六、 第二百零一條至第二百零二條之偽造有價證券罪。
七、 第二百十一條、第二百十四條、第二百十八條及第二百十六條行使第二百十一條、第二百十三條、第二百十四條文書之偽造文書罪。
八、 毒品罪。但施用毒品及持有毒品、種子、施用毒品器具罪，不在此限。
九、 第二百九十六條及第二百九十六條之一之妨害自由罪。
十、 第三百三十三條及第三百三十四條之海盜罪。
刑法第 6 條
本法於中華民國公務員在中華民國領域外犯左列各罪者，適用之：
一、 第一百二十一條至第一百二十三條、第一百二十五條、第一百二十六條、第一百二十九條、第一百三十一條、第一百三十二條及第一百三十四條之瀆職罪。
二、 第一百六十三條之脫逃罪。
三、 第二百十三條之偽造文書罪。
四、 第三百三十六條第一項之侵占罪。

This Code shall apply to each of the following categories of offences committed outside the territory of the Republic of China:

1. Offenses against the internal security of the State;
2. Offenses against the external security of the State;
3. Offenses of interference with public functions as specified in Article 135, 136 and 138.
4. Offenses against public safety as specified in Paragraph 1 of Article 185 and Paragraph 2 of Article 185.
5. Offenses of counterfeiting currency.
6. Offenses of counterfeiting valuable securities as specified in Article 201 and 202
7. Offenses of forging documents as specified in Article 210, 214,218 and 216 of putting into circulation a document specified in one of the Article 211, 213 and 214.
8. Offenses relating to drugs, but using drugs and holding drugs, seeds, using drugs implements are not included.
9. Offenses against personal liberty as specified in Article 296 and 296-1.
10. Offences of Piracy as specified in Article 333 and 334.

Article 6

This Code shall apply to each of the following categories of offences committed by a public official of the Republic of China beyond the territory of the Republic of China.

1. Offenses of malfeasance in office as specified in Articles 121 through 123, 125, 126, 129, 131, 132 and 134.
2. Offenses of releasing prisoners as specified in Article 163.
3. Offenses of falsifying documents as specified in Article 213.
4. Offenses of misappropriation as specified in paragraph 1 of Article 336".

91) 洗錢防制法第 2(1)條涵蓋「掩飾或隱匿因自己重大犯罪所得財物或財產上利益者。」據此，洗錢犯罪行爲確實及於觸犯前置犯罪之人，中華台北有關機關亦確認觸犯前置犯罪之人如涉及洗錢，當被視爲觸犯洗錢罪。

91) Article 2(1) of the MLCA includes "any person who knowingly disguises or conceals the property or property interests obtained from a serious crime committed by themselves". In this regard therefore, the offence of ML does apply to persons who commit the predicate offence. The Chinese Taipei authorities also confirmed that persons who commit the predicate offences are considered to have committed the crime of ML if they are involved in the ML.

92) 對於從屬犯罪（ancillary offences），洗錢防制法本身並無規定，但是刑法第 3、4 章涵蓋一連串有關從屬犯罪之規定，依據中華台北刑法第 3 至 8 條規定之精神，未遂、幫助及教唆犯均在處罰之列，至於共謀，倘該共謀者雖未參與犯罪之實施，但對犯罪具有支配力，則亦在處罰之列。惟倘該人僅於事前參加謀議，且於犯罪之實施並無支配力，則基於中華台北法律不處罰思想犯之原則，並不在處罰之列。

92) In terms of ancillary offences, the MLCA does not itself provide for ancillary offences however, Chapters 3 and 4 of the Criminal Code covers a range of ancillary offences. By virtue of Articles 3 to 8 of the Criminal Code, these ancillary offences may apply to the offence of ML. It is noted however, that any person who has participated only in the planning of the principal offence, is not "punished". The Chinese Taipei authorities advise that this is "based on the principle of not punishing ideological offenders".

附加因素(Additional elements)

93) 犯罪行爲發生在其他國家不構成犯罪但在國內構成洗錢前置重大犯罪者所行衍生之犯罪資產，如符合刑法第 5、6 條及洗錢防制法第 3 條規定，將構成洗錢罪。

93) Where the proceeds of crime are derived from conduct that occurred in another country, which is not an offence in that other country but would have constituted a predicate offence had it occurred domestically, this constitutes a ML offence if it falls within the provisions of Articles 5 and 6 of the Criminal Code and Article 3 of the MLCA.

建議第 2 項(Recommendation 2)

94) 洗錢防制法第 9 條是有關洗錢罪之刑責：犯第二條第一款之罪者，處五年以下有期徒刑，得併科新臺幣三百萬元以下罰金。
犯第二條第二款之罪者，處七年以下有期徒刑，得併科

94) Article 9 of the MLCA is the penalty provision for ML offences: "Any person engaging in money laundering activity referred to Subsection 1 of Article 2 of this Act shall be sentenced to imprisonment of not more than five years and, in addition thereto, be fined not more than 3 million NT. Any person engaging in money laundering activity

新臺幣五百萬元以下罰金。法人之代表人、法人或自然人之代理人、受雇人或其他從業人員，因執行業務犯前二項之罪者，除處罰行爲人外，對該法人或自然人並科以各該項所定之罰金。但法人之代表人或自然人對於犯罪之發生，已盡力監督或爲防止行爲者，不在此限。犯前三項之罪，於犯罪後六個月內自首者，免除其刑；逾六個月者，減輕或免除其刑；在偵查或審判中自白者，減輕其刑。

referred to Subsection 2 of Article 2 of this Act shall be sentenced to imprisonment of not more than seven years and, in addition thereto, be fined not more than 5 million NT. The representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in money laundering activities as set forth in the preceding three paragraphs shall be punished in accordance with the provisions set forth in the preceding three paragraphs of this Article. In addition, the legal entity or the natural person that the offender represents or works for, shall also be fined in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal entity or a natural person has done his or her best to prevent or stop the money laundering activities. Any person who surrenders himself or herself to the authorities within six months after he or she has engaged in money laundering activities as set forth in the preceding three paragraphs, his or her sentence shall be exempted. Any person who surrenders himself or herself in later than six months after he or she has engaged in any of the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced or exempted. Any person who confesses during the custodial interrogation or the trial that he or she has engaged in the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced."

95) 依據上揭及洗錢防制法第 2 條規定，洗錢罪及於明知從事洗錢活動之自然人。

95) In accordance with the above provision and also Article 2 of the MLCA, the offence of ML does apply to natural persons that knowingly engage in ML activity.

96) 該法未特別允許從客觀事實情境去推斷洗錢罪行之意圖因素，但刑法第 13 條第 2 項則隱含相關規定：「行爲人對於構成犯罪之事實，預見其發生而其發生並不違背其本意者，以故意論。」

96) The law does not specifically permit the intentional element of the offence of ML to be inferred from objective factual circumstances. The wording of Article 13(2) of the Criminal Code implies that a subjective approach is taken: "An act is considered to have been committed intentionally if the actor foresaw that the act would accomplish the constitution elements

of an offence and such accomplishment was not contrary to his will."

97) 在洗錢防制法中對於「人」並無定義，而值得注意的是「法人」(judicial person)一詞英譯在中華台北似乎更常使用 legal person。洗錢防制法第 9 條第 3 項提及法人爲犯罪行爲者之雇主或負責人（作者以底線標示）：「法人之代表人、法人或自然人之代理人、受雇人或其他從業人員，因執行業務犯前二項之罪者，除處罰行爲人外，對該法人或自然人並科以各該項所定之罰金。但法人之代表人或自然人對於犯罪之發生，已盡力監督或爲防止行爲者，不在此限。」

97) There is no definition of "person" in the MLCA and it was noted that the term "juridical person" is more commonly used in Chinese Taipei instead of 'legal person'. Article 9 of the MLCA reproduced above, does include reference to legal persons as employers or principals of an offender, in paragraph 3 (underline by author): "The representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in money laundering activities as set forth in the preceding three paragraphs shall be punished in accordance with the provisions set forth in the preceding three paragraphs of this Article. In addition, the legal entity or the natural person that the offender represents or works for, shall also be fined in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal entity or a natural person has done his or her best to prevent or stop the money laundering activities".

98) 值得注意的是法人在洗錢防制法之責任僅限在此情形之下，除非中華台北其他法律對「人」有特別定義涵蓋自然人及法人—此爲其他大多數國家常用之定義。

98) It is noted however that a legal person's liability under the MLCA is restricted to this circumstance unless there is another law in Chinese Taipei which defines the term "person" to include both natural and legal persons – which is common for most jurisdictions.

99) 中華台北有關機關無法確定是否可以對法人處以洗錢刑事責任，排除同時課以刑事、民事或行政之責任，評鑑團取得非訟事件法及民法相關條文。

99) The Chinese Taipei authorities were unable to confirm whether or not making legal persons subject to criminal liability for ML, precludes any parallel criminal, civil or administrative proceedings. The Evaluation Team was however provided with selected provisions from the Act Governing Non-Litigation Procedure and the Civil Code.

100) 非訟事件法相關條文顯示有關機關及檢察官可以求解除董事或監察人職務及宣告解散法人，中華台北有關機關無法確定是否曾經運用此類條款於涉及洗錢犯

100) The selected provisions of the Act Governing Non-Litigation Procedure indicate that the authorities and the prosecutor can apply for the dismissal of "the post of director or controller" and a "dismissal declaration of a juridical person". The Chinese Taipei authorities spoken to however were unable

罪之法人。

101) 民法第 28 保規定：「法人對於其董事或其他有代表權人因執行職務所加於他人之損害，與該行爲人連帶負賠償之責任。」第 34 條進一步規定：「法人違反設立許可之條件者，主管機關得撤銷其許可。」

102) 還有值得注意的是不同法律對於法人之行政制裁列舉如下：

a) 保險公司—保險法第 148 條規定（應爲第 149 條之誤）賦予有關機關在保險業違反法令、章程或有礙健全經營之虞時，可以採取下列紀律行動：

i) 限制其營業或限制其保險商品之開辦；
ii) 撤銷法定會議之決議；
iii) 命其解除經理人或職員之職務；
iv) 解除董、監事職務；或
v) 解散保險公司。

103) 銀行業—銀行法第 61-1 條規定，如果銀行違反法令、章程或有礙健全經營之虞時，主管機關除得予以糾正、命其限期改善外，並得視情節之輕重，爲下列處分：

i) 撤銷法定會議之決議。
ii) 停止銀行部分業務。
iii) 命令銀行解除經理人或職員之職務。
iv) 解除董事、監察人職務或停止其於一定期間內執行職務。

to confirm whether such a provision had been used against any legal person found guilty of ML.

101) Article 28 of the Civil Code provides that a "juridical [legal] person is jointly liable with the wrongdoer for the injury caused by its directors or other persons who are entitled to represent the juridical person in the performance of their duties". Article 34 of the Civil Code further provides that "if a juridical person violates any conditions under which the license has been granted, the authorities concerned may revoke the license to the juridical person."

102) It was further noted under various legislation relating to legal persons that these included administrative sanctions such as the following:

a) Insurance companies - Article 148 of the Insurance Act, provides for the competent authorities to impose disciplinary actions where an insurance enterprise "violates laws or regulations or is suspected of improper management". Such disciplinary actions include:

i) restricting the scope of its business or the amount of its new contracts;
ii) revoking resolutions adopted in statutory meetings;
iii) ordering the removal of its managers or employees from their positions;
iv) dismissing its directors or supervisors; or
v) dissolution of the insurance enterprise.

103) Banks - Article 61-1 of the Banking Act provides that if a Bank has violated "laws and regulations, its articles of incorporation or disturbed the sound operation [of the financial system]" the Competent Authority may take any of the following actions in addition to ordering correction or improvement by the Bank within a specified period of time:

i) revoke resolutions of statutory meetings;
ii) suspend part of the Bank's business;
iii) order the Bank to discharge Managers or staff members;
iv) discharge directors and supervisors or suspend them from performance of their duties for a specified period of time; or

v) 其他必要之處置。

104) 外匯交易—管理外匯條例第 22 條規定，以非法買賣外匯爲常業者，處三年以下有期徒刑、拘役或科或併科與營業總額等值以下之罰金；其外匯及價金沒收之。法人之代表人有前項規定之情事者，該法人亦科以該項之罰金。

105) 證券交易—證券交易法第 66 條規定，證券商違反本法或依本法所發布之命令者，除依本法處罰外，主管機關並得視情節之輕重，爲左列處分：

a) 命令該證券商解除其董事、監察人或經理人職務。
b) 對公司或分支機構就其所營業務之全部或一部爲六個月以內之停業。
c) iii) 對公司或分支機構營業許可之撤銷。

106) 洗錢防制法第 3 條列舉之洗錢之前置重大犯罪涵蓋證券交易法第一百七十一條所定違反同法第一百五十五條第一項、第二項、第一百五十七條之一第一項之罪。

107) 洗錢防制法第 9、10 條定出洗錢者之刑罰，處罰因犯罪者在不同環境而有所差異。例如，第 9 條第 1 項清洗自己犯罪所得者刑罰較輕（處五年以下有期徒刑併科新臺幣 3 百萬元以下罰金），爲他人洗錢者較重（處七年以下有期徒刑，得併科新臺幣五百萬元以下罰金）。第 9 條第 3 項以洗錢爲常業者，處 3 年以上 10

v) other necessary measures.

104) Foreign exchange - Article 22 of the Foreign Exchange Control Act provides that people engaging in foreign exchange transactions illegally as a regular profession shall be subjected to a prison term or detention of less than 3 years and/or a fine that amounts to their total business turnover along with the foreign exchange and payment or proceeds. If the person represents a juristic person and violates the provision while conducting business, the juristic person shall be fined as imposed on the offender.

105) Securities and Exchange - Under Article 66 of the Securities and Exchange Act, where a securities firm violates the Act or an order issued under it, "in addition to being subject to the punishment provided under this Act", the Competent Authority may, depending upon the severity of the offence, impose certain sanctions including:

a) ordering the securities firm to remove its directors, supervisors or managers from their office;
b) suspending the business in whole or in part for a period of not more than 6 months;
c) revoking the business licence of the company or its branch.

106) Article 3-1 of the MLCA includes in its list of "serious crimes" for the purposes of ML, Article 171, Art 155-1 and 155-2 and Art 157-1 of the Securities and Exchange Act.

107) Articles 9 and 10 of the MLCA set out the penalties for persons engaging in ML. These provisions do apply different penalties depending on certain circumstances regarding the offenders. For example, Article 9-1 provides a lesser penalty for persons laundering their own proceeds (not more than 5 years and a fine of not more than 3 million NT) than a person laundering the proceeds of a crime committed by others (not more than 7 years and a fine of not more than 5 million NT). Article 9-3 provides that any person engaged in ML as

年以下有期徒刑，得併科新臺幣一百萬元以上一千萬元以下罰金（註：常業犯已取消，本段應係誤解）。法人之代表人、法人或自然人之代理人、受雇人或其他從業人員，因執行業務犯前二項之罪者，除處罰行爲人外，對該法人或自然人並科以各該項所定之罰金。但法人之代表人或自然人對於犯罪之發生，已盡力監督或爲防止行爲者，不在此限。當問及法院如何解釋或運用此條文之案例時，中華台北無法提出任何案例。

their major source of income shall be sentenced to imprisonment between 3 years and 10 years and in addition thereto, a fine of between 1 million NT and 10 million NT. A legal person or natural person as an employer or principal of the offender is also fined in accordance with these provisions unless the entity can show that it did "his or her best to prevent or stop the money laundering activities". When asked for examples as to how the courts interpret or apply this provision, the Chinese Taipei authorities were unable to provide any examples.

108) 於犯罪後六個月內自首者，免除其刑；逾六個月者，減輕或免除其刑；在偵查或審判中自白者，減輕其刑。

108) There are lesser penalties for persons who surrender within 6 months after he or she has engaged in ML activities – in such a case this persons sentence is "exempted" and if he or she surrenders later than 6 months, his or her sentence shall be "reduced or exempted". If a person confesses during custodial interrogation or the trial, his or her sentence shall be reduced.

109) 根據洗錢防制法第10條，對於直系血親、配偶或同財共居親屬因重大犯罪所得財物或財產上利益犯第二條第二款之罪者，得減輕其刑。

109) 109) Pursuant to Article 10, any person engaged in ML as set out in Article 2-2 (i.e. regarding a predicate offence committed by another person), if the 'money launderer' is a relative of the person who committed the predicate offence, he or she may have his or her sentence or fine reduced.

110) 其他民事或行政制裁包括：

a) 會計師有犯罪行爲受刑之宣告者應付懲戒（會計師法第39條）。

b) 保險業務員違反洗錢防制法受刑之宣告確定，尚未執行完畢，或執行完畢、緩刑期滿或赦免後尚未逾三年者，撤銷其登錄。（保險業務員管理規則第7條第1項第5款）

c) 曾受一年有期徒刑以上刑

110) In terms of other civil or administrative sanctions available, these include:

a) A chartered public accountant will be subject to disciplinary sanctions if he has been sentenced to punishment for committing a criminal offence (Article 39 of the Certified Public Accountant Law);

b) A solicitor who has violated the MLCA, shall have his or her registration as an Insurance Solicitor revoked (Article 7-5 of the Regulations Governing the Supervision of Insurance Solicitors 2005);

c) A lawyer can lose their practicing certificate and be expelled by the Lawyers' Discipline

之裁判確定，並依其罪名足認其已喪失執行律師之信譽，經律師懲戒委員會懲戒除名者，不得充任律師（律師法第 4 條）。

Committee on account of a conviction for imprisonment of more than one year under a final judgment (Article 4 of the Lawyers' Law 1941).

111) 儘管缺乏有關依據洗錢防制法之刑事處罰外合併其他民事及行政有效制裁之統計資料，但是這些制裁措施應該是相當合宜並具勸誡性，但有部分懲罰條款仍具「避風港」之嫌。

111) Although no information has been provided as to the effectiveness of the sanctions, based on the penalties and fines under the MLCA if combined with such civil and administrative sanctions as referred to above, the sanctions would appear to be proportionate and dissuasive but for some of the 'safe harbour' penalty provisions.

建議第32項(Recommendation 32)

下列資料是在評鑑結束後所提供：(The following statistics were provided at the end of the evaluation:)

2006年洗錢案件起訴統計(Statistics of ML prosecutions 2006:)

Statistics of ML prosecutions 2006:

Crime Type	Crime Name	MJIB	Prosecutors	Police	Total
General	Fraud Kidnapping			44 1	44 1
General l				45	45
Drug related	Sale of Class 1 Drugs			1	1
Drug related				1	1
Corruption	Anti-Corruption Statute Article 6-1, subparagraph 4 violated Fraud Embezzlement Enhanced Bribery Bribery	1 1 2 2 5			
Corruption total		11			11
Economic	Insider Trading Stock Manipulation Breach of Insurer Trust Professional usury Professional fraud Embezzlement in the Pursuit of social activities Securities and Exchange Act 155-1 subparagraph 1 violated Banking Law 125 Violation Breach of Banking Trust	2 4 1 11 1 1 3	16 1	7 584	2 4 1 7 611 1 1 3 1
Economic		23	17	591	631
#		24	17	637	688

Table 3 - Statistics of ML Convictions 2004

Crime Type		Grand Total	Penalty - Imprisonment													Not Guilty	Dismissal	Other	Confiscation
			Total	Life	6 mths or less	Less than 1 yr	Less than 2 yrs	Less than 3 yrs	Less than 5 yrs	Less than 7 yrs	Less than 10 yrs	Less than 15 yrs	More than 15 yrs	Detention	Fine				
Economic Crimes	Professional fraud	680	654		450	79	68	9	14	3	1			30		9	10	7	279
	Professional usury	1	1		1														
	Counterfeiting	1	1						1										1
	Securities Counterfeiting	1	1		1														
Drug-related crimes	Sale of class 1 Drugs	1	1					1											1
	Sale of class 2 Drugs	2	1									1					1		1
Corruption	Embezzlement	1	1							1									1
	Bribery	1														1			
General crimes	Fraud	68	64		44	12	4		1					3			4	1	11
	Extortion	7	6		4	1										1	1		1
	Theft	1	1		1														
	Forgery	3														2	1		1
	Usury	1															1		
	Kidnapping	1	1										1						

It is noted that Table 3 indicates 770 cases prosecuted. Table 1 indicates that 809 cases were prosecuted. There is a discrepancy of 39, the reason for which has not been provided by the authorities.

Table 4 - Statistics of ML Convictions 2005

Crime Type		Grand Total	Penalty – Imprisonment													Not Guilty	Dismissal	Other	Confiscation
			Total	Life	6 mths or less	Less than 1 yr	Less than 2 yrs	Less than 3 yrs	Less than 5 yrs	Less than 7 yrs	Less than 10 yrs	Less than 15 yrs	More than 15 yrs	Detention	Fine				
	Professional fraud	979	917		734	89	38	13	7	2	1			29		15	26	21	355
	Professional usury	3	1		1											2			
	Insider trading	1	1													1			
	Counterfeiting	2	2		2														
	Securities Counterfeiting	1	1					1											1

Economic Crimes	Credit card Counterfeiting	1	1		1														
	Copyright Infringement	1	1		1														
	Banking Law 125 violation	3	3						2	1									3
Drug-related crimes	Sale of class 1 Drugs	2	2		1		1												1
Corruption	Enhanced bribery	1	1		1					1									1
	Embezzlement	1	1					1											
General crimes	Fraud	61	58		46	9	1							2			3		15
	Extortion	6	6		1		5		1					1					4
	Theft	1	1		1														
	Kidnapping	2	1								1					1			1

It is noted that Table 4 indicates 1,067 cases prosecuted. Table 1 indicates that 1,173 cases were prosecuted. There is a discrepancy of 106, the reason for which has not been provided by the authorities.

Table 5 - Statistics of ML Convictions 2006

Crime Type		Grand Total	Penalty – Imprisonment													Not Guilty	Dismissal	Other	Confiscation
			Total	Life	6 mths or less	Less than 1 yr	Less than 2 yrs	Less than 3 yrs	Less than 5 yrs	Less than 7 yrs	Less than 10 yrs	Less than 15 yrs	More than 15 yrs	Detention	Fine				
Economic Crimes	Professional fraud	354	344		298	20	6	2	2					16		1	6	3	69
	Professional usury	4	4		4														1
	Stock manipulation	2	2					2											
	Securities and Exchange Act	1	1		1														1
	Banking Law 125 violation	2	2				1	1											
General crimes	Fraud	28	25		19	1	2							3			1		4
	Kidnapping	4	4			2	2												

It is noted that Table 5 indicates 393 cases were prosecuted. Table 2 indicates that 688 cases were prosecuted. There is a discrepancy of 295, the reason for which has not been provided by the authorities.

It is further noted that according to Tables 3, 4 and 5 for the years 2004, 2005 and 2006, no penalty fines were imposed.

2.1.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

112) 洗錢罪未完全納入維也納公約第 3(1)(b)(c)及巴勒莫公約第 6(1)認定之洗錢犯罪，建議中華台北有關機關修正洗錢定義，以確保洗錢行爲罪刑化以這些條款所敘爲基礎。

112) As the offence of ML does not fully encompass Article 3(1)(b)(c) of the Vienna Convention and Article 6(1) of the Palermo Convention, it is recommended that Chinese Taipei authorities amend the definition of ML to ensure that ML is criminalised on the basis of these provisions.

113) 對於財產及財產上利益沒有明確定義，建議中華台北有關機關修正法律，納入識別條文，以確保洗錢罪擴及直接或間接源自犯罪所得之所有形式財產。

113) Given that the terms "property" and "property interests" are not defined, it is recommended that the Chinese Taipei authorities amend the legislation to include a provision that specifically identifies these terms, to ensure that the offence of ML extends to all types of property that directly or indirectly represents POC.

114) 從與中華台北有關機關會談進一步發現洗錢本身不構成財產犯罪，亦即必須要有前置犯罪存在。因此建議有關機關修正洗錢防制法，在證明財產是犯罪所得時，不以前置犯罪定罪爲其必備條件。

114) It is further noted from interviews with Chinese Taipei authorities that ML itself is not a qualifying offence for POC. i.e, there must be a predicate offence. It is therefore recommended that the authorities amend the MLCA to provide that conviction for a predicate offence is not necessary when proving that property is POC.

115) 中華台北對於重大犯罪之定義，採用複合方式，包括在法律中訂出構成洗錢前置犯罪之最低門檻。建議中華台北有關機關修正洗錢防制法將門檻降低至 6 個月，例如兒童及少年性交易防制條例第二十三條對於被控從事涉及兒童在內之性交易之人，處以一年以上七年以下有期徒刑，未達重大犯罪門檻，而是用特定犯罪類型方式加以列舉，因爲目前門檻是最輕 5 年以上有期徒刑，對這種類型之犯行未涵蓋在洗錢防制法重大犯罪之門檻內，將會引起爭論。

115) Given Chinese Taipei has applied a combined approach that includes a threshold approach in defining "serious crime", and that it does have a minimum threshold for offences in its legal system, it is recommended that the Chinese Taipei authorities amend the MLCA to reduce the threshold to 6 months. For example, Article 23 of the Act for the Prevention of Child Prostitution imposes a penalty of imprisonment from "one year to up to 7 years" for a person convicted of inducing a child to engage in a "sexual transaction". Given that this provision is not listed but falls within a designated category offence, and the threshold is a "minimum punishment" of 5 years or more, it could be argued that this type of offence is not covered by the MLCA.

116) 建議中華台北有關機關將恐怖主義罪刑化，包括資助恐

116) It is recommended that the Chinese Taipei authorities prioritise the passing of legislation to criminalise terrorism,

怖分子罪刑化，之立法列爲優先法案。

including terrorist financing.

117) 對於從屬犯罪（ancillary offences），刑法並無明確定義，而洗錢防制法對於刑法第 3、4 章亦無對應條文，建議中華台北有關機關考量修正相關法律，以釐清刑法從屬犯罪應用到洗錢罪之規定。

117) Regarding "ancillary offences", given that the term "offence" in the Criminal Codeis not defined and there is no reference to Chapters 3 and 4 of the Code in the MLCA, it is recommended that the Chinese Taipei authorities consider amending the legislation to clarify that the ancillary offences of the Code apply to the offence of ML.

118) 目前法律並未允許洗錢犯罪之故意可以從客觀的事實環境因素進行推論，建議中華台北有關機關修正洗錢防制法以回應此一要求。

118) As the law does not permit the intentional element of the offence of ML to be inferred from objective factual circumstances, it is recommended that the Chinese Taipei authorities amend the MLCA to reflect this requirement.

119) 中華台北在 2001 年的第一輪相互評鑑中，評鑑團對於洗錢防制法第 9 條第一項提出評論，認爲法人之代表人、法人或自然人之代理人、受雇人或其他從業人員犯洗錢罪者，除處罰行爲人外，該法人或自然人亦可能受到罰金。但法人之代表人或自然人對於犯罪之發生，已盡力監督或爲防止行爲者，不在此限。

119) In the last evaluation of Chinese Taipei in 2001, reference was made by the 2001 evaluation team to Article 9, paragraph 1 of the MLCA which provides that the representative or employee of a natural or legal person "engaging within the scope of his or her employment in ML activities" is punished in accordance with the ML penalty provisions. The employer or principal may also be fined unless he or she "has done his or her best to prevent or stop the ML activities".

120) 對於此一條款，在 2001 年評鑑團結論認爲將會提供一些公司和個人免於被起訴之「安全庇護港」，並憂慮條文內容會破壞法人及其員工依據 FATF 第 6 項建議所欲應負擔之責任。評鑑團同意此一關切並重申結論謂「此一問題應透過犯罪意圖證明或被告對證據反證之方式處理」，因此建議中華台北取消第 9 條中之相關條文內容。

120) In regard to this provision, the 2001 evaluation team concluded that this article "provides a safe harbour from prosecution for companies and individuals" and expressed fears that it "undermines the otherwise clear liability of corporations and their employees in accordance with FATF recommendation 6." The Evaluation Team agrees with this concern and reiterates the conclusion that "this issue should be addressed through proof of criminal intent or evidence in contravention, if the defendant chooses to offer it." It is therefore recommended that Chinese Taipei delete this provision from Article 9.

121) 除此之外，在 2001 年評鑑團亦表達對於洗錢防制法第

121) In addition to the above, the 2001 Evaluation Team also expressed a concern over Article 10 of the MLCA which provides for a

10條規定對於直系血親、配偶或同財共居親屬因重大犯罪所得財物或財產上利益犯第二條第二款之罪者，得減輕其刑，將會減損法律效能。評鑑團對此表示關切並重申謂「此一問題應由檢察官在決定是否要起訴時仔細考量，而不要以立法方式規範於法律之中」。因此建議中華台北刪除第10條，而將之訂在檢察官洗錢起訴指導方針中。

reduction of sentence for ML involving blood and other relatives in that it "undercuts the effectiveness of the law". The Evaluation Team shares this concern and reiterates the conclusion that "this is a matter that should be addressed to the sound discretion of the prosecutor in determining whether to prosecute and not legislated as a matter of law". It is therefore recommended that Chinese Taipei remove Article 10 and insert it in any Prosecution Guidelines on ML that may be held by the Prosecutors' Office.

122) 由所提供之洗錢統計中注意到並無依洗錢防制法第9條處以罰金資料，雖然該條文規定從事洗錢之人應處以徒刑並得以併科罰金，爲此曾詢問是否該數據涵蓋洗錢判決或僅限於前置犯罪。中華台北在相互評鑑問卷中出現之統計數據與現地評鑑時相關機關提供之數據並不一致。因此建議中華台北考量改善統計數據：

a) 清楚分開洗錢判決案件及重大犯罪案件。
b) 納入涉及洗錢之法人科以罰金或刑罰。
c) 統計數據要分辨被判刑之法人或自然人受到民事或行政裁罰情形。
d) 要有一個機關負責蒐集所有不同執法及司法機關之統計資料，以確保統計數據一致性並改善可靠性，以作爲評鑑中華台北反洗錢與打擊資助恐怖分子成效之依據。

122) It is noted from the ML statistics provided, that no fines were imposed although Article 9 of the MLCA provides that a person engaging in ML "shall be sentenced o imprisonment … and in addition thereto, be fined". It is queried therefore whether the statistics listing the predicate offences include any ML convictions or are restricted to the predicate offences only. The discrepancy between the figures given in the Chinese Taipei MEQ and those given to the Evaluation Team on the final day of the onsite visit, are queried also. It is therefore recommended that the Chinese Taipei authorities consider improving the statistics by:

a) clearly identifying which cases led to ML convictions as opposed to the convictions for serious crimes;
b) including or identifying any fines or penalties that may have been imposed on legal persons involved in the ML;
c) noting for inclusion in the statistics, whether the convicted persons (both natural or legal) were subjected to any civil or administrative sanctions;
d) having one body responsible for gathering all ML statistics from the various law enforcement and judicial authorities to ensure consistency and improve reliability for the purposes of assessment as to the effectiveness of the Chinese Taipei AML/CFT regime.

123) 另中華台北各有關機關在與

123) It was also noted from comments made by the

評鑑團會晤時所作評論顯示，對警察及司法人員有必要加強洗錢教育訓練，提升對洗錢防制法之了解及證明洗錢所需法律要件。因此建議中華台北爲下列人員舉辦實際案例說明會：

a) 爲司法官員改善對洗錢案件構成法律要件之了解。
b) 爲警察人員改善洗錢案件偵查技術。

Chinese Taipei authorities during interviews, that more training is required for the judiciary and police on the area of ML to improve their understanding of the law and also the legal elements required to prove ML. The Evaluation Team was also advised that more training is required in ML investigation for Police. It is therefore recommended that the Chinese Taipei authorities provide practical case workshops (as opposed to seminars) for:

a) the judiciary aimed at improving their understanding of the legal elements required to prove ML; and
b) the Police to improve their ML investigation skills.

2.1.3 遵循建議第1&2項(COMPLIANCE WITH RECOMMENDATIONS 1 & 2)

	評等	評等理由摘述
建議第1項	PC	● 洗錢犯罪行爲之認定缺乏維也納公約第3(1)(b)(c)及巴勒莫公約第6(1)有關認定洗錢犯罪之部分標準。 ● 重大犯罪之門檻太高。 ● 洗錢犯罪需要有前置犯罪定罪作爲證明。 ● 恐怖主義及資助分子未列爲洗錢前置重大犯罪。
R.1	PC	● The ML offence lacks some of the elements outlined in Article 3(1)(b)(c) of the Vienna Convention and Article 6(1) of the Palermo Convention ● The threshold for what is a serious offence is too high ● Predicate offence conviction required that a ML offence is proved ● Terrorism and terrorist financing are not predicate offences
建議第2項	PC	● 目前法律並不允許洗錢犯罪要素的明知、故意或目的可根據客觀實際情況推定。 ● 處罰條款提供免於被起訴之「安全避風港」，破壞法人及其員工之明確責任。
R.2	PC	● The law does not permit the intentional element of the offence of ML to be inferred from objective factual circumstances ● The penalty provisions legally set out circumstances that could be used as “safe harbours” from prosecution which undermines the otherwise clear liability of corporations and their employees
建議第32項	LC	● 對於洗錢起訴案件之外的處罰統計資料出現不一致情

		形。
R.32	LC	● Discrepancies in recording statistics in relation to penalties arising out of ML prosecutions. (NB, this is a composite rating)

2.2 資助恐怖分子罪刑化--「特別建議」第II項 (CRIMINALISATION OF TERRORIST FINANCING-SR.II)

說明與分析(DESCRIPTION AND ANALYSIS)

特別建議II (Special Recommendation II)

124) 中華台北尚未將資助恐怖分子罪刑化，反恐怖行動法草案已備妥，但立法院未排入議程。

124) Chinese Taipei has not criminalised terrorist financing. A draft Counter-Terrorism Bill ("the draft law") has been prepared but has not yet been tabled with the Legislative Yuan.

125) 反恐怖行動法草案第 2 條規定：本法所稱恐怖行動，指個人或組織基於政治、宗教、種族、思想或其他特定之信念，意圖使公眾心生畏懼，而從事下列計畫性或組織性之行為：

1. 殺人。
2. 重傷害。
3. 放火。
4. 投放或引爆爆裂物。
5. 擄人。
6. 劫持供公眾或私人運輸之車、船、航空器或控制其行駛。
7. 干擾、破壞電子、能源或資訊系統。
8. 放逸核能或放射線。
9. 投放毒物、毒氣、細菌或其他有害人體健康之物質。

本法所稱恐怖組織，指三人以上，有內部管理結構，以從事恐怖行動為宗旨之組織。

本法所稱恐怖分子，指實行恐怖行動或參加、資助恐怖組織之人員。

125) Article 2 of the draft law provides as follows:

"Article 2 The terrorist acts mentioned in this Act refer to the following planned, organized acts motivated from personal or organized political, religious, racial, ideological or other specific faith and intended to stir fears among the public:

1. Committing homicides
2. Inflicting critical wounds
3. Setting fires
4. Hurtling, planting, or detonating an explosive contrivance
5. Abducting people
6. Hijacking public or private boats, vehicles, aircraft or controlling their movement
7. Interfering in or sabotaging electronic, energy, or information systems
8. Setting off nuclear energy, radioactivity
9. Releasing poisons, gases, bacteria or other matters harming to human health.

The terrorist organizations mentioned in this Act refer to syndicates formed by more than three persons and possessing an internal management structure aimed at engaging in terrorist acts.

The terrorists mentioned in this Act refer to people who perpetrate a terrorist act orjoin or finance a terrorist organization."

126) 反恐怖行動法草案第 13 條第二項規定：資助恐怖組織者，處一年以上七年以下有期徒刑，得併科新臺幣一千

126) Article 13 paragraph 2 also provides: "Those who have financed a terrorist organization shall be sentenced to imprisonment between one year and seven years, and may be imposed a fine not more

萬元以下罰金。

than ten million New Taiwan Dollars (NT10 million) in addition thereto."

127) 對於「資助」(finance)或「資助恐怖分子」(terrorist financing)術語未定義，但同法第 11 條規定:有事實疑爲恐怖分子利用帳戶、匯款、通貨或其他支付工具從事恐怖行動者，行政院海岸巡防署署長、法務部調查局局長、內政部警政署署長得聲請法院指定六個月以內之期間，對該筆從事恐怖行動交易之財產爲禁止提款、轉帳、付款、交付、轉讓或其他相關處分之命令。其情況急迫有相當理由足認非即爲上開命令，不能阻止恐怖行動之發生者，行政院海岸巡防署署長、法務部調查局局長、內政部警政署署長得逕命執行，但應於執行後三日內報請法院補發命令。法院如不於三日內補發時，應即停止執行。

127) There is no definition of the term "finance" or "terrorist financing", but Article 11 provides the following: "If there are facts that terrorists use accounts, money transfer, currency or other instruments of payment for terrorist acts, the minister of Coast Guard Administration, Executive Yuan, the director-general of Investigation Bureau of the Ministry of Justice and the director-general of National Police Agency of the Ministry of the Interior may apply, within a period of six months, to the court for an order to ban the withdrawal, account transfer, payment, disbursement, or take other related disposal. In an emergency if there is reason to believe that without such an order a terrorist act cannot be prevented, the minister of Coast Guard Administration, Executive Yuan, the director-general of Investigation Bureau of the Ministry of Justice and the director-general of National Police Agency of the Ministry of the Interior may directly order an execution of such a measure, but they shall appeal to the court within three days to issue an after-the-fact order. If the court does not issue the order within three days, the execution shall be stopped. In case of discontentment with the order mentioned in the preceding paragraph, the provisions on complaints set forth in Section Four of the Criminal Procedure Code shall apply mutatis mutandis."

128) 該草案第 11 條是唯一有助決定利用帳戶、匯款、通貨或其他支付工具從事恐怖行動者之「資助」(finance)或「恐怖分子」(terrorist)條文，但並未提及個人「被利用或知悉可能完全或部分被恐怖組織或個別恐怖分子利用以執行恐怖行動，而透過任何手段，直接或間接募集資金」。

128) Article 11 is the only provision in the draft law which would assist in determining what is meant by "finance" i.e. "terrorists" who "use accounts, money transfer, currency or other instruments of payment for terrorist acts". There is no reference to a person who "collects funds by any means, directly or indirectly with the unlawful intention that they be used or in the knowledge that they are to be used in full or in part to carry out a terrorist act by a terrorist organisation or by an individual terrorist".

129) 有關「恐怖行動」(terrorist act)定義在該草案第 2 條，

129) The term "terrorist act" is defined in Article 2 of the draft law as set out above but does not include:

但並未涵蓋：

a) 除劫機外之民用航空及機場安全。
b) 對國際保護人士包括外交人員之犯罪。
c) 除劫船外之海事航行安全。
d) 陸棚固定平台安全。

130) 該草案第 2 條所列出之恐怖行動，部分已在刑法中有更明確之規定，但值得注意的是在該草案中並未提及此類條款是否應予納入。

131) 另外值得關切的是此條文對於「使公眾心生畏懼」之意圖如何在法院加以運用或解釋。

132) 該草案第 2 條對於「恐怖組織」及「恐怖分子」之定義如下：「本法所稱恐怖組織，指三人以上，有內部管理結構，以從事恐怖行動爲宗旨之組織。本法所稱恐怖分子，指實行恐怖行動或參加、資助恐怖組織之人員」。

133) 依照這種解釋，問題在於一個團體如果沒有「內部管理架構」或未直接從事恐怖行動而只是促進恐怖行動之執行，是否涵蓋在內。所謂「恐怖分子」在該草案中定義爲「本法所稱恐怖分子，指實行恐怖行動或參加、資助恐怖組織之人員」。

134) 就上述定義而論，應該可以解釋成涵蓋「個別恐怖分子」，該草案第 2 條亦將個人基於特定信念所發動有計畫、有組織之恐怖行動納入，第 6 條亦提到阻斷「個別恐怖分子」通訊及第 8 條提供執法機關可以扣留個

a) civil aviation safety and security at airports other than hijacking of aircraft;
b) crimes against internationally protected persons including diplomatic agents;
c) safety of maritime navigation other than hijacking of boats; or
d) safety of fixed platforms located on the continental shelf.

130) Some of the "terrorist acts" set out in Article 2 of the draft law are contained in the Criminal Code in more detail, however, it is noted that there is no reference to these provisions in the draft law which raises the issue as to whether such provisions would be covered under the draft law.

131) It is also of concern that the preamble to this Article refers to an intention "to stir fears among the public" as to how this intention is to be applied or interpreted in a court of law.

132) The terms "terrorist organisation" and "terrorist" are defined in Article 2 of the draft law: "The terrorist organisations mentioned in this Act refer to syndicates formed by more than three persons and possessing an internal management structure aimed at engaging in terrorist acts."

133) 133) Under this interpretation, the question arises as to whether this captures an entity that does not have an "internal management structure" or that does not directly engage in terrorist acts or may be only facilitating the commission of a terrorist act. "The terrorists mentioned in this Act refer to people who perpetrate a terrorist act or join or finance a terrorist organisation."

134) In terms of the above definitions, it could be interpreted to include an 'individual terrorist' and it is further noted that Article 2 also includes terrorist acts "planned, organised acts motivated from personal" beliefs. Article 6 also refers to intercepting the communications of "individual terrorists" and Article 8 provides that law enforcement can detain a person when facts

人當有事實疑爲恐怖分子者。

have led to the suspicion that "he or she is a terrorist".

135) 然而值得注意的是在草案中並未以及任何聯合國安理會決議案如第 1267 號所列恐怖組織及恐怖分子名單。

135) It is noted however, that there is no reference in the draft law to any United Nations Security Council lists as contained for example in UNSCR 1267.

136) 除了草案第 11 條提及「帳戶、匯款、通貨或其他支付工具從事恐怖行動者」，第 10 條規定基於「防制恐怖行動」必要，相關官員得爲扣留或禁止處分「有事實疑爲恐怖分子所使用作爲從事恐怖行動之動產、不動產或其他財產」之命令。除此之外，在該草案中對於資助恐怖分子犯罪行爲之資金並無定義。

136) Other than the reference to "accounts, money, transfer, currency or other instruments of payment for terrorist acts" in Article 11 of the draft law, Article 10 provides that if it is necessary "for preventing a terrorist act", officials can order the detention of, or a disposal ban on "movable, immovable, or other assets when facts have lead to suspicions that terrorists are using them for terrorist acts". Apart from these two references, there is no definition in the draft law of the funds to which terrorist financing offences extend.

137) 該草案並未特別針對資助恐怖分子犯罪行爲是否要以資金實際上被用於執行或意圖用於恐怖行動或涉及特定恐怖行動爲要件，第 2 條及第 13 條第 2 項只單純將犯罪行爲定義爲資助恐怖組織，這意謂起訴無需證明資金實際被用於執行恐怖行動，恐會引起爭論。然而，值得注意的是第 10 條規定，有事實疑爲恐怖分子所使用作爲從事恐怖行動之動產、不動產或其他財產，爲防制恐怖行動之發生認有必要時，得爲扣留或禁止處分之命令。第 11 條亦規定有事實疑爲恐怖分子利用帳戶、匯款、通貨或其他支付工具從事恐怖行動者，有關機關可以申請對該筆從事恐怖行動交易之財產爲禁止提款、轉帳、付款、交付、轉讓或其他相關處分之命令。

137) The draft law is not specific as to whether the FT offence requires that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist act. It could be argued that under Article 2 and Article 13 paragraph 2, by simply making it an offence to "finance a terrorist organisation", this means that the prosecution do not have to prove that the funds were actually used to carry out a terrorist act. However it is noted that under Article 10, an order to "detain, dispose of movable, immovable, or other assets" can be made "when facts have led to suspicion that terrorists are using them for terrorist acts". Article 11 also provides that "If there are facts that terrorists use accounts, money transfer, currency or other instruments of payment for terrorist acts" then the authorities can apply for an order to "ban" the account or transfer.

138) 第 12 條爲從事恐怖行動之處罰條款，規定未遂犯亦罰，對於預備犯亦處以 2 年以下有期徒刑。此一條款僅及於恐怖行動而未涵蓋資助恐怖分子或對恐怖組織成員加以處罰。該草案無特別條款針對意圖資助或共謀或組織或指示他人從事資助恐怖分子之處罰規定。第 2 條及第 13 條第 2 項規定資助恐怖組織之犯罪行爲必須是已完成或進行中爲限。

138) Article 12, being the penalty provision for those engaged in terrorist acts, also provides that "an attempt offense" is also "punishable". It further provides a sentence of not more than 2 years imprisonment for a "preparatory offence" – this Article relates to terrorist acts only and does not cover FT or being a member of a terrorist organisation. There is no specific provision in the draft law which makes it an offence to attempt FT or participate as an accomplice or organise or direct others to commit FT. Article 2 and Article 13 paragraph 2 provide that it is an offence to "finance" a terrorist organization which indicates that there must be evidence that such a person has or is financing a terrorist organisation.

139) 刑法第 3 條適用於在中華台北領域內犯罪，包括從屬犯罪如未遂、幫助、煽動、參加或唆使他人犯罪，但是該法對於「犯罪行爲」一詞並無定義，而在反恐怖行動法中引用時應予釐清，以避免刑法對於從屬犯罪之疑惑延伸到資助恐怖分子犯罪。如前所述，中華台北有關機關指出，如果該人「僅於事前參加謀議，且於犯罪之實施並無支配力，則基於中華台北法律不處罰思想犯之原則，並不在處罰之列」。這可能衝擊任何中華台北將來可能導入之反恐立法，例如對於幫助恐怖攻擊行動計畫者該如何處罰等。

139) Article 3 of the Criminal Code applies the Code to "an offence committed within the territory of" Chinese Taipei and contains ancillary offences that include attempts, aids, incites, joins or solicits others in an offence but there is no definition of the term "offence" in the Code or reference to it in the draft law which would clarify for the avoidance of doubt that the ancillary provisions of the Code apply to the FT offence. As mentioned earlier, the Chinese Taipei authorities advise that if a person has "participated in the planning but have no power to dominate the act of offence, they shall not be punished, that is based on the principle of not punishing ideological offenders". This may have an impact on any counter-terrorism legislation that Chinese Taipei may introduce – for example, where a person has assisted in the planning of a terrorist attack.

140) 反恐怖行動法草案第 15 條規定資助恐怖分子應被視爲洗錢防制法第三條第一項所定之重大犯罪，符合最低本刑爲 5 年以上有期徒刑之門檻。而反恐怖行動法第 13 條第 2 項對於資助恐怖組織者，處一年以上七年以下有

140) Article 15 of the draft law provides that FT "shall be regarded as a felony prescribed in paragraph 1 of Article 3 of the MLCA". Paragraph 1 of Article 3 is the 'threshold' for "serious offence" which is a "minimum punishment of 5 years or more imprisonment". The penalty for FT under Article 13, paragraph 2 is "between 1 year and 7 years, and may be imposed a fine not

期徒刑，得併科新臺幣一千萬元以下罰金。

141) 值得注意的是對於資助恐怖分子之處刑最低爲 1 年徒刑，較洗錢防制法所稱重大犯罪之門檻爲最低 5 年徒刑爲低，如果中華台北將洗錢防制法重大犯罪之門檻降爲 6 個月，將可避免這種懷疑，而涵蓋資助恐怖分子犯行。

142) 反恐怖行動法第 14 條規定中華台北人民在領域外犯資助恐怖分子或恐怖行動之罪者，不問犯罪地之法律有無處罰規定，依本法處罰之。第 19 條進一步規定中華台北政府或其委任或委託之機構依互惠原則，得與外國政府、機構或國際組織簽訂防制國際恐怖行動之合作條約或其他國際協定。這雖非特別條款，但是延伸對恐怖組織或恐怖行動之定義及於中華台北領域之外，

143) 該草案並不允許對於資助恐怖分子之犯罪意圖得由事實客觀環境進行推論。

144) 該草案中對於人並無定義，亦未包括任何條款將刑事責任擴及法人。

145) 關於有效、合宜與勸誡性懲罰，資助恐怖分子之罰金爲新台幣 1 千萬元似乎相當實在，而處刑爲 1 年以上 7 年以下有期徒刑，又低於對此種犯行應得懲罰之期盼。一旦觸犯資助恐怖分子罪刑，現存對自然人與法人之民事及行政處罰，可以運用到被控資助恐怖分子罪行之個人與團體之處罰。

more than ten million NT in addition thereto."

141) It is noted that the "minimum" punishment for FT is 1 year which falls below the MLCA "serious crime" threshold of a "minimum of 5 years or more". If the Chinese Taipei authorities amend the MLCA to reduce the threshold to 6 months, for the avoidance of doubt, this would indeed capture the FT offence.

142) Article 14 of the draft law provides that a citizen of Chinese Taipei who has committed the offence of FT or committing a terrorist act outside the country, "shall be punished according to this Act whether it is punishable or not in the place where the crime is perpetrated." Article 19 further provides that the Chinese Taipei government and authorities can enter into "anti-terrorism treaty or other international pact of anti-terrorism cooperation" on the basis of reciprocity. There is no specific provision in the draft law however that extends the definitions of terrorist organisation or terrorist act to another jurisdiction outside Chinese Taipei.

143) The draft law does not permit the intentional element of FT to be inferred from objective factual circumstances.

144) There is no definition of "person" in the draft law and neither does it contain any provision which specifies or indicates that criminal liability extends to legal persons.

145) As to effective, proportionate and dissuasive penalties, whereas the fine of NT 10 million for FT seems substantial, the imprisonment penalty being a minimum of 1 year and a maximum of 7 years, falls well below what one would expect for such an offence. Once FT is criminalised, the existing civil or administrative sanctions against natural and legal persons, could be utilised against a person or entity that has been charged with or found guilty of FT.

建議第32項(Recommendation 32)

146) 中華台北對於資助恐怖分子並無統計資料，主要因爲尚未予以罪刑化。

146) There are no statistics for FT in Chinese Taipei given that it has not yet been criminalised.

2.2.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

147) 建議有關機關將反恐怖行動法送立法院之前，重新檢討並重擬，以確保符合聯合國制止資助恐怖分子公約及特別建議第 II 項之要求。

147) It is recommended that the authorities review and re-draft the draft Counter-Terrorism Act Bill to ensure that it satisfies the requirements of the UN Terrorist Financing Convention and SR II before submitting it to the Legislative Yuan.

148) 鼓勵中華台北儘快完成反恐怖行動法之草擬作業並通過立法院之立法程序。

148) Chinese Taipei is encouraged to finalise the draft law and have the law passed by the Legislative Yuan as soon as possible.

2.2.3 特別建議第II項遵循評等(COMPLIANCE WITH SPECIAL) RECOMMENDATION II

	評等	評等理由摘述
特別建議第II項	NC	資助恐怖分子尚未罪刑法。
SR.II	NC	FT has not been criminalised
建議第32項	LC	對於資助恐怖分子並無統計資料，因爲尚未予以罪刑化。(這是一項綜合評等)
R.32	LC	There are no statistics as FT has not been criminalised (NB, this is a composite rating)

2.3 凍結、扣押及沒收犯罪資產--建議第3項 (CONFISCATION, FREEZING AND SEIZING OF PROCEEDS OF CRIME - R.3)

2.3.1 說明與分析 (DESCRIPTION AND ANALYSIS)

建議第3項(Recommendation 3)

149) 有關規定沒收、凍結及扣押犯罪資產之法律條文，散見於許多法律，包括洗錢防制法、刑法、刑事訴訟法、毒品危害防制條例、警察職權行使法及組織犯罪防制條例等。

149) The legal provisions that provide for the confiscation, freezing and seizing of proceeds of crime ("POC") are scattered throughout several laws, namely the MLCA; the Criminal Code; the Criminal Procedure Code; the Statute for Narcotic Hazards Control; the Police Powers Act and the Organised Crime Prevention Act.

150) 洗錢防制法第 4 條規定：本法所稱因犯罪所得財物或財產上利益，係指下列各款之一者：

1 因犯罪直接取得之財物或財產上利益。

2 因犯罪取得之報酬。因前二款所列者變得之物或財產上利益。但第三人善意取得者，不在此限。

150) Article 4 of the MLCA provides: "As used in this Act, the "property or property interests obtained from the commission of the crime" means:

1. The property or property interests obtained directly from the commission of the crime.
2. The remuneration obtained from the commission of the crime. The property or property interests derived from the above two subsections. This provision, however, is not applicable to a third party who obtains in good faith the property or

property interests prescribed in the preceding two subsections."

151) 洗錢防制法第 12 條第 1、2 項進一步規定：
犯第九條之罪者，其因犯罪所得財物或財產上利益，除應發還被害人或第三人者外，不問屬於犯人與否，沒收之。如全部或一部不能沒收時，追徵其價額或以其財產抵償之。
爲保全前項財物或財產上利益追徵或財產之抵償，必要時，得酌量扣押其財產。
對於外國政府、機構或國際組織依第十四條所簽訂之條約或協定，請求我國協助之案件，如所涉之犯罪行爲符合第三條所列之罪，雖非我國偵查或審判中者，亦得準用前二項之規定。

151) Article 12 paragraphs 1 and 2, of the MLCA further provides:
"The property or property interests obtained from the commission of a crime by an offender violating the provisions set forth in Article 9 of this Act, other than that which should be returned to the injured party or a third party, shall be confiscated, regardless of whether the property or property interests belong to the offender or not. Whenever the above property or property interests can not be confiscated in whole or in part, the value thereof shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender. The offender's property may be seized, if necessary, to protect the property or property interests obtained from the commission of a crime by an offender violating of the provisions set forth in Article 9 of this Act."

152) 洗錢防制法第 3 條亦涵蓋下列洗錢前置重大犯罪之列舉用語：
下列各款之罪，其犯罪所得在新臺幣二千萬元以上者，亦屬重大犯罪：
1 刑法第三百三十六條第二項之罪。
2 政府採購法第八十七條至第九十一條之罪。

152) This phrase is also used in paragraph 3 of Article 3 which lists the predicate offences for ML:
"The following crimes also fall into the category of the "serious crimes" if the property or property interests obtained from the commission of the crime(s) exceeds NT 20 million dollars:
1. The crimes prescribed in Paragraph 2 of Article 336 of the Criminal Code.
2. The crimes prescribed in Articles 87 and 91 of the Government Procurement Act."

153) 刑法第 336 條第 2 項提及刑法第 335 條犯行之罪刑化（有關「意圖爲自己或第三人不法之所有，而侵占自己持有他人之物者」）並及於公務上或因公益所持有之物。

153) Article 336, paragraph 2 of the Criminal Code refers to the offence criminalised under Article 335 of the Criminal Code (it is an offence for "a person who has lawful possession of a thing belonging to another and who misappropriates it with intent illegally to defraud for himself or for a third person") and refers to a person having lawful possession pf a thing resulting from "his occupational fiduciary relationship".

154) 政府採購法第 87 條對於使用「強暴、脅迫、藥劑或催眠術」手段，意圖強迫廠商投標

154) Articls 87 of the Government Procurement Act makes it an offence to use "violence, coercion, drugs or hypnosis" in an attempt to force a firm to bid or not to bid for

或不爲投標政府採購案，定爲一種犯罪行爲。第 91 條對於受委託「規劃、設計或專案管理或代辦採購」之廠商或人員違反相關法律規定而取得不法個人利益，亦定爲一種犯罪行爲。

155) 洗錢防制法第 2 條對於洗錢罪刑化之條文提及「因重大犯罪所得財物或財產上利益」如下：

「本法所稱洗錢，係指下列行爲：

1. 掩飾或隱匿因自己重大犯罪所得財物或財產上利益者。
2. 掩飾、收受、搬運、寄藏、故買或牙保他人因重大犯罪所得財物或財產上利益者。」

156) 刑法第 38-40 條於包涵有關沒收犯罪資產之一般性條文如下：

第 38 條：

「下列之物沒收之：

1. 違禁物。
2. 供犯罪所用或犯罪預備之物。
3. 因犯罪所生或所得之物。

前項第一款之物，不問屬於犯罪行爲人與否，沒收之。

第一項第二款、第三款之物，以屬於犯罪行爲人者爲限，得沒收之。但有特別規定者，依其規定。」

第 39 條：

「免除其刑者，仍得專科沒收。」

第 40 條：

「沒收，除有特別規定者外，於裁判時併宣告之。

違禁物或專科沒收之物得單獨宣告沒收。」

government tenders. Article 91 makes it an offence for a person or firm entrusted with the " plan, design, screen, oversee construction, take charge of special-case management, or do procurement" to seek illegal private gains or obtain profit by violating the law related thereto.

155) Article 2 which criminalises ML refers to "property or property interests obtained from a serious crime":

"As used in this Act, the crime of "money laundering" is defined as any person who –

1. Knowingly disguises or conceals the property or property interests obtained from a serious crime committed by themselves or;
2. Knowingly conceals, accepts, transports, stores, intentionally buys, or acts as a broker to manage the property or property interests obtained from a serious crime committed by others."

156) Articles 38 to 40 of the Criminal Code also contain general provisions which provide for confiscation of POC:

"Article 38

The following things shall be confiscated:

1. Contraband;
2. A thing used in the commission of or preparation for the commission of an offence;
3. A thing acquired through the commission of an offence.

A thing specified in item 1 of paragraph I of this Article shall be confiscated whether or not it belongs to the offender.

A thing specified in items 2 or 3 of paragraph I of this Article may be confiscated only if it belonged to the offender; Provided, That if special provision has been made therefore, such provision shall apply."

Article 39

If punishment is remitted, confiscation may, nevertheless, be imposed independently.

Article 40

Confiscation, except special provision has been made therefore, shall be pronounced at the time of the decision.

A prohibited thing may be pronounced confiscated separately."

157) 刑法第 38 條提及「物」乙詞，在刑法中並未予以定義，雖然中華台北有關機關指出該「物」之定義在民法中爲「不動產與動產」，但是相關條文並未提供。

157) The term "thing" as referred to in Article 38 above, is not defined in the Criminal Code although the Chinese Taipei authorities advise that this term means "real property and any personal property" and is defined in the Civil Code – the relevant provision of which has not been provided.

158) 另外，有關規定特定犯罪行爲之犯罪資產沒收法律如下：

a) 公務員收受賄賂或其他不正利益者爲犯罪資產，所收受之賄賂沒收之。如全部或一部不能沒收時，追徵其價額—刑法第 121 條。

b) 犯罪組織財產及參加之組織者之財產，除應發還被害人者外，應予追繳、沒收。如全部或一部不能沒收者，追徵其價額。–組織犯罪防制條例第 7 條。

c) 毒品及專供製造或施用毒品之器具及供犯罪所用或因犯罪所得之財物，如全部或一部不能沒收時，追徵其價額或以其財產抵償之。另有條款規定「犯罪所使用之水、陸、空交通工具沒收之。」--毒品危害防制條例第 18、19 條。

158) In addition, the laws provide for POC confiscation in terms of certain specific offences:

a) where a public official receives POC as a result of accepting a bribe or other improper benefit, any benefit received can be confiscated or the value thereof collected from the offender - Article 121 of the Criminal Code;

b) the property of a criminal organisation and a participant of a criminal organisation minus any portion belonging to the victims. If the property cannot be confiscated in part or in whole, then an amount equivalent to the ascribed monetary value of the said property can be levied against the offender – Article 7 of the Organised Crime Prevention Act;

c) narcotics and implements that are used for manufacturing drugs and other property used in committing drug offences. Where the "whole or part of such property is nonconfiscable the offender is required to pay the equivalent value of such property either by cash or by offsetting the price thereof with his/her property". There is also provision to confiscate "means of water, land and/or air transportation that have been used by the offender in committing the offence" – Articles 18 and 19 of the Statute for Narcotic Hazards Control.

159) 凍結或扣押犯罪資望之法律權力訂在洗錢防制法第 8-1 條第 1-4 項：

檢察官於偵查中，有事實足認被告利用帳戶、匯款、通貨或其他支付工具從事洗錢者，得聲請該管法院指定六個月以內之期間，對該筆洗錢交易之財產爲禁止提款、轉帳、付

159) The legal authority to freeze or seize POC is set out in Article 8-1 paragraphs 1 to 4 of the MLCA:

"Whenever the prosecutor obtains sufficient evidence to prove that the offender has engaged in money laundering activity by transporting, transmitting, or transferring a monetary instrument or funds through bank deposit, wire transfer, currency exchange or other means of payment, the prosecutor may

款、交付、轉讓或其他相關處分之命令。

其情況急迫，有相當理由足認非立即為上開命令，不能保全得沒收之財產或證據者，檢察官得逕命執行之。但應於執行後三日內，報請法院補發命令。法院如不於三日內補發時，應即停止執行。

前項禁止提款、轉帳、付款、交付、轉讓或其他相關處分之命令，法官於審判中得依職權為之。

前二項命令，應以書面為之，並準用刑事訴訟法第一百二十八條規定。

request the court to order the financial institution to freeze that specific money laundering transaction to prevent withdrawal, transfer, payment, delivery, assignment or other related property disposition of the involved funds.

The prosecutor on their own authority may freeze a specific money laundering transaction and request the court's approval within three days whenever the prosecutor has probable cause to believe that the property or property interests obtained by the offender from the commission of crime are likely to disappear under exigent circumstances. The prosecutor must immediately remove the hold on transaction if the prosecutor fails to obtain the court's approval within three days.

During the trial proceeding, the presiding judge has discretion to order a financial institution to freeze the offender's money laundering transactions for purposes of withdrawal, transfer, payment, delivery, assignment or other related property disposition.

The order to freeze the offender's money laundering transactions for withdrawal, transfer, payment, delivery, assignment or other related property disposition in a financial institution must be in writing and meet the requirements set forth inArticle 128 of the Criminal Procedure Code."

160) 刑事訴訟法第一百二十八條規定搜索應用搜索票，並應記載下列事項：

a) 案由。

b) 應搜索之被告、犯罪嫌疑人或應扣押之物。但被告或犯罪嫌疑人不明時，得不予記載。

c) 應加搜索之處所、身體、物件或電磁紀錄。

d) 有效期間，逾期不得執行搜索及搜索後應將搜索票交還之意旨。

160) Article 128 provides that the search warrant required to conduct a search, must contain:

a) Offence charged;

b) The accused or suspect to be searched or the property to be seized; if the accused or suspect is unknown, the same can be waived;

c) The place, person, property or electronic record to be searched;

d) The period that the warrant remains valid shall be specified; no search can be made after the expiration date; search warrant shall be returned after its execution.

161) 搜索票，由法官簽名。法官並得於搜索票上，對執行人員為適當之指示。核發搜索票之

161) A search warrant shall be signed by a judge; the judge may specify proper instructions, to be followed by the person executing the

程序，不公開之。

search, on the search warrant. The procedure in issuing of the search warrant shall not be open to the public."

162) 就洗錢防制法第 8-1 條第 2 項而論，該法條之運用可以由檢察官單方面發動：
檢察官基於職權得凍結有事實足認被告利用之交易，其情況急迫，有相當理由足認非立即為上開命令，不能保全得沒收之財產或證據者，檢察官得逕命執行之。但應於執行後三日內，報請法院補發命令。法院如不於三日內補發時，應即停止執行。

162) In terms of paragraph 2 of Article 8-1, an application under Article 8-1 can be made ex parte:
"The prosecutor on their own authority may freeze a specific money laundering transaction and request the court's approval within three days whenever the prosecutor has probable cause to believe that the property or property interests obtained by the offender from the commission of crime are likely to disappear under exigent circumstances. The prosecutor must immediately remove the hold on transaction if the prosecutor fails to obtain the court's approval within three days."

163) 洗錢防制法第 12 條第 2 項規定洗錢犯罪者之財產在必要時得予扣押，以保全前項財物或財產上利益追徵或財產之抵償。

163) Article 12, paragraph 2, provides that property of an ML 'offender' "may be seized if necessary, to protect the property or property interests obtained from the commission of ML.

164) 刑事訴訟法第 11 章亦是有關搜索及扣押之規定。

164) Chapter XI of the Code of Criminal Code also sets out provisions relating to search and seizure:

156) 刑事訴訟法第 128-1 條規定，偵查中檢察官認有搜索之必要者，得以書面記載被告或嫌疑人被搜索及財產被扣押之相關事項，並敘述理由，聲請該管法院核發搜索票。司法警察官因調查犯罪嫌疑人犯罪情形及蒐集證據，認有搜索之必要時，得依前項規定，報請檢察官許可後，向該管法院聲請核發搜索票。

165) Article 128-1 - during the investigation stage, if the public prosecutor deems that a search is necessary, he or she can apply for a search warrant in writing, containing information regarding the accused or suspect to be searched and property to be seized, together with the reason thereof. Under this provision, a police officer, for the purpose of investigating the offence and gathering evidence, may, after obtaining permission from the public prosecutor, apply for a search warrant from the court.

166) 刑事訴訟法第 130 條授權檢察官、司法警察逮捕被告、犯罪嫌疑人或執行拘提、羈押時，雖無搜索票，得逕行搜索其身體、隨身攜帶之物件、所使用之交通工具及其立即可觸及之處所。

166) Article 130 – authorises the prosecutor and police to search without warrant, an accused or a suspect detained or arrested (with or without a warrant) including the "items he is carrying, the transportation vehicle he is using, and the premises within his immediate control".

167) 刑事訴訟法第 131 條授權檢察官、司法警察無搜索票，得

167) Article 131 – authorises the prosecutor or police to search a dwelling or other premises

逕行搜索住宅或其他處所：於偵查中確有相當理由認爲情況急迫，非迅速搜索，二十四小時內證據有僞造、變造、湮滅或隱匿之虞者。並應於實施後三日內陳報該管法院。法院認爲不應准許者，應於五日內撤銷之。

without a search warrant, during the investigation stage, if there is probable cause to believe that circumstances are exigent and there are sufficient facts to justify an apprehension that the evidence shall be destroyed, forged, altered, or concealed within twenty four hours unless a search is conducted immediately. Such a search is to be reported to the court within 3 days and if the court decides hat the search should not be approved the court shall cancel it within five days.

168) 刑事訴訟法第 133 條授權對於可爲證據或得沒收之物，得扣押之。對於應扣押物之所有人、持有人或保管人，得命其提出或交付。

168) Article 133 – authorises "a thing which can be used as evidence or is subject to confiscation" to be seized and that the "owner, possessor, or custodian of the property subject to seizure may be ordered to surrender or deliver it".

169) 刑事訴訟法第 138 條規定如果應扣押物之所有人、持有人或保管人無正當理由拒絕提出或交付或抗拒扣押者，得用強制力扣押之。

169) Article 138 – provides that if the "owner, possessor, or custodian of property which should be seized refuses to surrender or deliver it or resists the seizure without justified cause, such seizure may be effected by force".

170) 2003 年警察職權行使法規定有關辨識及追查犯罪資產之權力：

a) 第 11 條授權警察以目視或科技工具，進行觀察及動態掌握等資料蒐集活動，其間以不超過 1 年爲限制（如有必要可以延長），對象以有事實足認其有觸犯最輕本刑五年以上有期徒刑之罪之虞者，或有事實足認其有參與職業性、習慣性、集團性或組織性犯罪之虞者爲限。

b) 第 12 條授權警察爲防止危害或犯罪，認對公共安全、公共秩序或個人生命、身體、自由、名譽或財產，將有危害行爲，或有觸犯刑事法律之虞者，得遴選第三人秘密蒐集其相關資料。

170) The Police Powers Act 2003 provides further powers to identify and trace proceeds:

a) Article 11 – authorises Police officers to collect information through surveillance methods or 'visual observation' for a period of time not exceeding 1 year (one extension can be granted if necessary), where the Police believe a suspect is about to commit any crime punishable by imprisonment of more than 5 years; or it is believed that a suspect threatens to participate in a professional, criminal, group or organised crime.

b) Article 12 – authorises the Police to instruct a willing "Third Party" to covertly or secretly collect information in the interests of "preventing damage or crime, if the police consider that public security, public order, or personal life, body, freedom, reputation or property will be damaged or that criminal laws will be violated". A "Third Party" can include a person or persons contacting or meeting with the suspect.

c) Article 16 – authorises the Police to transmit personal data upon receipt of other authorities' request. Other authorities may,

c) 第 16 條授權警察於其行使職權之目的範圍內，必要時，得依其他機關之請求，傳遞與個人有關之資料。

d) 第 17 條規定所蒐集資料之利用，應於法令職掌之必要範圍內爲之，並須與蒐集之特定目的相符。

based on a police request, also transmit personal data which such authority holds

d) Article 17 of this Act provides that any information collected "shall be used in accordance with the Law within the requisite scope of legal duties and shall meet the specific purpose of collection"

171) 通訊保障及監察法亦規定警察於調查最輕本刑爲 3 年以上有期徒刑之犯罪時，得攔截私人通訊之權力。

171) The Communication Protection and Monitoring Act also sets out powers whereby the Police may intercept private communications during the course of an investigation into crimes punishable by at least 3 years imprisonment.

172) 行政院金融監督管理委員會組織法第 5 條第 3 項規定該會有權聲請核發搜索票，並會同司法警察，進入疑爲藏置帳簿、文件、電子資料檔等資料或證物之處所，實施搜索：
金管會及所屬機關對涉有金融犯罪嫌疑之案件，得敘明事由，報請檢察官許可，向該管法院聲請核發搜索票後，會同司法警察，進入疑爲藏置帳簿、文件、電子資料檔等資料或證物之處所，實施搜索；搜索時非上述人員不得參與。經搜索獲得有關資料或證物，統由參加搜索人員，會同攜回本會及所屬機關，依法處理。

172) Article 5 paragraph 3 of the Organic Act Governing the Establishment of the Financial Supervisory Commission, Executive Yuan also sets out the FSC's powers to seek a search warrant enabling the FSC to accompany judicial police authorities to enter and search for account books, documents, electronic files and other evidence:
" In a case involving suspected financial crime, the FSC and any subordinate agency thereof may present the facts of the case to a prosecutor in seeking permission from the latter to file a motion in the court of jurisdiction for issuance of a search warrant. Once the search warrant has been issued, the FSC or its subordinate agency may, accompanied by judicial police authorities, enter and search the suspected hiding place of the relevant account books, documents, electronic files, and other such materials or evidence. No one other than the parties mentioned above may take part in the search. The personnel who conduct a search shall transport all relevant materials and evidence obtained during the search to the FSC or a subordinate agency thereof, where it shall be handled in accordance with the law."

173) 對於善意第三人權利之保護規定在洗錢防制法第 4 條及第 12 條。第 4 條第 3 項免除因前二款所列者變得之物或財產上利益善意取得之第三

173) Protection for the rights of bona fide third parties is provided under Articles 4 and 12 of the MLCA. Article 4, paragraph 3 exempts a third party who "obtains in good faith the property or property interests" prescribed in the preceding paragraphs. Article 12 also

者。第 12 條亦免除應發還被害人或第三人者之財產沒收。如全部或一部分財產或財產不能沒收時，追徵其價額或以其財產抵償之。

exempts from confiscation any property "which should be returned to the injured party or a third party". Where property or property interests cannot be confiscated, the value thereof "shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender".

174) 中華台北無特定法律條款可以讓涉及被凍結、扣押及沒收財產之相關人在認爲有關機關採取之行動有偏見情形下，可以採取補救行動。然而有關機關提到刑事訴訟法第 413-1 條及 470-1 條，任何人不同意法官或檢察官沒收犯罪資產作爲時，可以聲請法院撤銷或變更決定。

第 416-1 條：對於審判長、受命法官、受託法官或檢察官所爲下列處分有不服者，受處分人得聲請所屬法院撤銷或變更之。

第 470-1 條(應該是第 470 條)：罰金、罰鍰、沒收、沒入、追徵、追繳及抵償之裁判，應依檢察官之命令執行之。但罰金、罰鍰於裁判宣示後，如經受裁判人同意而檢察官不在場 者，得由法官當庭指揮執行。

174) There are no specific statutory provisions which make void any actions, whether contractual or otherwise, where the persons involved knew or should have known that the authorities would be prejudiced in their ability to recover property as a result of their actions. However the Chinese Taipei authorities refer to Articles 416-1 and 470-1 whereby any person disagreeing with the decision of a judge or prosecutor to confiscate POC can apply to the court to have such decisions set aside or altered.

"Article 416-1

A person who disagrees with one of the following measures taken by a presiding judge, commissioned judge, requisitioned judge or prosecutor may apply to the court to which such officer is attached to have measures set aside or altered.

Article 470-1

A decision imposing a fine, pecuniary penalty, confiscation, forfeiture, recovery of money, compulsory execution and compensation shall be executed in accordance with the order of the prosecutor; Provided that a fine or pecuniary penalty may be executed under the instructions of a judge in open court if, after the judgment is pronounced, the sentenced person agrees with the decision and the prosecutor is not present."

附加因素(Additional elements)

175) 有關組織財產被發現涉及犯罪，依 1996 年組織犯罪防制條例第 7 條規定：

犯第三條之罪者，其參加之組織所有之財產，除應發還被害人者外，應予追繳、沒收。如全部或一部不能沒收者，追徵

175) With regard to the property of organisations that are found to be primarily criminal in nature, Article 7 of the Organised Crime Prevention Act 1996 provides:

"Article 7

The overall property of a criminal organization owned by an offender acting in contravention of Article 3 of this Act shall be

其價額。
犯第三條之罪者，對於參加組織後取得之財產，未能證明合法來源者，除應發還被害人者外，應予追繳、沒收。如全部或一部不能沒收者，追徵其價額。
爲保全前二項之追繳、沒收或追徵，檢察官於必要時得扣押其財產。

traced for collection or confiscated after deducting any portion belonging to the victims. Where the property can not be confiscated in part or in whole, then an amount equivalent to the ascribed monetary value of the said property shall be traced and levied.
If the source of obtaining the property can not be legally established, any property obtained by an offender acting in contravention of Article 3 of this Act after participating in the criminal organization shall be traced for collection or confiscated subsequent to deducting the portion to be returned to the victims. Where the property can not be confiscated in part or in whole, then an amount equivalent to the ascribed monetary value of the aside property shall be traced for levied.
The prosecutor may where necessary sequester the property of the said offender referred to in the preceding two paragraphs to facilitate the process of tracing for collection, confiscation, or tracing for levying."

176) 第 3 條爲處罰規定，包括犯罪組織之發起、主持、操縱或指揮犯罪組織者及參與者。

176) Article 3 is the penalty provision for an "indicted instigator, principal, controller or commander" and "participant" of a "racketeering criminal organisation".

177) 中華台北之法律並無民事沒收之規定。

177) The laws of Chinese Taipei do not provide for civil forfeiture.

178) 鑑於刑法第 161 條清楚規定檢察官對於被訴犯罪事實之舉證責任，中華台北有關機關指出組織犯罪防制條例第 7 條第 2 項存有例外情形，對於財產合法來源之證明要由犯案人負擔。

178) Whereas Article 161 of the Criminal Code clearly places the burden of proof on the prosecutor as to the facts of the crime charged against the accused, the Chinese Taipei authorities advise that an exception exists in Article 7 paragraph 2 of the Organised Crime Prevention Act, whereby the onus for proving that the property is from legitimate sources is placed on the offender.

建議第32項(Recommendation 32)
附加因素(Additional elements)

179) 中華台北有關機關保有洗錢前置犯罪導致沒收之數量及類型統計，相關統計表如第 2.1.1 及第 2.6.1 節。

179) The Chinese Taipei authorities do keep statistics on the number and type of predicate offences that have resulted in confiscation. These tables are set out in Section 2.1.1 and Section 2.6.1.

2.3.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

180) 值得注意的是洗錢防制法第 2 條有關「因重大犯罪所得財物或財產上利益」之用語，以及第 4 條及第 12 條提及「因犯罪所得財物或財產上利益」。這可能引發洗錢是否涵蓋在第 4 條及第 12 條之內，因爲兩者用語有所區別。但是第 12 條確實提及「犯第九條之罪者，其因犯罪所得財物或財產上利益」，而第 9 條是有關洗錢罪之處罰。中華台北有關機關確認第 4 條及第 12 條中省略「重大」一詞，在適用洗錢犯罪上並不會有任何法律障礙，但是有關機關應會想要釐清第 2 條之法律明確用語亦使用在第 4 條及第 12 條。

180) It was noted that Article 2 utilises the phrase "property or property interests obtained from a serious crime" whereas Article 4 and 12 refer to "property or property interests obtained from the commission of a crime". This may raise an issue as to whether ML is covered under Articles 4 and 12 given that Article 2 refers to "serious" crime and there is a distinction between "serious crime" (being a predicate offence) but Article 12 does refer to "the property or property interests obtained from the commission of a crime by an offender violating the provisions set forth in Article 9 of this Act". Article 9 is the penalty provision for the ML offence. The Chinese Taipei authorities have also confirmed that the omission of the word "serious" from Articles 4 and 12 does not present any legal difficulties in the application of these articles to the ML offence but the Chinese Taipei authorities may want to clarify this in the legislation by ensuring the exact phrase used in Article 2 is used in Articles 4 and 12.

181) 值得注意的是刑法第 38 條有關「供犯罪所用或犯罪預備之物」及「因犯罪所生或所得之物」屬於「犯罪行爲人者爲限」得沒收之。雖然洗錢防制法第 12 條對於「犯罪所得財物或財產上利益」並無此種限制，亦會引發是否刑法第 38 條對於第三者名下犯罪資產沒收上困難之問題。

181) It is noted under Article 38 of the Criminal Code that "a thing used in the commission of or preparation for the commission of an offence" and "a thing acquired through the commission of an offence", can "only be confiscated if it belonged to the offender". Although Article 12 of the MLCA does not have such a restriction for "property or property interests", it does raise an issue as to whether Article 38 could raise any difficulties in confiscating instrumentalities of POC that are under the name of a third party.

182) 有關於「財產」及「財產上利益」之用語並未加以定義，建議中華台北有關機關修正洗錢防制法，納入對這些用語之定義，以確保洗錢犯行擴及所有直接或間接犯罪所得資產之財產類型。

182) Given that the terms "property" and "property interests" are not defined, it is recommended that the Chinese Taipei authorities amend the MLCA to include a provision that specifically identifies these terms, to ensure that the offence of ML extends to all types of property that directly or indirectly represents POC.

183) 考量無特別法律條款可以讓涉及被凍結、扣押及沒收財產之相關人在認爲有關機關採取之行動有偏見情形下，可以

183) Given that there are no specific provisions in the law which prevent or void actions, whether contractual or otherwise where persons involved knew or should have known that as a result the authorities would be

採取補救行動。建議中華台北有關機關考量修正法律以清楚回應此一需求。

prejudiced in their ability to recover the property, it is recommended that the Chinese Taipei authorities consider amending the law to clearly reflect this requirement.

2.3.3 建議第3項遵循評等(COMPLIANCE WITH RECOMMENDATIONS 3)

	評等	評等理由摘述
建議第3項	LC	● 在洗錢防制法中對於「財產」或「財產上利益」未予定義，以確保洗錢犯罪擴及所有類型之財產。 ● 對於在第三者名下「供犯罪所用或犯罪預備之物」是否可以依據刑法第38條加以沒收並下明確。
R.3	LC	● No definition of “property” or “property interests” in the MLCA to ensure that offence of ML extends to all types of property ● Unclear whether instrumentalities used or intended to be used can be confiscated if they are under the name of a third party given the provisions of Article 38 of the Criminal Code
建議第32項	LC	● 本項爲綜合評等。
R.32	LC	● NB. This is a composite rating

2.4 凍結被用以資助恐怖分子之資金--「特別建議」第III項 (FREEZING OF FUNDS USED FOR TERRORIST FINANCING - SR.III)

2.4.1 說明與分析(DESCRIPTION AND ANALYSIS)

184) 中華台北缺乏有效法律及程序以凍結聯合國第 1267 號決議案所成立之委員會列名之恐怖分子資金或其他團體之資產或凍結聯合國安理會第 1373 號決議案特定對象之恐怖分子資產。

184) Chinese Taipei lacks effective laws and procedures to freeze terrorist funds or other assets of entities designated by the UN 1267 Committee or to freeze terrorist assets of persons designated in the context of UN SCR 1373.

185) 中華台北尚未將資助恐怖分子罪刑化，但是已草擬反恐怖行動法，其中有關草案中列舉之恐怖行動已在刑法中有所規範，任何刑法關於沒收之規定應可加以運用，而組織犯罪防制條例之相關條文，亦可用於追查屬於恐怖組織之財產，以進行「整理與沒收」。

185) Chinese Taipei does not yet criminalise FT but has drafted a Counter Terrorism Act (“the draft law”). In terms of those ‘terrorist acts’ that are listed in the draft law which are already offences identified in the Criminal Code, any confiscation under the general provisions of the Criminal Code would be available for POC arising out of such cases. The provisions of the Organised Crime Prevention Act could for example, be used to trace terrorist property belonging to terrorist organisations for “collection and confiscation”.

186) 聯合國安理會第 1267 號決議案所成立之委員會列名之

186) Entities designated by the UNSCR 1267 are not ‘statutorily recognised’ in any legislation.

恐怖分子團體未在任何法律中加以認可。

187) 對於 1267 號名單或依據 1373 號其他國家提列之名單之執行義務，只見於加強客戶審查及申報疑似洗錢交易，並未充分執行特別建議第 II 項之要求。洗錢防制法第 8 條授權規定事項要求金融機構對於「交易最終受益人或交易人為行政院金融監督管理委員會函轉外國政府所提供之恐怖分子或團體者」應申報疑似洗錢交易，而金融監理機關亦將此列入銀行業防制洗錢注意事項範本，要求金融從業人員對於下列情形，應加強客戶審查並向法務部調查局申報：「交易最終受益人或交易人為行政院金融監督管理委員會函轉外國政府所提供之恐怖分子或團體者；或交易資金疑似或有合理理由懷疑與恐怖活動、恐怖組織或資助恐怖主義有關聯者。」

187) Obligations to give consideration to the 1267 lists or any other lists issued by countries under 1373 relate only to enhanced CDD and reporting suspicious transactions, which does not address the requirements at SR III. The Regulations Regarding Article 8 of the MLCA, require financial institutions to report an STR for "transactions where the ultimate beneficiary or transaction party is a terrorist or terrorist group as listed by the MOF based on information provided by foreign governments". As a result FI regulating authorities have issued ML Control Guidelines that include the quoted regulation. For example, clause 4(17) of the Bankers Association "Checklist of ML Prevention Guidelines and Procedures for Banks" provides the following as a circumstance in which a teller should "exercise extraordinary diligence" and "declare the case to the Investigation Bureau, Ministry of Justice":

"Where the end beneficiary or transaction counterpart is found to be a terrorist individual or entity as advised by foreign governments via the Financial Supervisory Commission, Executive Yuan; or where the transaction is suspected or bears reasonable reason to suspect to have been linked with a terrorist activity, terrorist organisation or subsidy to terrorism"

188) 該防制洗錢注意事項範本由金管會於 2004 年 8 月 4 日發布，要求所有金融機構於發現交易最終受益人或團體為恐怖分子或恐怖組織者，應向洗錢防制中心進行申報疑似洗錢交易。

188) This guideline was also issued by the FSC on 4 August 2004, demanding all financial institutions to file STRs with the MLPC should there be a suspicion that the final beneficiary or parties of the financial transaction are terrorists or a terrorist group.

189) 中華台北有關機關指出，洗錢防制中心建立之網頁可以連結到聯合國及美國政府列名恐怖分子及團體之網站，並提供金融機關及調查機關運用。另據了解，美國在台協會會定期提供恐怖分子團體名單予證券公會，該公會從 2001

189) The MLPC has a website which the Chinese Taipei authorities advise provides links to both UN and US Government websites that list terrorist entities which are relied upon by financial institutions and other investigative authorities. It is also understood that lists of terrorist entities are regularly provided by the American Institute in Chinese Taipei to the Securities Association. The Securities

年至 2006 年，曾轉交 59 份名單予所屬會員，而會員採取何種因應作爲並不清楚。

Association advised that it has passed on 59 official letters to its members from 2001 to 2006 provided by the American Institute, listing terrorists and terrorist organisations. It is not clear what actions would be possible by Association members.

190) 反恐怖行動法有 3 個條款與凍結、沒收恐怖分子資金有關：

a) 第 9 條—授權執法機關有權對有事實疑爲恐怖分子置放供從事恐怖行動器物之處所，或供恐怖分子搭乘、使用之車、船、航空器或其他交通工具，進行檢查。

b) 第 10 條—授權對有事實疑爲恐怖分子所使用作爲從事恐怖行動之動產、不動產或其他財產，得爲扣留或禁止處分之命令。

c) 第 11 條--有事實疑爲恐怖分子利用帳戶、匯款、通貨或其他支付工具從事恐怖行動者，有關機關得聲請法院對該筆從事恐怖行動交易之財產爲禁止提款、轉帳、付款、交付、轉讓或其他相關處分之命令。其情況急迫有相當理由足認非即爲上開命令，不能阻止恐怖行動之發生者，有關機關得逕命執行，但應於執行後三日內報請法院補發命令。法院如不於三日內補發時，應即停止執行。

190) The draft law includes 3 provisions that relate to the freezing and confiscation of terrorist funds and assets:

a) Article 9 – authorises law-enforcement authorities to inspect a place suspected of being used by terrorists to “keep their articles or equipment for use in a terrorist act, and the cars, boats, aircraft or other transportation vehicles that may be used”.

b) Article 10 – authorises the detention of or disposal ban on movable, immovable, or other assets when there is suspicion that terrorists are using them for terrorist acts.

c) Article 11 – where terrorists use “accounts, money transfer, currency or other instruments of payment for terrorist acts”, the authorities may apply, within a period of six months, to the Court for an order to ban the withdrawal, account transfer, payment, disbursement, or “take other related disposal”. In an emergency if there is reason to believe that without such an order a terrorist act cannot be prevented, the authorities may directly order an execution of such a measure, but are required to appeal to the Court within three days to issue an after-the-fact order. If the Court does not issue the order within three days, the execution must cease.

191) 該草案之條文並未依據國際要求標準，建立凍結恐怖分子資金或其他依據聯合國安理會第 1267 號決議案提列之特定對象資產之明確法律條文及程序。

191) The provisions in the draft law do not appear to address the requirements under the international standards to establish clear legal provisions and procedures to freeze terrorist funds or other assets of persons designated in the list pursuant to UNSCR 1267.

建議第32項--資助恐怖分子凍結資料(Recommendation 32 - terrorist financing freezing data)

192）無有關資助恐怖分子或恐怖

192) There are no statistics on property frozen

主義犯罪之財產凍結統計資料。

under FT or terrorism offences.

2.4.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

193）提出下列建議：

- 中華台北應建立清楚的法律條文及程序以凍結聯合國安理會第1267號決議案所提列特定恐怖分子之資金或其他資產。
- 中華台北應具備有效用之法律與程序以凍結聯合國安理會第1373號決議案所提列特定恐怖分子之資金或其他資產。
- 依據聯合國安理會第1267號及第1373號決議案之凍結行動應可以片面且毫不遲疑的進行。
- 中華台北應具備有效用之法律與程序以檢視並承認其他司法管轄體凍結機制所採取行動之效力。
- 凍結行動應擴及所有特定人士、恐怖分子及那些資助恐怖主義或恐怖組織所全部或部分擁有，直接或間接控制之資金或其他資產及其所衍生或滋息之資金或其他資產。
- 中華台北應具備有效力之系統可以將依據凍結機制所採取之行動傳達到金融行業。
- 中華台北應提供清楚指引予金融機構及其他法人或團體等可能持有凍結標的之資金或其他資產時應配合凍結機制採取相關行動之義務。
- 中華台北應具備有效力及爲大眾所熟知之程序，作爲解除凍結請求之處理及對被解除列名之個人或團體

193) It is recommended that :

- Chinese Taipei should establish clear legal provisions and procedures to freeze terrorist funds or other assets of persons designated in the list pursuant to UNSCR 1267.
- Chinese Taipei should have effective laws and procedures to freeze terrorist funds or other assets of person designated pursuant to UNSCR 1373.
- The said freezing pursuant to UNSCR 1267 and 1373 should be ex parte and without delay.
- Chinese Taipei should have effective laws and procedures to examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions.
- The freezing actions should extend to funds or other assets wholly or jointly owned or controlled, directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organisations and funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organisation.
- Chinese Taipei should have effective systems for communicating actions taken under the freezing mechanisms to the financial sector.
- Chinese Taipei should provide clear guidance to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms.
- Chinese Taipei should have effectively and publicly-known procedures for considering de-listing requests and for unfreezing the funds or other assets of delisted person or entities.
- Chinese Taipei should have effective and publicly-known procedures for unfreezing the funds or other assets of persons or entities inadvertently affected by a freezing

之資金或其他資產加以解凍。

- 中華台北應具備有效力及爲大眾所熟知之程序，作爲非列名之個人或團體之資金或其他資產不慎受到凍結機制影響時能夠加以解凍。
- 應該有清楚條款讓受到凍結行動影響之個人或團體可以得到解除之管道。
- 應具備讓資金或其他資產受到凍結之個人或團體可以透過法院復審程序進行抗辯。

mechanism upon verification that the person or entity is not a designated person.

- There should be clear provisions for persons or entities affected by the freezing actions to obtain relief.
- There should be procedures for persons or entities whose funds or other assets have been frozen to challenge that measure with a view to having it reviewed by a court.

2.4.3 特別建議第III項遵循評等(COMPLIANCE WITH SPECIAL RECOMMENDATION III)

	評等	評等理由摘述
特別建議第III項	NC	中華台北缺乏有效之法律與程序以凍結聯合國1267委員會列名或聯合國安理會第1373號決議案列名對象所持有之恐怖活動資金或其他資產。
SR.III	NC	Chinese Taipei lacks effective laws and procedures to freeze terrorist funds or other assets of entities designated by the UN 1267 Committee or to freeze terrorist assets of persons designated in the context of UN SCR 1373.
建議第32項		無依照特別建議第III項採取凍結行動之統計資料。（本項爲複合評等）
R.32		No freezing actions have been taken pursuant to SRIII (NB, this is a composite rating)

權責機關(Authorities)

2.5 金融情報中心及其功能--建議第26、30及32項(THE FINANCIAL INTELLIGENCE UNIT AND ITS FUNCTIONS-R.26, 30 & 32)

2.5.1 說明與分析(DESCRIPTION AND ANALYSIS)

194) 調查局洗錢防制中心隸屬法務部調查局，爲中華台北的金融情報中心，該中心屬於執法型金融情報中心。

194) The Money Laundering Prevent Centre (MLPC) located within the Ministry of Justice Investigation Bureau (MJIB) is the Financial Intelligence Unit for Chinese Taipei. The MLPC is categorised as a law-enforcement type FIU.

195) 洗錢防制中心係依據洗錢防制法（1996）建立於 1997 年，該中心有 6 個主要任務包括：

195) The MLPC was established in 1997 pursuant to the Money Laundering Control Act (1996). The MLPC is a National Centre that has six specific functions;

a) receiving Suspicious Transaction Reports,

a) 受理疑似洗錢交易、大額通貨交易及旅客攜帶大額外幣入出境之申報或通報；
b) 2)「反洗錢與打擊資助恐怖分子」策略研究；
c) 分析及分送「洗錢與資助恐怖分子」相關資訊；
d) 協助有關調查「洗錢與資助恐怖分子」案件；
e) 國際合作；
f) 建立並維護相關電腦資料庫。

196) 申報程序與內容已清楚列在洗錢防制法第8條，並經洗錢防制中心積極向申報機構說明相關要求。

197) 洗錢防制中心已設計申報表格及安全電腦軟體套件，以強化申報機構對洗錢防制中心之傳輸效率，該電腦軟體系統免費提供予申報機構使用，以大額通貨交易申報爲例，高達百分之九十九透過該軟體以電子方式通報到洗錢防制中心，該軟體系統操作之詳細資訊亦提供予申報機構。

198) 有關跨國境現金攜帶申報報告之電子傳遞，亦由洗錢防制中心提供海關使用，每月彙整通報。目前該兩機關都表示有意改善通報過程，希望能夠透過電子申報方式，即時通報至洗錢防制中心，惟在現在評鑑當時尚未付之實行。

199) 洗錢防制中心積極提供相關指引予申報機構。

200) 洗錢防制中心已將該指引

Currency Transaction Reports, Cross-border Currency Movement Declaration Reports and requesting further additional information when required;
b) researching AML/CFT trends and typologies and studying preventive measures;
c) analysing and disseminating ML/FT information;
d) assisting authorities to investigate ML/FT cases and coordinating related matters;
e) international cooperation on ML/FT information exchange and related matters; and
f) creating and maintaining ML/FT computer database.

196) The content of reports and reporting procedures are clearly outlined within Article 8 of the Money Laundering Control Act (MLCA). This provision has been actively promoted by the MLPC with reporting entities clearly understanding the requirements.

197) Submission forms and a secure computer software package have been designed by the MLPC to enhance the efficient transfer of reports from reporting entities directly to the MLPC. This software system provided free of charge to reporting institutions is being actively used. In relation to Currency Transaction Reports (CTRs), for example, 99% of all CTRs are reported to the MLPC via electronic means utilising this software. When this software is distributed detailed information regarding the operation of the system is also provided.

198) With regard to Cross-border Currency Declaration Reports specific software has been provided to the Customs Service for collection of information relating to these reports. This information is forwarded to the MLPC every 30 days. Both the Customs Service and the MLPC report that there is an intention to refine this process to enable instant electronic reporting however this process was not operating at the time of the onsite visit.

199) The MLPC have been active in the provision of guidance to reporting entities.

200) This guidance is provided in published form

彙集成冊出版，並透過正式及非正式訓練機會提供申報機構，該指引不僅涵蓋實際申報方式，且納入洗錢態樣與實際案例，以提高申報之警覺性。

and through both formal and informal training provided by the MLPC. This guidance relates not only to the submission of actual reports but also includes typologies and case study presentations which serve to increase the awareness of accurate reporting.

洗錢防制中心對申報機構之教育訓練統計

年度	場次	參加訓練人數
2003	166	12,833
2004	109	7,087
2005	131	15,488

Formal training presentations undertaken by the MLPC

Year	Number of Lectures	Number of participants
2003	166	12,833
2004	109	7087
2005	131	15,488

201） 在 2002 年至 2005 年間，洗錢防制中心曾提出 31 件建議獎勵金融機構及所屬員工申報疑似洗錢交易而有助於犯罪調查之案件，作爲申報機構正面回饋。

201) On 31 occasions between 2002 and 2005 the MLPC have made recommendations that financial institutions and employees be rewarded for reporting suspicious transactions that have directly assisted with investigations. These rewards in the form of written commendations provide positive feedback to the reporting agencies.

202) 洗錢防制中心亦對金融監督管理委員會及其他管理機關提供回饋，一旦該中心發現未遵循洗錢防制法之案例，會函請監理機關審核並考量合宜之制裁。

202) The MLPC also provide feedback to the Financial Supervisory Commission (FSC) or other regulatory bodies. When the MLPC identify an instance of non-compliance of the MLCA, this is reported to the regulatory body for review and sanction if appropriate.

203) 依據調查局組織條例第 23 條及刑事訴訟法第 230 條規定，洗錢防制中心人員都具備司法警察官身分，得基於司法警察官職權，適時取得執法相關資訊。另外，依據金融監督管理委員會 2006 年第 09510002020 號令規定，洗錢防制中心經過調查局局長同意之後，有權要求金融機構提供與疑似洗錢交易報告有關但未被併附之額外資訊，俾讓

203) Pursuant to Article 23 of the Investigations Bureaus Organisation Act and Article 230 of the Criminal code, all MLPC staff have the status of law enforcement officer and are thereby authorised to access law enforcement information to undertake their tasks. In addition Decree #09510002020, which was promulgated in May 2006 by the FSC, provides that the MLPC members are able to seek additional information from financial institutions upon the authority of the Director General of the Investigation Bureau. This allows the MLPC authority to actively seek any additional information

該中心可以取得任何額外資訊以妥適執行任務。

204) 於收到任何疑似洗錢交易報告或大額通貨交易報告後，即會透過電腦整合系統開始進行分析，該系統可以查詢對象犯罪紀錄及任何執法機關可以分析之電腦資料庫、海關跨國際旅客攜帶大額外幣入出境申報資料、家庭成員及就業資料、必要時可以請求稅捐機關提供納稅使用之銀行帳戶資料及收入相關資訊。

205) 該整合系統亦提供分析工具、內控及訓練系統，提供洗錢防制中心一個絕佳之資料庫，以協助分析報告並確保報告能夠有效力與有效率的處理。

206) 疑似洗錢交易報告或大額通貨交易報告經過分析之後，發現有任何可能之犯罪線索，將會分送調查局或刑事警察局作進一步調查，而分送是依據可能涉及之前置犯罪屬性加以決定，該中心之工作手冊及作業要點是提供何時及如何分送資訊之內部指導文件。

207) 洗錢防制中心於必要時亦分送相關報告予其他機關，諸如稅捐單位。

208) 洗錢防制中心雖然附屬於調查局，但有自己的作業預算並且能夠獨立自主運作。本評鑑團知悉該中心亦針對高階政治人物侵占公款進行分析，顯示在功能及決定上不會受到不當影響與干擾。

209) 洗錢防制中心資料庫是涵

required to properly undertake its function.

204) Upon receipt of an STR or CTR an analysis is commenced using an 'integrated computer system'. This system allows searches to be undertaken of a subject's criminal history and any intelligence held on databases shared by the law enforcement community. Accessible within the 'integrated system' are customs border movement data, identities of family members and employment details. Provided by the tax authorities are records of all citizens' bank account details and specific income related information is available upon request.

205) The 'integrated system' also provides as an analysis tool, internal control system and training system. This system and capability provides the MLPC with an excellent data base to assist with the analysis of reports and ensures reports are processed effectively and efficiently.

206) Having undertaken an analysis if there is suspicion that the report may relate to criminal conduct the STR or CTR is forwarded to either the MJIB or the CIB of the National Police Authority for the matter to be further investigated. The agency which the report is disseminated to is determined by the nature of the suspected predicate activity. Internal guidelines titled 'Working Manual of the MLPC' and 'Operation Regulation of MLPC' provides guidance on when and how to disseminate the reports.

207) The MLPC also disseminates reports to other agencies such as the taxation authorities when appropriate.

208) The MLPC although allied to the Investigation Bureau has its own operating budget and operates with independence and can work autonomously. The evaluation team was informed of analysis work that was undertaken in relation to the misappropriation of funds by a high level political figure. This reflects that the MLPC is free from outside unauthorised influence or interference in its functions and decisions.

209) The MLPC database is contained within the

蓋在調查局的資料庫之下，該局對於資料庫每日都有當地與遠程備份，所以面對災難可以毫無問題的馬上復原。

MJIB database. The database is 'backed up' to both local and remote storage devices daily. There would be no issue of immediate recovery in the event of a disaster.

210) 該電腦資料庫由洗錢防制中心維護並提供有業務需要之調查員查詢，該中心表示資料庫受到廣泛運用，以刑事警察局爲例，在過去 4 年即曾查詢近 250,000 筆資料。而查詢該資料庫受到嚴格限制，洗錢防制中心以外之其他可以進行查詢之人員，透過廣域網路進行查詢時，會透過網路地址識別有可以進行連線，且資料庫查詢紀錄會加以記載並由上級進行查核。

210) The computer database maintained by the MLPC is a resource that is available to all investigators subject to the required criteria. The MLPC advise that data base is widely used and the CIB for example have used this database on more than 250,000 occasions over the last 4 years. Access to the data base is strictly controlled. When appropriate, officers outside of the MLPC are given individual access via the intranet with controls linked to individual IP addresses. The database records details of all enquiries made and supervisors have oversight ability.

211) 洗錢防制中心位在調查局局本部園區之內，具備嚴格管制之安全環境與建築。

211) The MLPC office is contained within the Investigation Bureau Head Quarters where strict security of the buildings and environs is in place.

212) 有一些法律措施可以確保洗錢防制中心持有之資訊得到安全保護：

a) 洗錢防制法第 11 條第 1 項規定，公務員洩漏或交付關於申報疑似洗錢交易或洗錢犯罪嫌疑之文書、圖畫、消息或物品者，處三年以下有期徒刑。

b) 刑法第 132 條規定，公務員洩漏或交付關於中華民國國防以外應秘密之文書、圖畫、消息或物品者，處三年以下有期徒刑。

212) There are legislative measures to secure the information held by the MLPC, including:

a) The First Section of Article 11 of the MLCA: Any government official, who reveals, discloses or turns over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others shall be sentenced to imprisonment of not more than three years.

b) Article 132 of Criminal Code: Any government official who discloses or turns over documents, pictures, information or things of secret nature relating to matters other than national defence shall be sentenced to imprisonment of not more than three years.

213) 洗錢防制中心自 1997 年開始即每年編印年報，內容涵蓋相關統計、洗錢趨勢、態樣、工作重點及重要紀事等報告。一些報告經評鑑團檢視之後，認爲具相當之專業性及實用性。

213) The MLPC has prepared an annual report each year since 1997. The annual report has included the related statistics, trends, typologies and the achievements of the MLPC and events from within that year. A number of these reports were reviewed by the Evaluation Team and they were found to be comprehensive and informative.

214) 另外，洗錢防制中心有各種

214) In addition the MLPC has various

不同出版品及報告提供給執法機關、法院、檢察官、金融監理機關、金融機構、立法機關及研究機構參考，包括：

a) 「洗錢案例彙編」第一至四輯。
b) 「疑似洗錢交易 Q&A」。
c) 「洗錢的防制課題與展望」。
d) 「洗錢防制實用法規」。
e) 「艾格蒙聯盟案例一百」。

publications and reports which have been disseminated to law enforcement agencies, courts, prosecutors, financial supervisory agencies, financial institutions, legislative bodies and research organisations for references including:

a) "Cases Collection and Study on Money Laundering" from Vol 1 to Vol 4;
b) "Q&A in relation to Reporting Suspicious Transactions";
c) "The Challenge and Prospect of Money Laundering Prevention";
d) "AML/CFT Laws and Decrees Collection"; and
e) "Translation of 100 Cases from the Egmont Group".

215) 洗錢防制中心亦將相關資訊貼在調查局的網站，包括年報、洗錢防制法、洗錢定義、該中心之定位與工作任務、一般防制洗錢之指引及聯絡方式等資料。

215) The MLPC also post information on the MJIB website. This includes the annual reports, the MLCA, the definition of money laundering and explaining who the MLPC are and what they do. There are also general guidelines and contact details for the MLPC.

216) 舉辦「銀行洗錢防制負責人研討會」，邀請所有國內重要之本國銀行及外商銀行負責協調監督洗錢防制業務主管人員共同研討洗錢／資助恐怖分子之新管道、趨勢與技巧、銀行在面對「反洗錢與打擊資助恐怖分子」相關要求所面臨之問題與解決方式、洗錢防制中心與銀行間之回饋機制等。該研討會大約每二年舉辦乙次。

216) A "Forum for Compliance Officers of banks" is hosted by the MLPC. At this forum, all the compliance officers of AML/CFT from domestic and foreign banks are invited to discuss new methods, trends, techniques of ML/FT, the problems that banks may face and the solutions on AML/CFT requirements and the feedback mechanism between MLPC and banks. The forum is held every two years.

217) 籌辦「洗錢防制法修法研討會」：邀請在此領域具有專業之法官、檢察官、法務部、金融監理機關、調查局、刑事警察局之代表及洗錢防制中心所有職員全部參加，共同研討洗錢防制法在實務操作上面臨之問題及修法建議。該研討會大約一年舉辦乙次或二次。

217) The MLPC organise the "Amending MLCA Seminar". At this seminar, scholars who the experts in this field, judges, prosecutors, financial supervisory authorities, Investigation Bureau, Criminal Investigation Bureau, staff of MLPC and representatives from the Ministry of Justice, are invited to discuss the practical problems caused by the existing MLCA and the amending suggestions of the Act. This seminar is held about once or twice per year.

218) 洗錢防制中心於 1998 年被「艾格蒙聯盟」接受成爲正式

218) In 1998 the MLPC was accepted as a formal member of the Egmont Group. Since then

會員，並開始積極參與各種會員大會及工作經會議。

the MLPC has been an active member attending various plenary and working group meetings.

219) 洗錢防制中心認知「艾格蒙聯盟成立宗旨聲明」及其對於金融情報中心間資訊交換之原則，主動與國外對等單位透過「艾格蒙聯盟」電腦安全網路進行大部分洗錢與打擊資助恐怖分子之資訊交換。

219) The MLPC recognises the Egmont Group Statement of Purpose and its principles for information exchange between Financial Intelligence Units. The MLPC spontaneously exchanges information with foreign counterparts through the Egmont secure Website on most ML / FT cases.

建議第30項(Recommendation 30)

220) 洗錢防制中心目前人力有26位職員，包括1位主任、1位副主任、1位專門委員、3位科長及20位調查員，目前區分爲3科，第1科有8位職員，負責金融機構疑似洗錢交易報告之分析，第2科有6位職員，負責行政事務、策略研究及國際合作，第3科有6位職員，負責處理大額通貨交易報告及協助追查不法資金去向。

220) MLPC employs 26 staff including 1 Director, 1 Deputy Director, 1 Senior Specialist, 3 Assistant Directors and 20 Investigator / Analysts. The Investigator / Analysts are divided into 3 sections. Section 1 comprising 8 staff, has the responsibility for handling STRs from financial institutions. Section 2, with 6 staff, has responsibility for administrative affairs, strategy research and international co-operation. Section 3, with 6 staff, processes CTRs and assists with the tracing of illegal funds.

221) 所有洗錢防制中心人員都是大學或學院以上畢業，並具備法律、會計及語言等專長。

221) All personnel within the MLPC are graduates from either a University or College. Skills contained within the MLPC include law, accountancy and languages.

222) 洗錢防制中心之調查員都在法務部調查局訓練所接受過犯罪調查訓練，其中對於經濟犯罪包括詐欺及洗錢等都有特別訓練。在進入洗錢防制中心工作之前，必須具備至少5年以上犯罪調查工作經驗，有一部分職員更具備國內外地區豐富的工作經驗，另外亦提供在職訓練及實務工作手冊予在職人員。對於洗錢態樣研究訓練則透過參與區域性研討會及與調查單位的密切互動方式進行。

222) All investigators in the MLPC have completed investigation training through the MJIB training academy; a component of the investigative training includes specific training on economic crime, which includes fraud and money laundering. Prior to commencing work within the MLPC staff must have at least 5 years investigation service. A number of staff have extensive experience as field agents both domestically and in overseas field offices. On the job training is also provided to investigator / analyst staff in the MLPC and a detailed best practice-working manual has been designed to provide guidance to staff. Training in money laundering typologies has been received by the MLPC staff through attendance at regional style workshops and through close interaction with investigative

agencies.

223) 投資高達 1 千萬新台幣(約美金 303,000 元)之經費更新洗錢防制中心電腦資料庫。

223) There has been significant investment in equipment within the MLPC illustrated by the $10 Million NTD (USD 303,000) invested in a new database.

224) 在調查局招考新進人員時,會查核本質特性以確保新進人員具備高道德標準,另洗錢防制中心特別強調依據洗錢防制法第 11 條及刑法第 132 條之保密規定,禁止洩漏任何收到之資訊,除非是對有合法目的之權責機關。

224) During the process of recruitment into the MJIB, character and integrity are examined to ensure that applicants who are recruited into the Investigation Bureau are of high ethical standing. Confidentiality of the information retained by the MLPC is reinforced by Article 11 of the MLCA and Article 132 of the Criminal Code which prohibit the disclosure of information received by the MLPC except for proper purpose to authorized recipients.

統計數據(Statistics)

225) 洗錢防制中心保存金融機構申報之疑似洗錢交易報告及大額通貨交易報告以及海關遞送之跨國境攜帶大額外幣申報等統計數據,統計還歸納出申報機構之種類及涉及之犯罪活動類型以及分析後資訊分送情形。下列表格是洗錢防制中心提供評鑑團之統計數據:

225) The MLPC retain statistics on STRs and CTRs filed by financial institutions and Cross Border Declaration Reports forwarded by the Customs Service. These statistics include a breakdown of the type of institute filing the STR, the type of criminal activity associated with the STR and where the report is disseminated. The following tables are examples of the statistics provided to the Evaluation Team by the MLPC.

表 1: 疑似洗錢交易報告統計

	2002	2003	2004	2005
本國銀行	1,036	1,318	4,496	4,773
外商銀行	49	69	104	90
信用合作社	1	7	23	14
農、漁會信用部	5	23	25	17
證券商	18	15	5	4
期貨商	1	0	4	7
中華郵政公司	28	33	15	6
證券集中保管事業	2	15	17	236
信用卡公司	0	5	0	2
保險公司	0	0	0	4
其他	0	0	0	1
合計	1,140	1,485	4,689	5,154

Table 1: Statistics of STRs

STRs Reported	2002	2003	2004	2005
Domestic Banks	1,036	1,318	4,496	4,773
Foreign Banks	49	69	104	90
Credit Co-operatives	1	7	23	14
Credit Departments of Farmers & Fishermans Association	5	23	25	17
Securities Institutions	18	15	5	4
Futures Commission Merchants	1	0	4	7
Chunghwa postal Co. Ltd	28	33	15	6
Taiwan Securities Central Depository	2	15	17	236
Credit Card Companies	0	5	0	2
Insurance Companies	0	0	0	4
Securities Financing Companies	0	0	0	1
Total	1,140	1,485	4,689	5,154

表 2: 疑似洗錢交易報告經分析後移請有關機關調查或處理之統計

	2002	2003	2004	2005
調查局	76	76	213	170
警政及其他機關	132	92	86	69
合計	208	168	299	239

Table 2: Statistics of disseminating STRs to relevant authorities after analysis

Receiving Authorities	2002	2003	2004	2005
Investigation Bureau	76	92	86	69
Police and other Administrative Authorities	132	76	213	170
Total	208	168	299	239

表 3: 大額通貨交易申報數量統計

	2003	2004	2005
國內銀行	357,918	845,664	853,977
外商銀行	2,532	7,117	6,330
信用合作社	26,400	55,834	55,332
農、漁會信用部	23,262	65,629	71,676
信託投資公司	971	2,061	4,067
中華郵政公司	297,305	26,464	36,975
其他		5,993	477
合計	708,388	1,008,762	1,028,834

註：大額通貨交易申報自2003年8月6日開始施行

Table 3: Statistics of CTRs.

CTRs Reported	2003	2004	2005
Domestic banks	357,918	845,664	853,977
Foreign Banks	2,532	7,117	6,330
Credit Co-operatives	26,400	55,834	55,332
Credit Departments and Farmers & Fishermans Associations	23,262	65,629	71,676
Trust Investment Companies	971	2,061	4,067
Chunghwa Postal Co. Ltd	297,305	26,464	36,975
Others		5,993	477
Total	**708,388**	**1,008,762**	**1,028,834**

[The currency transaction reporting system was initated from 6 August 2003]

表 4: 大額通貨交易申報資料經分析後分送各有關機關數量統計

	2003	2004	2005
調查局	2	24	42
警政及其他機關	0	22	72
合計	2	46	114

Table 4 Statistics of disseminating CTRs to relevant authorities for analysis;

Receiving Authorities	2003	2004	2005
Investigation Bureau	2	24	42
Police and Other Administrative Authorities	0	22	72
Total	**2**	**46**	**114**

表 5: 洗錢防制中心協助各有關機關追查資金流向統計

	2003	2004	2005	2006	合計
調查局	26	34	19	12	91
法院及檢察署	11	10	10	5	11
國內其他司法警察機關	0	4	2	12	43
其他機關	4	14	0	1	20
國際合作及資訊交換	36	93	99	89	317
合計	37	48	31	31	482

Table 5 Statistics of cases where the MLPC has directy assisted with an investigation.

Agency Assisted	2003	2004	2005	2006	Total
MJIB Units	26	34	19	12	91
Police Agencies	0	4	2	5	11
Prosecuting Agencies	11	10	10	12	43
Others	4	14	0	1	20
International Co-operating or Exchange	36	93	99	89	317
Total					482

226) 洗錢防制中心提供之進一步統計資料顯示，有 515 件分析後之疑似洗錢交易報告及大額通貨交易報告在 2003 及 2004 年間被分送給有關機關，有 210 件經有關機關進一步調查，其中有 48 件移送起訴（其中 26 案併案處理），最後有 7 件經判決有罪。無統計資料顯示扣押及起訴後沒收之財產數量。

226) Further statistics provided by the MLPC identified that of the 515 STR and CTR reports disseminated in 2003 and 2004, 210 were actively investigated by authorities. Of those investigations 48 resulted in prosecutions (which included 26 reports being merged with existing cases), 7 resulted in convictions. No statistics were available on property that was seized and subsequently confiscated as a result of the prosecutions.

227) 對於非營利組織，有 55 件件疑似洗錢交易報告涉及非營利組織之可疑活動，經有關機關調查之後有 11 件移送起訴，其中大部分涉及侵占資金。

227) In relation to Non-Profit Organisations 55 reports were disseminated relating to suspicious activity associated to those NPOs. Authorities undertook investigations, which resulted in 11 cases being submitted for prosecutions. The crimes identified were largely theft and misappropriation of funds.

228) 對於資助恐怖分子有 11 件疑似洗錢交易報告並經調查局進行調查，其中 9 件涉及公司交易，2 件涉及外勞匯款，最後調查結果，這些交易及匯款與資助恐怖分子無任何關聯。

228) With regard to Terrorist Financing 11, STRs were identified as suspicious and investigated by the MJIB. It was established that 9 of those transactions related to companies and 2 related to foreign workers and upon thorough investigation the funds and transactions were cleared of any association with terrorist financing.

229) 從洗錢防制中心保存之統計資料顯示申報之報告數量呈現成長趨勢，反映出對洗錢警覺性的提升及一個有效能的申報體制。

229) Overall the statistics maintained by the MLPC illustrates an upward trend in the number of reports being submitted, reflecting increasing awareness and an effective reporting regime.

2.5.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

230) 洗錢防制中心表現出一個

230) The MLPC presents as a mature, well

成熟、具備良好功能與有效能之金融情報中心，在評鑑過程中，金融行業談及雙方現存之合作機制，該中心提供申報疑似洗錢交易報告事前與事後的諮詢作爲，這種關係非常具有建設性及務實需求，能夠強化洗錢防制中心執行效能。

231) 一些申報機構都會收到洗錢防制中心年報，但沒有個人表示看過該刊物，這不能據以批判洗錢防制中心，但是該刊物能夠分送給涉及反洗錢與打擊資助恐怖分子遵循事務有關人員是非常重要的，應檢討分送名單以確保該刊物能夠適時送到合宜人士手上。

232) 鼓勵發展適當作爲將跨國境攜帶大額外幣申報資料加速通報給洗錢防制中心，以目前每月通報一次之方式，從攜帶人額外幣出入國境者申報起算到資料傳達洗錢防制中心，潛在有 30 天延誤之風險，讓資金有機會在權責機關採取回應行動前，即進行掩飾或清洗或用於犯罪活動，海關及洗錢防制中心對於此一作業方式之檢討具相當正面意義。

233) 評鑑團結論認爲洗錢防制中心具有高素質職員、良好組織架構及資源以執行本身之功能。

functioning effective FIU. During the course of the evaluation the financial sector spoke of the co-operation that exists between the MLPC and that sector. This extended to consultation both prior to and after the submission of an STR report. This relationship allows for a very constructive and practical environment, which only enhances the effectiveness of the MLPC.

231) A number of reporting agencies were canvassed about the MLPC Annual Report and no individual claimed to have seen a copy of the report. This cannot be a criticism of the MLPC but it is important that the report is distributed to the key people involved in AML/FT compliance. A review of the distribution list may be warranted to ensure the report reaches the right people.

232) The initiative being developed to forward Cross-border Currency Declarations to the MLPC in a more efficient and timelier manor is to be encouraged. The potential for delay of up to 30 days between a cash courier entering the country and the matter being reported to the MLPC creates a risk. This current process allows opportunity for the funds to be concealed or laundered or used in further criminal enterprise before authorities can appropriately respond to the incident. The current review of this process by both the Customs Service and the MLPC is very positive.

233) The Evaluation Team conclude that the MLPC contains high quality personnel and is well structured and resourced to carry out its function.

2.5.3 建議第26、30及32遵循評等

	評 等	評 等 理 由 摘 述
建議第26項	C	完全遵循
R.26	LC	This rating is fully observed
建議第30項	LC	此項爲複合評等—詳見第7節評等理由摘述
R.30	LC	Composite rating – see section 7 for summary of factors
建議第32項	LC	此項爲複合評等—詳見第7節評等理由摘述
R.32	LC	Composite rating – see section 7 for summary of factors

2.6 執法、檢察及其他權責機關-負責調查、起訴相關犯罪及沒收與凍結--「建議」第

27、28、30及32項 (LAW ENFORCEMENT, PROSECUTION AND OTHER COMPETENT AUTHORITIES – THE FRAMEWORK FOR THE INVESTIGATION AND PROSECUTION OF OFFENCES, AND FOR CONFISCATION AND FREEZING--R.27, 28, 30 & 32)

2.6.1 說明與分析(DESCRIPTION AND ANALYSIS)

234) 在中華台北領域內有 5 個主要從事洗錢／資助恐怖分子犯罪調查的執法機關：
a) 法務部調查局，涵蓋洗錢防制中心。
b) 內政部警政署，涵蓋刑事警察局及地區警察局。
c) 海關。
d) 行政院海岸巡防署。
e) 憲兵。

234) There are five agencies with jurisdiction to enforce anti-money laundering activity in Chinese Taipei:
a) Ministry of Justice Investigation Bureau (MJIB) which includes the MLPC;
b) National Police Authority of the Ministry of Interior including the Criminal. Investigation Bureau (CIB) and localised Police services;
c) Chinese Taipei Customs;
d) Coast Guard Administration; and
e) Military Police Command.

235) 2 個主要負責洗錢／資助恐怖分子犯罪調查的執法機關爲調查局及刑事警察局，洗錢防制中心在此扮演支援角色在前面已加以說明。

235) The two primary agencies with the responsibility of investigating money laundering activity are the MJIB and the CIB (the function of the MLPC in support of this role has previously been outlined).

236) 在調查局及刑事警察局犯罪調查過程中一個重要的伙伴是法務部檢察機關之檢察官。依據刑事訴訟法，在中華台北境內犯罪偵查主體是檢察官，所有調查局及刑事警察局在進行犯罪調查時，都要報請檢察官指揮偵辦並決定是否有足夠證據可以向法院提出起訴。起訴機關在執法/調查過程中是非常重要之一環。

236) Important partners in the investigation process undertaken by the MJIB or the CIB are the Prosecutors of the various prosecutorial agencies under the Ministry of Justice. According to the Criminal Procedure Code, the investigative body in Chinese Taipei is the Prosecutor. All prosecutions identified by either the Investigation Bureau or the CIB are forwarded to the Prosecutor who then directs additional investigation as appropriate and determines if sufficient evidence exists to take the matter to court. The prosecuting authorities are an important component of the enforcement / investigation process.

建議第27項(Recommendation 27)

237) 在中華台北境內有 2 個主要的執法機關和檢察官配合，負責並確保洗錢/資助恐怖分子案件都能得到合宜調查。海關負責查緝走私及通報跨國境攜帶大額外幣申報資料。

237) In summary in Chinese Taipei there are two key law enforcement agencies who, in partnership with Prosecutors have primary responsibility for ensuring that all investigations of ML / FT are properly investigated. The Customs Service has the responsibility for anti-smuggling and the receiving and forwarding of border declaration reports.

238) 調查局爲調查危害國家安

238) The MJIB has a designated responsibility for

全利益及國內安全事務之特定機關，在1998年10月30日，奉行政院核定修正九項職掌，其中一項任務爲重大經濟犯罪及洗錢防制事項。

239) 警政署刑事警察局主要負責調查勒索、組織犯罪、電信詐欺、毒品犯罪（包括街頭毒品犯罪）和街頭犯罪等，該局成立有專責查察經濟犯罪之外勤偵查隊，專責偵辦經濟犯罪，包括洗錢、投資詐欺、違反期貨交易法、證券交易法案件等重大經濟犯罪；

240) 另外，各縣市警察局刑警大隊亦比照成立有經濟組，專責偵辦洗錢、走私、仿冒及違反智慧財產權等經濟犯罪。

241) 中華台北海關是邊境管制機關，主要工作重點是查緝走私活動，包括現金及違禁物品，當相關犯罪活動被發掘時，會通知調查局或警政署進一步調查。對於洗錢及資助恐怖分子活動，關稅總局主要是受理及檢查旅客申報跨國境攜帶大額外幣申報、不實申報或漏申報之沒收以及將申報資料每月遞送洗錢防制中心。

242) 調查局或刑事警察局完成犯罪案件調查之後，會移送檢察官決定是否要採取其他行動，如果證據充分會向法院提起公訴。

243) 關於在洗錢／資助恐怖分子案件調查過程中之延後及／或放棄逮捕作爲，並無特別之法律加以規範，主要是依據

the investigation of violations against national security and interests and matters concerning internal security. On 30 October 1998 these functions were redefined into nine key areas by the Executive Yuan. One of these specific nine areas of responsibility was the investigation of "Major Economic Crime and Money Laundering".

239) The CIB of the National Police Authority has key investigative responsibility to investigate extortion, organized crimes, professional telecommunication fraud, drug trafficking including street drug dealing and street racketeering. The Bureau has a dedicated brigade to engage in serious economic crime investigation including money laundering, fraud, and violations of the 'Futures Trading Act' and the 'Securities and Exchange Act'.

240) In addition, Police districts of the wider National Police Authority have respectively set up economic crime investigation teams in localised police stations which are dedicated to the investigation of money laundering, smuggling, counterfeiting and other economic crimes.

241) The Chinese Taipei Customs Service is the border control agency. The prime focus of the Customs Service centres on anti-smuggling activities including cash and contraband items. When such activities are detected they are referred to the MJIB or the NPA for investigation. In relation to ML/FT, the Director General of Customs is tasked with receiving and examining border declarations from passengers, confiscation of false or undeclared currency movements and the forwarding of all declarations to the MLPC each month.

242) Upon the completion of an investigation by the MJIB or the CIB, the matter is referred to a Prosecutor who will determine what further action needs to be undertaken and if there is sufficient evidence for the preparation of indictments for filing with the court.

243) With regard to the postponement and / or waiver of an arrest during the course of a ML/ FT investigation, there is no specific legislation process that allows or prohibits this practice. Subject to the assessment of

風險評估及管制作爲，執法機關在和檢察署諮商後，可以決定是否延後及／或放棄逮捕作爲。

risk and the exercise of controls, law enforcement upon consultation with the Prosecutors Office has the ability to postpone or waive arrest.

244) 在刑法中有諸多條款可以提供執法人員及檢察官進行搜索、扣押證據及在必要時傳喚證人，在洗錢犯罪調查中亦可加以引用。

244) Under the Criminal Code there are provisions for law enforcement and prosecutors to conduct searches and seize evidence and subpoena witnesses as required. The provisions of the Criminal Code are routinely used during the course of ML investigations.

245) 在洗錢犯罪案件調查過程中對於私人通訊之監聽作業，「通訊保障及監察法」及「警察職權行使法」均有所規範。

245) The interception of private communications (wire tapping operations) during the course of an investigation into money laundering is authorised by the Communication Protection and Surveillance Law and the Police Powers Act.

246) 依據通訊保障及監察法第5條規定，警察單位對於最輕本刑爲三年以上有期徒刑之罪、刑法所訂預備叛亂罪及觸犯貪污治罪條例、懲治走私條例、藥事法、銀行法、證券交易法、期貨交易法、槍砲彈藥刀械管制條例、公職人員選舉罷免法、農會法、漁業法、兒童及少年性交易防制條例及組織犯罪防制條例等罪嫌時，得聲請進行通訊監聽作業。

246) Under Article 5 of the Communication Protection & Surveillance law, powers of the police units extend to "crimes punishable by at least 3 years imprisonment", "Intention to Commit Sedition under the Criminal Code", and offences under the Punishment of Corruption Act, Punishment of Smuggling Act, Pharmaceuticals Act, Banking Act, Securities and Exchange Act, Futures Trading Act, Weapons Control Act, Public Functionaries Election Act, Farming Societies Act, Fishery Societies Act, Child & Juvenile Sex Transaction Prevention Act, and Organized Crime Prevention Act.

247) 依據警察職權行使法第11條規定，警察機關對於個人有事實足認其有觸犯最輕本刑五年以上有期徒刑之罪之虞者，或有事實足認其有參與職業性、習慣性、集團性或組織性犯罪之虞者，得進行監控。

247) Under Article 11 of the Police Powers Act, surveillance powers of the police authorities extend to persons whom either "the facts show there is likelihood of commitment of a crime punishable by at least 5 years imprisonment", or whom "the facts show there is likelihood of involvement in professional, customary, group or organized crime".

248) 警察職權行使法亦允許進行其他資訊蒐集方式，包括以目視或科技工具，進行觀察及動態掌握。

248) The Police Powers Act also permits other information gathering including surveillance in the form of visual observations and the use of hi-tech instruments to conduct observations.

249) 另依據「警察職權行使法」第12條及第13條規定，得遴選第三人秘密蒐集相關資料

249) Pursuant to Articles 12 and 13 of the Police Powers Act, the Director of the Police Authority or Branch may approve the

並經警察局長或警察分局長核准後實施(俗稱「線民運用」手段)，該第三人爲證人者並適用「證人保護法」之規定。

appointment of a third party to legally but secretly collect relevant information. When this third party is to be a witness, provisions of the Witness Protection Act will also apply.

250) 法務部已草擬「臥底偵查法」，將賦予臥底偵查員特別權力及保護，以從事臥底偵查，目前該草案尚未完成立法。

250) The Ministry of Justice has drafted an Under Cover Investigation Act which will allow Police investigators specific authority and protections to undertake undercover investigations. This has yet to be enacted.

251) 調查局及刑事警察局都提及曾在多起洗錢犯罪案件調查中，使用監聽私人通訊及運用行動監控等特別調查技術，例如在一件犯罪調查案件中，曾對一位男士之私人通訊進行監聽，發現該男士正準備將違反銀行法及證券交易法之不法所得新台幣45億元進行清洗，這件成功的犯罪調查案件之結局是該男士被處以9年有期徒刑。

251) Both the MJIB and the CIB report they have intercepted private communications and utilised surveillance as an investigative technique in money laundering investigations on several occasions. For example, during the investigation of a male person private communications were intercepted that evidenced he was attempting to launder 4.5 billion NTD that he had illegally obtained through violations of the Banking and Securities Exchange Act. The result of this successful investigation was that the person was sentenced to 9 years imprisonment.

犯罪收益(Proceeds of Crime)

252) 如本報告前面所述，洗錢防制中心任務之一是協助法院、檢察署及其他執法機關追查不法所得資金及財產之流向，在完成此類不法資金之辨識後，檢察官將被要求對該資金採取法律剝奪行動作爲。

252) As outlined earlier in this report, the MLPC has the specialised function of assisting the court prosecutors and other law enforcement agencies with tracing the flow of illegally acquired funds and property. Having identified such funds, the Prosecutor is required to take action to recover the funds.

253) 雖然具備調查犯罪收益之特別權力，調查局及刑事警察局都未設立專責單位。調查局的緝毒中心正在向行政院爭取設立犯罪收益追查之專責單位，刑事警察局亦報告，正在招募更多具備相關偵查技術之人員，加強犯罪收益之追查。

253) Although having specific authority to investigate proceeds of crime, neither the MJIB nor the CIB have specific dedicated units with this sole focus. The Drug Enforcement Centre (DEC) of the MJIB reports they are in the process of seeking authority from the Executive Yuan to establish the formation of these dedicated units. The CIB also reported that they were trying to recruit more persons with the skills required to focus on proceeds of crime.

表 6: 犯罪收益行動統計資料

年度	2002	2003	2004	2005
起訴件數	89	302	809	1,173
起訴人數	791	1,140	1,485	1,678
洗錢金額	28,056,881,500	1,497,521,081	25,173,894,214 USD765,229,083	7,709,658,074 USD234,364,605
扣押金額	537,243	22,126,122	4,154,117,032	213,253,506
沒收金額	946,200	55,716,300	33,169,295 USD1,008,263	57,028,401 USD1,733,913

Table 6. Statistics of Proceeds of Crime Actions

Statistics				
Prosecutions, Convictions, Property Frozen, Seized and Confiscated				
Year	2003	2004	2005	2006
Number of cases	89	302	809	1,173
Number of prosecuted persons	791	1140	1485	1678
Money Laundered	28,056,881,500	1,497,521,108	25,173,894,214 ($765,229,083 USD)	7,709,658,074 ($234,364,605 USD)
Property siezed	537,243	22,126,122	4,154,117,032	213,253,506
Property confiscated	946,200	55,716,300	33,169,295 ($1,008,263USD)	57,028,401 ($1,733,913 USD)

254) 由法務部提供之統計資料顯示，只有少量之洗錢金額被以犯罪收益加以剝奪，例如在 2005 年有新台幣 $25,173,894,214 元(約美金 7 億 6 千 5 百萬元)洗錢金額，但新台幣$33,169,295 元（約美金 1 百萬元）被沒收，中華台北有關機關認爲犯罪收益透過各種管道移往國外，特別是中國大陸，造成對犯罪收益進行剝奪之困難。

254) Statistics provided by the Ministry of Justice identifies that only a very small amount of laundered funds are being recovered as proceeds of crime. For example in 2005 $25,173,894,214 NTD (765 million USD) was identified as laundered funds and $33,169,295 NTD ($1.008 million USD) was confiscated. Authorities in Chinese Taipei identified that criminal proceeds were being smuggled offshore through various means particularly to Mainland China and therefore recovery was extremely difficult.

255) 有關執法、檢察及其他權責機關之間防制洗錢合作，主要是透過經濟犯罪防制會報，該會報提供各有關機關對於洗錢之方式、趨勢、技巧及案件進行研討並分享看

255) In respect of co-operation between authorities, law enforcement, prosecutors and other agencies involved in anti-money laundering take part in the annual Economic Crime Forum. This forum provides opportunity for those involved in anti money laundering to share ideas and review methods, trends and

法。

techniques and present case studies of interest.

建議第28項(Recommendation 28)

256) 透過司法程序，執法人員及檢察官有權強制取得相關交易紀錄並可以對個人及地點進行搜索（包括金融機構），並可以扣押任何涉及洗錢案件調查或起訴之相關紀錄。

256) Through judicial process, law enforcement and prosecutors have the ability to compel the production of records and can conduct searches of persons and places (including financial institutions) and can seize any relevant records related to money laundering investigation or prosecution.

257) 執法人員及檢察官亦有權可以對嫌疑人及證人進行調查並製作筆錄，作爲洗錢及前置犯罪刑事訴訟之用。

257) Law enforcement officials and prosecutors also have the authority to conduct investigations and take statements of witnesses and suspects for use in criminal proceedings regarding ML and predicate offences.

258) 海關緝私條例第2章第12條規定，海關因緝私必要時，得詢問嫌疑人、證人及其他關係人。

258) Chapter 2 of the Customs Anti Smuggling Act, Article 12, allows for the interrogation of a suspect witness or other person concerned with the suspected smuggling of contraband.

建議第30項--執法及檢察機關部分(Recommendation 30 - Law enforcement and prosecution authorities only)

259) 所有調查局及刑事警察局所屬調查人員都具備調查洗錢犯罪之概括責任。

259) All investigators with the MJIB and the CIB have a generalised responsibility to investigate the laundering of money.

260) 在調查局及刑事警察局內都有專責單位、資源及人員負責經濟犯罪調查，包括詐欺、侵占、重利、走私、逃漏稅、仿冒、違反銀行法、證券交易法、公平交易法、保護智慧財產相關法律及洗錢防制法。

260) Within both the MJIB and the CIB there are defined structures and dedicated resource and staff tasked with the specific investigation of economic crime (economic crime includes fraud, misappropriation, usury, smuggling, tax evasion, counterfeiting, violation of bank laws, securities exchange laws, fair trade law, infringement of intellectual property laws and money laundering).

261) 除了洗錢防制中心之外，並無任何組織有專屬資源用於調查洗錢。

261) There does not exist in either organisation a dedicated resource with a specific investigative responsibility to investigate money laundering, with the exception of the MLPC.

262) 調查局及刑事警察局都報告有足夠人員及資源可以投注到洗錢犯罪調查案件。

262) Both the MJIB and the CIB reported that they have sufficient staff and resource to investigate money laundering when presented with an investigation.

263) 由前置犯罪所引起之洗錢犯罪起訴資料觀察，大部分案源來自經濟犯罪調查單位所偵辦之案件。

263) A review of the predicate offences giving rise to money laundering prosecutions identifies that the majority originate out the economic crime investigative units.

表7 前置犯罪所引起洗錢犯罪起訴統計

前置犯罪類型	2003	2004	2005
經濟犯罪	396	712	1081
貪污犯罪	27	11	7
毒品犯罪	5	2	2
其他類型犯罪	25	84	83
總計	447	809	1173

Table 7 Identifies predicate offences that have given rise to a money laundering conviction.

Predicate Offence	2003	2004	2005
Economic Crime	396	712	1081
Curruption	27	11	7
Narcotic	5	2	2
Other Criminal cases	25	84	83
Total	447	809	1173

264) 其他犯罪類型之前置犯罪像毒品犯罪只占洗錢案件中的一小部分。

264) Other income generating crime types like narcotics investigations have identified only a small number of money laundering cases.

265) 表 8 顯示每個洗錢案件涉案洗錢金額統計。

265) Statistics are available to reflect the amounts of money involved in each case, table 8 refers.

表8 洗錢案件起訴涉案金額統計

涉案金額	案件數
1萬以下（美金304元）	161
1萬-10萬（美金304-3,040元）	519
10萬-20萬（美金3,040-6,060）	195
20萬-100萬（美金6,060-30,300）	193
100萬-300萬（美金30,300-91,000）	39
300萬-500萬（美金91,000-152,000）	8
500萬-1000萬(美金152,000-304,000)	11
1000萬-2000萬（美金304,000-608,000）	13
2000萬-3000萬（美金608,000-912,000）	8
超過3000萬（美金912,000）	26
合計	1173

Table 8 The values involved in money laundering prosecutions

SUM OF MONEY INVOLVED	CASES
Below 10 Thousand NTD (USD$304)	161
10,000 NTD - 100,000 NTD (USD$304 - $3,040)	519
100,000 NTD - 200,000 NTD (USD$3,040 - $6,060)	195
200,000 NTD - 1 Million NTD (USD $ 6060 - $30,300)	193
1 Million - 3 million (USD$30,300 - $91,000)	39
3 Million - 5 Million (USD$91,000 - $152,000)	8
5 Million - 10 Million (USD$152,000 - $304,000)	11
10 Million - 20 Million (USD$304,000 - 608,000)	13
20 Million - 30 Million (USD$608,000 - $912,000)	8
Above 30 Million (above USD$912,000	26
Total	**1173**

266) 本表反映出58%之洗錢案件涉案之金額低於新台幣10萬元（約美金6,000元），且所有洗錢起訴案件中91%之涉案金額都低於新台幣1百萬元（約美金30,000元）。

266) This table reflects that 58% of all money laundering cases involve money of less than $100,000 NTD ($6,000 USD) and 91% of all money laundering cases prosecuted relate to amounts of less than $1,000,000 NTD ($30,000 USD).

267) 綜言，前面二表反映出大部分洗錢起訴案件源自經濟犯罪且涉案金額低於新台幣1百萬元（約美金30,000元）。

267) In summary, these two tables reflect that the majority of money laundering prosecutions are derived from economic crime involving amounts of less than $1,000,000 NTD ($30,000 USD).

268) 毒品查獲數量顯示在中華台北販毒是一種有利可圖之行業，以2004年爲例，全國有8,547公斤毒品被查獲，其中650公斤爲海洛英、古柯鹹及嗎啡，2005年查獲之毒品有13,133公斤，其中341公斤爲海洛英，3,451公斤爲安非他命製品，當年有792人因製造、走私及販售毒品被起訴。

268) Drug seizures indicate there is a potential lucrative drug industry in Chinese Taipei. For example in 2004 there were 8,547 kilograms of narcotics seized nationally, 650 kilograms of which comprised heroin, cocaine and morphine. In 2005 seizures totalled 13,133 kilograms comprising 341 kilograms of heroin and 3451 kilogram's of methamphetamine produces. Further in relation to narcotic crime in 2005, 792 persons were prosecuted for manufacturing, trafficking and dealing in narcotics.

269) 毒品交易在本質上與洗錢犯罪密不可分，而中華台北統計數據顯示與毒品有關之洗錢起訴件數相對不成比例的微量，如前所述，調

269) Drug dealing by its very nature is intrinsic with the crime of money laundering and the figures indicate that a disproportionately small number of money laundering prosecutions stem from activity associated

查局緝毒中心認知需要有專屬資源以解決與毒品犯罪有關之洗錢與犯罪收益剝奪之問題。

with narcotics. As previously mentioned in this report the DEC acknowledges and identifies a need to dedicate resources to address the lack of money laundering and proceeds of crime recovery associated with drug related crime.

270) 評鑑團了解在刑事警察局內部有績效獎勵政策，對於某些特定類型之犯罪調查成功案件，會給予辦案人員獎勵，曾要求提供該績效獎勵政策副本，以判定調查洗錢犯罪案件是否涵蓋在獎勵政策之內，但是一直沒有下文以致無法判定是否該政策禁止地區調查人員將洗錢犯罪調查列爲優先之可能。

270) It was identified by the Evaluation Team that a performance policy exists within the CIB where groups of staff are rewarded for successful outcomes of certain types of investigations. A copy of this policy was sought to determine where the status of money laundering fell within the terms of this performance review policy. The policy was not however made available and therefore it cannot be determined if this policy prohibits in anyway the priority that might be placed on money laundering by field investigators.

271) 執法人員及檢察官一般性意見認爲難以辨識前置犯罪所得來源，以致進一步影響到後續難以進行洗錢起訴。

271) Law enforcement and prosecutors expressed generally an opinion that it was often difficult to clearly identify the predicate offence from which the income was derived and this was a difficulty that often prohibited prosecutions advancing.

272) 執法人員提到有足夠人力及科技資源可以有效執行任務，由簡報所提成功個案顯示確有一些成功起訴之洗錢犯罪案件，其中並運用不同之偵查技術，可見調查人員及檢察官具有從事洗錢犯罪案件調查之技術與資源。

272) Law enforcement reported that they have sufficient resources in the form of staff and technology to effectively perform their functions. This was supported by case study presentations, which reflect there has been some highly successful money laundering prosecutions, which have used a variety of investigative techniques. This indicates that there are investigators (and prosecutors) with the skills and resource to undertake these functions.

273) 檢察官提到洗錢犯罪調查非常耗時且需要更多的支援，在有些情形下，因爲時間及資源的限制，只能作表面詢問。

273) Prosecutors reported that investigating money was time consuming and more support was needed to allow this to take place. It was identified that on occasions only superficial enquiries were undertaken due to do time and resource constraints.

274) 海關在中華台北的反洗錢體制中扮演一個重要角色，受理跨國境攜帶大額外幣申報並通報給洗錢防制中心，依據海關緝私條例第

274) The Customs Service plays an important role in the anti-money laundering regime in Chinese Taipei. There is a specific role of receiving declarations and forwarding them to the MLPC. To enforce the declaration system Customs Service officers are authorised by

2章第9條之授權，海關關員在執行該申報作業時，可以對行李及個人進行搜查。

Article 9 of Chapter 2 of the Customs Anti-smuggling Act to search baggage and persons.

275) 海關承認相當缺乏資源與能力以有效執行跨國境申報系統，目前尚缺員額約400人，造成國境保護相當大之壓力，海關進一步表示缺乏取得國際相關情資之能力，未來會尋求更好的訓練及額外設備，如離子掃描機及毒品偵查犬(目前全國只有2隻)，以加強保護國境安全。

275) Customs identify a significant lack of resources and capability to effectively enforce the cross-border declaration system. Customs report they are currently 400 staff short and this is placing significant pressure on the ability to protect the border. Customs further reported that they lacked the ability to access international intelligence and sought better training and additional equipment in the form of ion scanners and narcotic detection dogs (currently there are only 2 for the entire jurisdiction) to confidently protect the border.

276) 調查局調查員在執行犯罪調查時被要求必須遵循內部之「犯罪調查手冊」所訂程序，另外亦有監督系統以監控所有調查程序，以確保職業倫理道德與保密規定充分被遵守，任何調查員違反工作手冊之指引或道德規範，將依「法務部調查局調查人員獎懲標準」加以處罰。對於提升專業技術，所有新進調查員都要接受為期一年之專業訓練，現職員工有很多機會可以參加進階專業訓練或進修。

276) The Investigation Bureau agents are required to follow the procedures stipulated in the internal working guidance "Criminal Investigation Manual" when undertaking a criminal investigation. In addition, a supervisory system is in place for monitoring all investigation procedures to ensure work ethic and confidentiality is being fully complied with. Any investigator who violates the regulation of working guidance or ethic regulation will face punishment according to the "Investigation Bureau Agents Rewards and Punishments Norms". With regard to promoting professional techniques, all newly employed investigators have to accept one year's professional training and employees have many opportunities to attend advanced professional trainings and further education.

277) 刑事訴訟法已就檢察官執行職務訂定詳細之規範。此外，法務部對於檢察官之承辦案件，並訂有「檢察機關辦理刑事訴訟案應行注意事項」等內部管控之規定，以確保所有偵查案件之承辦均依照刑事訴訟法之程序辦理。且關於檢察官之專業倫理，亦訂有「檢察官守則」，要求檢察官應遵守保密、偵查不公開、利益迴避、不得參與政治活動、廉

277) The Criminal Procedure Code regulates, in detail, the functions of prosecutors. In addition, the MOJ has formulated internal control measures like the "Points of Attention for Prosecutorial Agencies' Handling of Criminal Procedure" to ensure all investigations are conducted in accordance with the Criminal Procedure Code. With regard to the professional ethics of prosecutors, the Ministry has prescribed a "Code of Conduct for Prosecutors" requiring prosecutors to observe the principles of keeping secrets, conducting investigations, avoiding conflict of interests, forbidding participation in politics, and working

潔等各項專業準則。必要時，並得依「檢察官評鑑辦法」，將檢察官移送評鑑委員會，爲適當之處置。

honestly. If necessary, a violating prosecutor may be referred to the Prosecutors Performance Evaluation Committee for appropriate discipline.

278) 關於警政署、刑事警察局、檢察官及海關，依「公務員服務法」第4條規定，公務員有絕對保守政府機關機密之義務，對於機密事件無論是否主管事務，均不得洩漏，退職後亦同。公務員未得長官許可，不得以私人或代表機關名義，任意發表有關職務之談話。

278) In relation to the National Police Authority, the CIB, Prosecutors and the Customs Service, Article 4 of the Civil Servant Service Act provides as follows: "Civil servants have an absolute obligation to safeguard the confidentiality of information in the possession of government agencies, and may not leak information pertaining to confidential matters regardless whether their arm of the government serves as competent authority for the matter in question, and the same prohibition applies after termination of employment. Without the consent of one's superior, a civil servant may not at will issue statements regarding their official duties, either in one's own name or as representative of the agency".

279) 檢察官表示接受過洗錢防制特別訓練，有些訓練是由當地檢察署辦理，另有些由司法官訓練所辦理。評鑑團無法判定法官是否有接受洗錢犯罪構成要素、扣押、凍結與沒收等相關之特別訓練。

279) Prosecutors advise they receive specific training in relation to money laundering. Some of these training programmes are facilitated through localised prosecutor's offices and others through the 'Training Institute for Judges and Prosecutors'. The Evaluation Team was unable to determine if there was specific training for judges in relation to ML offences and the seizure and freezing and confiscation of property.

280) 調查局及刑事警察局表示有接受過洗錢犯罪調查及相關法律之訓練，而美國司法部緝毒局亦曾針對洗錢與犯罪收益課題，提供國際訓練課程。

280) The MJIB and the CIB report that they do receive training with regard to money laundering investigation techniques, and law. There also has been exposure to international training provided by the US Ministry of Justice Drug Enforcement Administration which has focused on money laundering and the proceeds of crime.

2.6.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

281) 需要有更多資源用於販毒收益之洗錢調查，緝毒與反洗錢調查員更緊密的一致行動。也許可以增加源自毒品犯罪之洗錢起訴案件數量。

281) There is a need for more resources to be focused on ML investigations that relate to the proceeds of drug trafficking. A closer alignment of drug and AML investigators may increase the number of prosecutions that stem from narcotic offending.

282) 緝毒中心及刑事警察局之

282) DEC and drug investigators within the CIB

毒品調查人員需要有能力可以調查毒品犯罪取得之資產及其洗錢，統計資料顯示這一部分目前尚屬空白。

need to have the capacity to investigate the acquisition of assets and the laundering of drug income. Statistics reflect this is not currently occurring.

283) 建議執法機關成立專責洗錢及犯罪資產調查之單位，並賦予額外資源及特別的會計鑑識能力，以調查犯罪收益並採取剝奪行動。

283) It is recommended that key law enforcement agencies establish dedicated money laundering and proceeds of crime units with additional resources and specialist forensic accountancy capacity to investigate and take action over criminal proceeds.

284) 中華台北應檢討執法面對難以證明資金源自犯罪之問題，考量舉證反置條款作爲民事沒收體制之一部分。

284) Chinese Taipei should review the problems faced by law enforcement where there is difficulty in proving funds were derived from a specific offence. If the findings warrant it, Chinese Taipei may consider a reverse onus provision as part of a civil forfeiture regime.

2.6.3 建議第27、28、30及32遵循評等(COMPLIANCE WITH RECOMMENDATION 27, 28, 30 & 32)

	評等	評等理由摘述
建議第27項	LC	● 有特定機關負責洗錢／資助恐怖分子之調查及犯罪收益剝奪。 ● 統計資料顯示目前在犯罪收益剝奪方面之成就有限。 ● 目前可用於調查洗錢案件之特別作爲有相當限制，例如臥底偵查。
R.27	LC	● Designated authorities do have responsibility for the investigation of ML or TF and recovery of proceeds of crime. ● Statistics reflect that currently there has only been limited success in the recovery of proceeds of crime. ● There currently exist limitations on measures that can be used to conduct investigations in ML - for example the undercover investigations this is recognised and is actively being worked on by the jurisdiction.
建議第28項	C	完全遵循
R.28	C	This rating is fully observed
建議第30項	LC	● 值得注意的是洗錢犯罪起訴案件源自於經濟犯罪以外者（如毒品犯罪）相當缺乏，這反映在執法上未能重視洗錢犯罪調查。 ● 毒品犯罪調查人員目前未將毒品相關收益之洗錢調查列爲重點，並缺乏剝奪及沒收該收益之能力。 ● 缺乏專責單位進行犯罪收益之剝奪。 ● 對於邊境管制以執行反洗錢與打擊資助恐怖分子之能力有相當明顯缺失，特別是跨國境現金及無記名可轉讓金融商品之移動。
R.30	LC	● There is a noticeable absence of M/L prosecutions that stem from income generating crime other than

		economic crime (such as narcotics offending). This reflects a lack of focus on the investigation of ML across all law enforcement. ● Narcotics investigators lack the focus (at this time) to investigate the laundering of drug related income as part of their investigations and the ability to recover and confiscate that income ● There is a lack of dedicated units to recover proceeds of crime. ● There are significant deficiencies with regards to capacity of border control to implement AML/CFT measures at the border, in particular cross-border movement of currency and bearer negotiable instruments
建議第32項	LC	此項爲複合評等
R.32	LC	NB, this is a composite rating.

2.7 跨國境現金攜帶申報或揭露--特別建議第 IX 項(CROSS-BORDER DECLARATION OR DISCLOSURE--SR.IX)

285) 管理外匯條例第11條規定：「旅客或隨交通工具服務之人員，攜帶外幣出入國境者，應報明海關登記；其有關辦法，由財政部會同中央銀行定之」。另依據第24條規定，任何不依規定向海關報明登記或申報不實者，可能面臨全部或超過部分被沒入之處罰。

285) Article 11 of the Foreign Exchange Control Act stipulates that passengers or service personnel of a transportation vehicle, who carry foreign currency into or out of Chinese Taipei, shall declare the currency movement to the Customs Service. Article 24 outlines that failure to report or falsely declaring a currency movement will result in all or the excess portion of the carried currency being confiscated.

286) 92.3.21財政部規定攜帶外幣出、入國境申報門檻爲1萬美元或等值其他外幣。

286) On 21 March 2003 the Ministry of Finance stipulated that the declaration threshold be set at $10,000 USD or the equivalent in other foreign currency.

287) 出入境旅客攜帶外幣超過等值1萬美元者需填寫「旅客攜帶外幣入出境登記表」向海關申報，內容涵蓋旅客身分資料、旅行資訊及攜帶之外幣金額，該表自95年1月1日起已增列「用途」及「簽名」欄。

287) The declaration is completed on the 'Cross-border Currency Movement Declaration' form. This form includes details such as the passenger's details and identification documents, travel information and the amount of currency carried. On 1 January 2006 the form was amended to include two additional columns being 'purpose' and 'the signature of the traveller'.

288) 「入境旅客攜帶行李物品報驗放辦法」規定入境旅客有下列情形之一者，應填報海關申報單向海關申報，並經紅線檯查驗通關：

288) There also exists a specific 'Inward Passengers Carrying Baggage and Good Clearance Regulation' which requires all inward passengers to declare in the form of a written declaration and pass through the 'Goods to declare' counter when carrying:

a) 攜帶外幣現鈔總值逾等值美幣1萬元者；
b) 攜帶新台幣逾6萬元者；
c) 攜帶黃金價值逾美幣2萬元者;
d) 4)

a) foreign currency exceeding USD$10,000 or equivalence in total;
b) new Taiwan Dollar exceeding NT$60,000;
c) gold exceeding a total value of US$20,000; or
d) China currency exceeding RMB $20,000

289) 海關在受理申報之後，要依據洗錢防制法第9條將申報資料遞送洗錢防制中心。

289) Upon receipt of the declarations the Customs Service is required by Article 9 of the MLCA to forward these declarations to the MLPC.

2.7.1 說明與分析(DESCRIPTION AND ANALYSIS)

特別建議第IX項(Special Recommendation IX)

290) 如果發現跨國境現金攜帶有未申報或未據實申報情形，海關有權訊問旅客，而實務上之訊問或調查却非常有限，然而這是可以從旅客取得進一步資訊之方式。

290) In circumstances where currency is detected and there has not been a declaration or when a declaration has been submitted and it is false or misleading, the Customs Service has the ability to interrogate the passenger. The extent of that interrogation and investigation would appear to be very limited, however there is the ability to seek further information from the passenger.

291) 海關如有相當理由懷疑旅客攜帶之涉及洗錢或資助恐怖分子，會依刑事訴訟法第241條規定，移請警察機關依據法令對該資金採取必要之限制作爲。

291) If there is suspicion that the funds are evidence of a ML/FT offence, Customs Service Officials are required to report the incident pursuant to article 241 of the Criminal Procedure Code to the Police authorities who can initiate restraint of the funds subject to statutory requirements.

292) 海關取得有關現金或可轉讓無記名商品跨國移動之紀錄及資訊，依據關稅法第12條之相關規定，可以分享負責洗錢／資助恐怖分子犯罪調查之機關。

292) The Customs Service retains records and information relating to currency or bearer negotiable instrument movements. Article 12 of the Customs Law permits this information to be shared with investigative authorities involved with ML/FT investigations.

293) 從2003年9月開始，關稅總局將跨國境旅客攜帶外幣現鈔申報超過等值新台幣150萬元(約美金4萬5千元)之紀錄通報洗錢防制中心。自2006年7月1日起取消門檻限制，對於入出境旅客攜帶外幣之申報資料，全數通報洗錢防制中心。

293) Commencing in September 2003 the Director General of Customs began to forward Cross-border Declarations that exceeded $1,500,000 NTD (approx $45,000 USD) to the MLPC. On 1 July 2006 this threshold was abolished and now all Crossborder Currency Declaration Reports are forwarded to the MLPC.

294) 現地評鑑期間，海關申報資料是以每月彙整傳送洗

294) During the on site visit these reports were being forwarded every 30 days to the MLPC. The Customs Service and the MLPC are

錢防制中心方式辦理，海關及洗錢防制中心目前正密切合作，採取新的處理方式，可以將這些報告直接以電子檔案方式通報洗錢防制中心，以避免目前作業方式可能產生之延誤狀況。所有海關通報之跨國境現金攜帶申報資料全部轉入洗錢防制中心電腦資料庫，各有關機關基於「反洗錢與打擊資助恐怖分子」目的，可以向洗錢防制中心提出查詢需求。

currently working together to install a process to allow for these reports to be filed electronically with the MLPC to avoid the delays that currently exist. When these reports are received they are recorded in the MLPC database and are therefore available for further investigation and are able to be accessed by competent authorities for ML/CFT purpose.

295) 海關與其他機關在反洗錢與打擊資助恐怖分子之遵循作為上有密切之工作關係，法務部於2005年6月成立「防制洗錢策進作為協調會報」，該會報檢討目前採取之作為是否符合國際要求標準，並討論策進作為，關稅總局為與會機關之一。

295) There is a close working relationship between the Customs Service and other authorities involved in ML/FT compliance. In June 2005 the MOJ established the 'Improving AML/CFT Measures Co-ordination Forum'. This forum meets to review current measures and discuss operational issues that can improve compliance with the international standards.

296) 該機關表示已努力建立與國外海關及移民對等單位之合作管道，2005年8月間曾與美國合作而成功攔截從中國大陸轉運美國之2百萬元偽造美鈔，而海關報告指出中華台北與其他國家僅有有限的正式國際合作關係。

296) The jurisdiction identifies it has taken efforts to establish co-operation channels with foreign customs and immigration counterparts. Co-operation with the United States did lead to a successful interception of $2 million counterfeit US dollars in transit between mainland China and the US in August 2005. In general Customs report that there are limited formal international relationships that exist between Chinese Taipei Customs and other jurisdictions.

297) 如前所敘，旅客攜帶超額未申報或申報不實之現金，其超過限額部分可以沒入，這是目前僅有對於未申報或申報不實之制裁。

297) As noted previously, when a person falsely reports or fails to report a currency movement, the excess of the prescribed amount can be confiscated. This is the only sanction in place in relation to failure to report or false reporting.

298) 如果可以判定以實體方式進行跨國境現金或無記名可轉讓金融商品運送而涉及洗錢，除前段所敘制裁外，可依洗錢防制法予以其他制

298) If it can be determined that the physical cross-border transportation of currency or bearer negotiable instruments relates to money laundering then in addition to the sanctions mentioned in the proceeding paragraph additional sanctions are available

裁。

299) 反恐怖行動法草案將對以實體方式進行跨國境現金或無記名可轉讓金融商品運送予以其他額外制裁，由於該草案尚未完成立法，目前對於涉及資助恐怖分子而以實體方式進行跨國境現金或無記名可轉讓金融商品運送並無特別制裁。

pursuant to the MLCA.

299) The draft Counter Terrorism Act will provide additional sanction in relation to physical cross-border transportation of currency or bearer negotiable instruments. As the legislation is in draft there is currently no specific sanction in relation to physical crossborder transportation of currency or bearer negotiable instruments that are related to terrorist financing.

300) 對於異常之跨國性黃金或貴金屬搬移被發掘，將會通報洗錢防制中心透過國際對等單位詢問該搬移之目的，並在必要時採取合宜作爲，迄現地評鑑時，尚無此類之報告產生。

300) In the event where an unusual border movement of gold or precious metals is detected, it would be referred to the MLPC which would initiate enquiry with their international counterparts to establish the purpose of the movement and direct appropriate action as required. At the time of the evaluation no such reports had ever been generated.

301) 海關對於辨識未申報跨國境現金搬移之行動，僅有非常有限的成功案例，在2003年至2006年間，有8千5百萬旅客入出國境，但僅有13案被發掘未申報或申報不實，這顯示海關嚴重缺乏資源與能力執行此一任務。

301) Customs have had extremely limited success in identifying undeclared border movements. Between 2003 and 2006 there were 85 million passenger movements across the border and only 13 cases where persons were detected with undeclared or falsely declared currency movements. This reflects a very serious lack of capacity and resources in the Customs agency.

302) 對於海關權力與資源的迫切檢討有其必要，應建立潛在現金攜帶對象資料及執行系統並增加隨機檢查之數量。對於發掘現金攜帶時立即進行調查之權力與訓練應加以檢討，而防制不法資金跨國境移動之能力亦需加強，以配合現有之有效作爲。

302) An urgent review of customs powers and resources is required. A system of profiling potential cash couriers needs to be established and implemented and the number of random inspections needs to be increased. A review of Customs Service powers and training in relation to immediate investigative response to the persons who are discovered at the border with cash needs to be undertaken. The capability to prevent the movement of funds over the border needs to be increased to complement other effective measures in place within the jurisdiction.

建議第32項(Recommendation 32)

表 9: 海關受理跨國境現金攜帶通報數量統計

	2003		2004		2005		2006	
	入境	出境	入境	出境	入境	出境	入境	出境
基隆關稅局	11	0	23	1	3	0	0	0

台北關稅局	153	116	615	355	576	796	1373	1091
高雄關稅局	15	3	46	5	66	12	137	31
合計	298		1,045		1,453		2632	

Table 9. Statistics in relation to the number of Cross-border Currency Reports received by the Customs Service

Year	2003		2004		2005		2006	
	Inward	Outbound	Inward	Outbound	Inward	Outbound	Inward	Outbound
Keelung Customs	11	0	23	1	3	0	0	0
Taipei Customs	153	116	615	355	576	796	1373	1091
Kaohsiung Customs	15	3	46	5	66	12	137	31
Total	298		1045		1453		2632	

303) 海關受理跨國境現金攜帶通報數量統計顯示受理申報數量逐漸增加，如前所敘目前無有關黃金、寶石及貴金屬申報資料。

303) The statistics on the number of Cross-border Movement Reports reflect there is a steady increase in the number of reports received. As referred earlier no declarations in relation to gold and precious stones and metals have ever been submitted.

表 10: 2003-2006年發掘未申報或不實申報之數量統計

年度	2003	2004	2005	2006
美金	1件(90,000)		1件(31,950)	
日幣			1件(4,820,000)	2件(53,890,000)
歐元			1件(13,000)	
港幣		2件(620,000)	2件(6,443,000)	3件(505,500)
其他		1件(294,000)		

Table 10. Detections of unreported or falsely reported declarations 2003 - 2006

Year	2003	2004	2005	2006
USD	1 ($90,000)		1 ($31,950)	
JPY			1 (4,820,000)	2 (53,890,000)
EUR			1 (13,000)	
HKD		2 (620,000)	2 (6,443,000)	
Other		1(294,000)		3 (505,500)
Total	1	3	5	5

304) 在2003年至2006年間，有9千6百萬旅客入出國境，但僅有13案被發掘未申報或申報不實。

304) 13 cases of false or failed declaration have been identified during 2003 – 2006 in which there were 96 million passenger movements.

2.7.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

305) 應對於海關權力與資源進行迫切檢討。

305) An urgent review of customs powers and resources should be undertaken.

306) 應檢討申報系統以判定海關欠缺資源而減損其執行效能情形。

306) A review of the declaration systems needs to be undertaken to determine if the lack of resources available to the Customs Service to enforce the system is undermining its effectiveness.

307) 應建立潛在現金攜帶對象資料及執行系統並增加隨

307) A system of profiling potential cash couriers needs to be established and implemented and

機檢查之數量。

the number of random inspections needs to be increased.

308) 對於發掘現金攜帶時立即進行調查之權力與訓練應加以檢討，而防制不法資金跨國境移動之能力亦需加強，以配合現有之有效作爲。

308) A review of Customs Service powers and training in relation to immediate investigative response to the persons who are discovered at the border with cash needs to be undertaken. The capability to prevent the movement of funds over the border needs to be increased to compliment other effective measures in place within the jurisdiction.

309) 應檢討未申報及現金走私之制裁，對於走私或未申報現金跨國移動需要有強力的遏止作爲，除了超過應申報部分予以沒入外，要有其他之制裁，以鼓勵遵循申報系統。

309) A review of the sanctions available for non-declaration and the smuggling of cash is required. There needs to be a strong deterrent for smuggling or failure to declare currency movements. Sanctions in addition to confiscation of excess funds are required to encourage compliance with the declaration system.

310) 對於走私現金要有特別之制裁。

310) A specific sanction for the smuggling of cash needs to be implemented.

2.7.3 特別建議第IX項及建議第32遵循評等(COMPLIANCE WITH SPECIAL RECOMMENDATION IX & RECOMMENDATION 32)

	評 等	評 等 理 由 摘 述
特別建議第IX項	PC	● 海關缺乏資源以有效執行申報系統，明顯的減損其效能。 ● 對於未遵循申報系統之制裁有缺陷。 ● 缺乏對現金走私之特別制裁。
SR.IX	PC	● There is a lack of resources available to the Customs Service to enforce the declaration system, which appears to be undermining its effectiveness. ● There is a deficiency in the sanctions available for non-compliance with the declaration system. ● There is a lack of implementation of a specific sanction for the smuggling of cash
建議第32項	LC	此項爲複合評等
R.32	LC	NB, this is a composite rating

3 預防性作爲-金融機構(PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS)

客戶審查與紀錄保存(Customer Due Diligence & Record-keeping)

一般性概述(General)

311) 在洗錢防制法中對於金融機構之定義，包括下列機構：

a) 銀行。
b) 信託投資公司。
c) 信用合作社。
d) 農會信用部。
e) 漁會信用部。
f) 辦理儲金匯兌之郵政機構。
g) 票券金融公司。
h) 信用卡公司。
i) 保險公司。
j) 證券商。
k) 證券投資信託事業。
l) 證券金融事業。
m) 證券投資顧問事業。
n) 證券集中保管事業。
o) 期貨商。
p) 銀樓業。

312) 外幣收兌處目前並未涵蓋在洗錢防制法所定義之金融機構範圍，依據外幣收兌處設置及管理辦法，下列團體可以申請執照經營外幣兌換：

a) 觀光旅館、旅行社、百貨公司、手工藝品業、金銀及珠寶業（俗稱銀樓業）、便利商店、國家風景區管理處、旅遊中心、火車站、寺廟、博物館等行業。
b) 從事國外來臺旅客服務之機構團體或位處偏遠地區之旅館、商店等業者。

311) The definition of “financial institutions” in the Money Laundering Control Act (MLCA) includes the following institutions:

a) Banks;
b) Trust and investment corporations;
c) Credit cooperative associations;
d) Credit departments of farmers’ associations;
e) Credit departments of fishermen’s associations;
f) Postal service institutions;
g) Negotiable instrument finance corporations;
h) Credit card companies;
i) Securities brokers;
j) Securities investment and trust enterprises;
k) Securities finance enterprises;
l) Securities investment consulting enterprises;
m) Securities central depository enterprises;
n) Futures brokers; and
o) Jewellery shops.

312) Currency exchange bureaus are not included in the definition of financial institutions in the MLCA. Under the Regulations Governing Establishment and Administration of Foreign Currency Exchange Bureaus, the following entities can apply for license to operate currency exchange bureaus:

a) Hotels, travel agencies, department stores, handicraft shops, jewellery stores, convenience stores, administrative offices of national scenic areas, tourist sightseeing service centers, railway stations, temples, museums;
b) Institutions and associations providing services to foreign travellers or hotels and

stores located in remote areas

313） 中央銀行於2007年1月25日修訂外幣收兌處設置及管理辦法，引進外幣收兌處對於客戶審查及可疑交易申報義務。該修正後之辦法於評鑑團在中華台北進行現地評鑑時，才執行約一星期，因此該體制之執行成效尚無法判定。

313) The Central Bank of China amended the Regulations Governing Establishment and Administration of Foreign Currency Exchange Bureaus on 25 January 2007. The amendment introduced CDD and STR obligations for currency exchange bureaus. The amendment had been in force for only about a week when the Evaluation Team visited Chinese Taipei, and it was too early for the Evaluation Team to form judgment on the effectiveness of the regime.

314） 中華台北的客戶審查機制涵蓋FATF40項建議詞彙表所列之13種金融活動，除了融資業之外。目前融資業是依據公司法登記並由經濟部管理，然而將來融資公司將依據融資公司法設立，該法目前尚在立法中。根據經濟部提供之統計資料，從事有關應收帳款收購及放貸業務之公司，資本額超過新台幣5億元有152家，93家資本額在新台幣10至20億之間，43家資本額在20億至30億之間。

314) The CDD regime in Chinese Taipei covers all the 13 financial activities listed in the Glossary to the FATF 40 Recommendations with the exception of financial leasing. Currently, entities that provide financial leasing are registered under the Company Act and are regulated by the Ministry of Economic Affairs. They are, however, "finance companies" under the Draft Finance Company Act, which is still in the legislative process. According to the statistics provided by the Ministry of Economic Affairs, the amount of capital of companies engaged in the businesses related to the purchase of accounts receivables and leasing is as follows: 152 companies with over NT$ 500 million, 93 companies with NT$ 1 billion ~ 2 billion, and 43 companies with 2 billion ~ than NT$ 3 billion.

3.1 洗錢或資助恐怖分子風險(RISK OF MONEY LAUNDERING OR TERRORIST FINANCING)

法律規範與其他加強性作爲(Law Regulation and Other Enforceable Means)

315) 中華台北採行之反洗錢與打擊資助恐怖分子作爲在客戶審查體制方面，金融體系中不同金融行業有不同的客戶

315) Chinese Taipei has adopted an approach to AML/CFT where different components of CDD regime apply to different sectors within the financial system. CDD requirements

審查要件。洗錢防制法對於客戶審查要求僅止於申報疑似洗錢交易或大額通貨交易時對客戶之辨認程序，對於帳戶開戶及臨時性交易而無需進行大額通貨交易申報時之客戶審查並未規範在洗錢防制法中，而是散見於許多法律、規章及內控指引等。

explicitly set out in the MLCA cover only customer identification procedures for transactions that trigger STR or CTR obligations. CDD requirements for account opening and occasional transactions that do not trigger CTR obligations are not captured in the MLCA and are scattered in several laws, regulations, and internal control guidelines.

316) 洗錢防制法第6條要求金融機構建立自己之防制洗錢注意事項(防制洗錢防制指引與程序)，同條亦要求內容應涵蓋下列事項：

a) 防制洗錢之作業及內部管制程序。
b) 定期舉辦或參加防制洗錢之在職訓練。
c) 指派專責人員負責協調監督本注意事項之執行。
d) 其他經目的事業主管機關及財政部指定之事項。

316) Article 6 of the MLCA requires financial institutions to establish their own money laundering prevention guidelines and procedures. The same Article also provides that such guidelines and procedures must at a minimum include the following:

a) internal control procedures for anti-money laundering operations;
b) on-the-job AML training instituted or participated in by the financial institution;
c) designation of a responsible person to coordinate and supervise the implementation of the money laundering prevention guidelines and procedures; and
d) other cautionary measures prescribed by the competent authority and the Ministry of Finance

317) 商業團體法所規範之不同商業同業公會大多爲所屬會員訂有洗錢防制注意事項範本，而各別金融機構依據範本訂定自己之防制洗錢注意事項，這些公會包括：

a) 銀行公會。
b) 證券投資信託暨顧問商業同業公會。
c) 信託業商業同業公會。
d) 證券商業同業公會。
e) 中華民國期貨業商業同業

317) Various “commercial associations” as are defined by the Commercial Group Act have published Money Laundering Prevention Guidelines and Procedures for their respective members, and individual financial institutions have established their internal guidelines based on the Guidelines issued by their respective commercial groups. The following commercial groups have published Money Laundering Prevention Guidelines and Procedures:

a) Bankers’ Association;
b) Securities Investment Trust and Consulting

公會。
f) 人壽保險商業同業公會。
g) 產物保險商業同業公會。

Association;
c) Trust Association;
d) Taiwan Securities Association;
e) China National Futures Association;
f) Life Insurance Association; and
g) Non-life Insurance Association.

318) 除了證券投資信託暨顧問商業同業公會依據證券投資信託及顧問法第88條規定，具有管理功能之外，其餘公會本身並無自我規範權力，其功能角色大多僅限於對所屬會員機構之員工提供教育訓練、作爲政府與會員間之溝通管道、推廣政府經濟政策及商業法令。

318) With the sole exception of the Securities Investment Trust and Consulting Association, which has regulatory functions under Article 88 of the Securities Investment Trust and Consulting Act, these commercial associations have no self-regulatory powers. Their roles are limited mostly to training and education of the employees of the member institutions, liaison between the government and the members, and promotion of economic policies and commercial decrees of the government.

319) 中華台北有關機關引用洗錢防制注意事項範本作爲許多客戶審查作爲之主要法源依據，即使有些法律或規章亦有規範類似作爲。

319) Chinese Taipei authorities cited the Money Laundering Prevention Guidelines and Procedures as the primary legal bases for many of the CDD measures, even for a few measures where there are laws or regulations that provide for such measures.

320) 評鑑團內部及與中華台北有關機關討論防制洗錢注意事項範本的性質及是否可以視爲「其他強制性作爲」，有關機關回應如下：
a) 防制洗錢注意事項範本是依據洗錢防制第6條訂定，具備清楚的法律基礎。
b) 依據洗錢防制法規定，防制洗錢注意事項範本及金融機構個別訂定之注意事項需要經過金融監督管理委員會審核備查。
c) 防制洗錢注意事項範本被完全整合於個別金融機構

320) The Evaluation Team had discussions among the team members and with Chinese Taipei government authorities about the nature of Guidelines and whether they can be recognized as "other enforceable means." The government authorities responded to the Evaluation Team's questions about the nature of the model guidelines as the following:
a) The Guidelines have clear legal basis as they were published and adopted pursuant to Article 6 of the MLCA;
b) The Guidelines and the individual financial institutions' internal control guidelines were reviewed and approved by the FSC as is stipulated in the MLCA;

之內部控制準則中。

d) 金融監督管理委員會對金融機構之反洗錢與打擊資助恐怖分子業務檢查，包括對於防制洗錢注意事項遵循在內，如果發現有未遵循情形，得命令金融機構改善。

c) The Guidelines were incorporated in their entirety into the internal control guidelines of individual financial institutions;

d) The FSC's AML/CFT examination of financial institutions includes examination on compliance with the Guidelines and the FSC can order correction when it discovers non-compliance.

321) 評鑑團看到防制洗錢注意事項範本之執行成效良好，相關政府部門強調，在金融行業一般實務上已將範本確實完全整合於個別金融機構內部控制程序之中。本報告對此分析認爲，基於考量法令明文規定之要求作爲是評等之主要基礎，防制洗錢注意事項範本將視爲是「其他強制性作爲」。

321) The Evaluation Team saw good implementation of the Guidelines. As was emphasized by the government authorities, the general practice in the financial sector was that the Guidelines were indeed incorporated in their entirety into the internal control procedures of individual financial institutions. The analyses contained in this report, therefore, have taken the approach of considering laws or regulations that explicitly set out specific requirements as the primary bases of rating and considering the Guidelines as "other enforceable means".

3.2 客戶審查，包括強化或刪減之措施--建議第5-8項(CUSTOMER DUE DILIGENCE, INCLUDING ENHANCED OR REDUCED MEASURES--R.5 TO 8))

3.2.1 說明與分析(DESCRIPTION AND ANALYSIS)

建議第5項(Recommendation 5)

匿名帳戶(Anonymous Accounts)

322) 依據1953年總統公布之姓名條例第5條，財產之取得、設定、喪失、變更、存儲或其他登記時，應用本名，其未使用本名者，不予受理。該條文對於「財產」在解釋上並無特別限制，可以解釋爲包括不動產與動產。

322) Article 5 of the Name Act, which was promulgated by order of the President in 1953, provides that real names shall be used in any registration of acquisition, loss, change, or deposit of assets and that transactions that do not use real names shall not be processed. There is no specific restriction on interpretation of the term "asset" in the provision, and the term is interpreted to encompass both real property and liquid assets.

323) 依據洗錢防制法有關客戶身分辨識規定及各公會訂定之防制洗錢注意事項範本，姓名條例對於使用真實姓名之要求可以有效地防制金融機構爲客戶開設匿名帳戶或假名帳戶。

323) Along with the customer identification requirements under the MLCA and the Money Laundering Prevention Guidelines and Procedures issued by commercial associations, the requirement to use real names stipulated in the Name Act effectively prevents financial institutions from opening anonymous accounts or accounts under fictitious names.

324) 所有接受評鑑團拜會之金融機構均表示並無匿名帳戶或假名帳戶存在。

324) All the financial institutions interviewed by the Evaluation Team said that they do not have any anonymous accounts or any accounts under fictitious names.

需要進行客戶審查之時機(When CDD is required)

銀行業(Banking Sector)

325) 當建立新的生意往來關係：金融監督管理委員會依據銀行法第45-2條第3項所發布之銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法，規定銀行處理開戶時之客戶審查要件，該辦法第13點要求銀行應實施雙重身分證明文件查核，身分證及登記證照以外之第二身分證明文件，應具辨識力。

325) When establishing a new business relationship: The Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions, which was promulgated by the Financial Supervisory Commission in accordance with Paragraph 3 Article 45-2 of the Banking Act, sets out CDD requirement for banks when handling account opening. Article 13 of the Regulations requires banks to verify the customer's identity by checking two different ID documents, one of which should be the national ID card or an ID document with equivalent status and the other of which should be an ID document with sufficient identification capability.

326) 同條亦列出銀行不應接受開戶申請之狀況，規定銀行對於下列情形，應拒絕客戶之開戶申請：

a) 疑似使用假名、人頭、虛設行號或虛設法人團體開立存款帳戶者。

b) 持用僞、變造身分證明文件

326) The same Article also lists cases where banks should not accept an application for opening of an account. It stipulates that banks should turn down an application for account opening if any of the following is the case:

a) the customer uses a fake name, a nominee, or a shell entity to open an account;

b) the ID document provided by the customer is a

或出示之身分證明文件均爲影本者。

c) 提供之文件資料可疑、模糊不清、不願提供其他佐證資料、或提供之文件資料無法進行查證者。

d) 客戶不尋常拖延應提供之身分證明文件者。

e) 客戶開立之其他存款帳戶經通報爲警示帳戶尚未解除者。

f) 受理開戶時有其他異常情形，且客戶無法提出合理說明者。

forged or a photocopied document;

c) documents provided by the customer are dubious or unclear;

d) the customer procrastinates in providing identification documents in an unusual manner;

e) another deposit account of the customer is reported as a Watch-listed account; or

f) other unusual circumstances exist and the customer fails to provide a reasonable explanation.

327) 據金融監督管理委員會銀行局表示，任何金融機構違反前述規定將依銀行法第132條處以新台幣50萬元（約美金1萬5千元）以上2百50萬元（約美金7萬5千5百元）以下。

327) The Banking Bureau of the FSC said that any financial institution violating the said Article can be fined not less than NT$500,000 (approximately US$15,000) and no more than NT$2,500,000 (approximately US$75,500) under Article 132 of the Banking Act.

328) 然而該辦法並未提供何種客戶資訊應該被取得與保留之相關指引。

328) The Regulations, however, do not provide any guidance on the specific types of customer information to be obtained and retained.

329) 銀行公會訂定之防制洗錢注意事項範本列出有關開戶之客戶審查要件，該注意事項範本要求銀行要查核二種不同身分文件以確認客戶身分，如果開戶是由代理人／受託人辦理，則亦要求查核該代理人／受託人身分。

329) The Money Laundering Prevention Guidelines and Procedures for Banks published by the Bankers' Association also set out CDD requirements for account opening. The Guidelines require banks to verify customer identity by checking two different types of ID documents. The Guidelines also require banks to verify the identity of the agent/consignee if the account opening is handled by an agent or a consignee.

330) 臨時交易：依據洗錢防制法第7條及其授權規定事項，金融機構被要求對於任何現金交易超過新台幣1百萬元（約美金3萬元），應確

330) Occasional transactions: Under Article 7 of the MLCA and the Regulations Regarding Article 7 of the MLCA, financial institutions are required to verify customer identity when handling any cash transaction exceeding NT$1 million

認客戶身分，該門檻大約是FATF建議所訂門檻之2倍。依據前揭規定，銀行必須依據客戶提供之身分證明文件確認客戶身分，並留存姓名、出生日期、地址、電話、交易帳號、交易金額及身分證號碼等，如果交易由代理人爲之，銀行`必須同時記錄代理人之姓名、出生日期、電話及身分證號碼。

(approximately US$30,000), which is about double the threshold specified in the FATF Recommendations. Under the aforementioned Regulations, banks must verify the customer's identity based on the identification document provided by such customer and keep records of the name, birth date, address, telephone number, transaction account number, transaction amount, and the ID number. If such a transaction is processed by an agent, the bank must record the name, birth date, telephone number and the ID number of the agent as well.

331) 電匯：金融機構辦理國內匯款作業確認客戶身分原則要求金融機構對於任何現金匯款達新台幣3萬元（約美金900元）以上者，要執行客戶審查，並記錄匯款人全名、身分證統一編號（非自然人爲統一證號）及電話號碼（或地址）。爲執行客戶審查，金融機構必須要求匯款人提供身分證明文件並檢查匯款人身分是否與匯款申請單相符。

331) Wire transfer: The Directions for Confirming Customer Identity in Domestic Remittance Operations of Financial Institutions require financial institutions to perform CDD for any domestic cash remittance of NT$30,000 (approximately US$900) or more. For such remittances, financial institutions are required to record the remitter's full name, national identity card number (or Uniform Invoice Number for a non-natural person), and phone number (or address). To perform such CDD, financial institutions are required to ask the originator to present proof of identity and check if the remitter's identity is consistent with the information on the remittance application form.

332) 依據中央銀行發布之銀行業辦理外匯業務管理辦法，金融機構處理任何跨國境匯款，都必須核對原始匯款人身分證（法人要有登記證明影本），電匯資料將跟隨匯款人全名、帳戶號碼、身分證統一編號及地址。

332) Under the Directions Governing Banking Enterprises for Operating Foreign Exchange Business issued by the Central Bank of China, a financial institution must check the ID card (or a copy of the registration certificate for a juristic person) of the originator for any cross-border remittance that it handles. The wire transfer remittance shall show the full name, the account number, I.D. number and address of the originator.

333) 當有洗錢嫌疑發生時：依

333) When there is a suspicion of money

據洗錢防制法第8條規定，金融機構被要求對於有洗錢嫌疑之任何交易，必須確認客戶身分，而洗錢防制法第8條授權規定事項特別列出必須對客戶身分進行確認義務之疑似洗錢交易表徵。該規定事項要求金融機構對於任何依據內部防制洗錢注意事項所發掘之可疑交易要確認客戶身分，並要求對於交易最終受益人或交易對象爲財政部函告外國政府列名之恐怖分子或團體時，必須進行客戶審查。

laundering: Under Article 8 of the MLCA, financial institutions are required to verify customer identity for any transaction suspected to be money laundering activity. The Regulations regarding Article 8 of the Money Laundering Control Act list specific indicators of suspicious activities that must trigger the customer identity verification obligation. The Regulations require financial institutions to verify customer identity for any suspicious transactions as are determined according to their internal anti-money laundering guidelines. The same Regulations also require financial institutions to perform CDD for transactions where the ultimate beneficiary or transaction party is a terrorist or terrorist group as listed by the Ministry of Finance based on information provided by foreign governments.

334) 對客戶先前所提供之身分資料真實性有懷疑時：在銀行公會訂定之防制洗錢注意事項範本中，要求對於客戶先前身分資料有疑惑時要重新進行客戶審查之義務，但並未特別納入法律或規則之中。該注意事項範本要求銀行在完成客戶開戶之後始發現可疑，要以電話或信函或直接拜訪之方式，對客戶身分再一次確認。

334) When there are doubts about the veracity of previously obtained customer identification data: An obligation to perform CDD when previously obtained customer identification information is dubious is set out in the Money Laundering Prevention Guidelines and Procedures adopted by the Bankers' Association, but not specifically captured by a law or a regulation. The Guidelines requires banks to reconfirm customer identity by phone, by letter, or in person in cases where the customer is not found to be suspicious until after the completion of account opening.

證券業(Securities Sector)

335) 當建立新業務關係時：金融監督管理委員會根據證券交易法、期貨交易法及證券投資信託及顧問法訂有相關證券業設立與作業規定，內涵證

335) When establishing a new business relationship: Regulations governing establishment and operation of securities sector entities promulgated by the FSC based on the Securities and Exchange Act,

券業客戶審查之基本要求，並要求金融機構於接受客戶交易時，必須先簽訂經紀／委託合約，下表列出經紀／委託合約中有關客戶身分辨識資訊種類：

the Futures Trading Act, and the Securities Investment Trust and Consulting Act set out basic CDD requirements for the securities sector. The regulations require financial institutions to enter into brokerage contract/consignment contract with the customer before accepting trade orders from the customer. The table below sets out the types of customer identification information to be included in such brokerage/consignment contracts:

表11

法律	依該法律訂定之規定	經紀／委託合約中客戶身分辨識要求
證券交易法	證券商管理規則（第34條）	-姓名、住處及通信地址。 -職業與年齡。 -資產狀況。 -投資經驗。 -開戶理由。 -其他必要資訊。
	證券投資顧問事業管理規則（第8條）	-當事人姓名與地址。
期貨交易法	期貨商管理規則（第29條）	-姓名、年齡、職業、住處、電話號碼、自然人之身分證號。 -法人名稱、代表人、營業處所、營利事業統一編號。 -證券交易所或期貨交易所核發華僑或外籍人士之身分識別號碼。
	期貨經理事業管理規則（第23條）	-當事人之名稱與地址。 -保管機構之指定及辦理相關事項之約定。 -受託期貨經紀商之名稱。
	期貨顧問事業管理規則（第12條）	契約當事人之名稱及地址。
證券投資信託及顧問法	證券投資信託事業證券投資顧問事業經營全權委託投資	-契約當事人之名稱及地址。 -證券經紀商之指定與變更。

	業務管理辦法（第22條）	

Table 11

Laws	Regulations prescribed under those laws	Customer ID required in brokerage/consignment contract
Securities and Exchange Act	Regulations Governing Securities Firms (Article 34)	- Name, domicile, and mailing address - Occupation and age - Asset condition - Investment experience - Reason for opening account - Other necessary information
	Regulations Governing Securities Investment and Consulting Enterprises (Article 8)	- Names and addresses of the parties
Futures Trading Act	Regulations Governing Futures Commission Merchants (Article 29)	- Name, age, occupation, domicile, telephone number, and ID number if the principal is a natural person - Name, the representative, domicile, and government uniform invoice number of principal juristic person - The ID number issued to the principal by the Stock Exchange Corporation or Futures Exchange Corporation of overseas Chinese or foreign national principals
	Regulations Governing Managed Futures Enterprises (Article 23)	- Names and addresses of the parties - Provisions regarding designation of the custodian institution and its execution of related matters - The name of the futures broker consigned for trading
	Regulations Governing Futures Advisory Enterprises (Article 12)	- Names and addresses of the parties
Securities Investment Trust and Consulting Act	Regulations Governing the Conduct of Discretionary Business by Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises (Article 22)	- Names and addresses of the parties - Designation of the securities broker and any change in that designation

336) 臺灣證券交易所股份有限公司營業細則更詳細訂出有關證券經紀商接受交易委託之程序，該細則規範有關新開交易帳戶時，證券經紀商必須與委託人簽訂委託契約，載明帳戶開設日期、委託人姓名（如有代理人則爲代理人姓名）、性別、年齡、職業、通訊地址、電話號碼及國民身分證統一編號，如委託人爲法人，則記載其名稱、通訊地址、營利事業統一編號。

336) The Operating Rules of the Taiwan Stock Exchange Corporation set out more detailed procedures for securities brokers accepting trading consignments. The Rules provide that upon opening a new account, a securities broker must enter into a consignment contract with the principal specifying the date of account opening, name of the principal (the name of the agent, if the application is handled by an agent), his/her sex, age, occupation, address, telephone number, and National Identity Card number. Where the principal is a

juristic person, its name, address, and uniform invoice number must be included in the contract.

337) 當證券經紀商接受保管機構代表委託人全權委託投資之新開帳戶時，則該兩委託人名稱及受託人都要載明於帳戶，進而尚需繳交下列文件：

a) 由委託人、受託人及保管機構之相對權利與義務同意書影本。

b) 如委託人爲自然人，則需國民身分證影本。

c) 如委託人爲法人或其他團體，則法人團體登記文件、稅捐機構發給之設立扣繳單位編配統一編號，法人之代表人國民身分證影本等。

d) 受託人之公司登記文件及公司代表人國民身分證影本。

337) When a securities broker accepts account opening from a custodian institution representing the principal consigning discretionary account investments, the name of both principal and consignee must be specified in the account name. Furthermore, the following documents must be submitted:

a) a photocopy of written agreement signed by the principal, consignee, and the custodian institution regarding respective rights and obligations;

b) where the principal is a natural person, photocopy of his/her National Identity Card;

c) where the principal is a juristic person or other institution, a photocopy of the registration document of the juristic entity, photocopy of the notice of issuance of uniform number for taxable entities issued by the tax authorities, a photocopy of the National Identity Card of the responsible person of the juristic entity; and

d) a photocopy of the registration document of the consignee as a company, and photocopy of the National Identity Card of the responsible person of such company

338) 當受託管理人申請開設帳戶，證券經紀商必須在帳戶中指明這是一個信託專屬帳戶且必須取得下列文件：

1. 當該受託管理人係一信託企業時：

a) 信託企業之法人登記文件及稅捐機構發給之設立扣繳單位編配統一編號影

338) When a trustee applies for opening of an account, the securities broker must indicate in the account name that it is a segregated trust account and must obtain the following documents:

1. Where the trustee is a trust enterprise:

a) Photocopy of the juristic person registration documentation of the trust enterprise and photocopy of the notice of

本。

b) 委任狀及法人代表之國民身分證影本。

c) 如果財產授與人爲自然人，其國民身分證影本；如果是法人，則爲法人登記文件影本。

d) 信託之合約條款。

2. 當該受託管理人非信託企業時：

a) 如果財產授與人及受託管理人都是自然人時，渠等之國民身分證影本；如果都是法人，則爲法人登記文件影本、委任狀及法人代表人國民身分證影本。

b) 稅捐機構發給之設立扣繳單位編配統一編號影本。

c) 信託契約影本。

3. 當交易帳戶屬於慈善信託時，必須繳交權責機關核發之同意文件。

issuance of uniform number for taxable entities issued by the tax authorities.

b) Power of attorney and photocopies of the National Identity Cards of the representative of the juristic person and the attorney in fact.

c) Where the settlor is a natural person, a photocopy of the person's National Identity Card; where it is a juristic person, a photocopy of the documentation of its juristic person registration.

d) Summary terms and conditions of the contract for the trust

2. Where the trustee is not a trust enterprise:

a) Where the settlor and trustee are natural persons, photocopies of their National Identity Cards; where they are juristic persons, photocopies of their juristic person registration documentation, and the power of attorney and photocopies of the National Identity Cards of the representative of the juristic person and the attorney in fact.

b) Photocopy of the notice of issuance of uniform number for taxable entities issued by the tax authorities.

c) Photocopy of the trust deed.

3. Where a trading account belongs to a charitable trust, a photocopy of the approval document by the competent authority for the relevant industry must also be submitted.

339) 華僑或外籍人士在證券經紀商開戶，必須指定一位國內之代理人／代表向台灣證券交易所申請註冊登記，完成後繳交下列文件予證券經紀商，以開設帳戶：

339) To open an account at a securities broker, an overseas Chinese or a foreigner must first appoint a domestic agent/representative to apply for registration at the Taiwan Stock Exchange Corporation. After the registration is completed, the agent/representative must

a) 由申請人簽發授權國內代理人／代表處理帳戶開設之委任狀。
b) 國內代理人／代表之國民身分證、外僑居留證或公司登記文件之影本。

submit the following documents to a securities broker for account opening:
a) The power of attorney issued by the applicant authorizing a domestic agent to handle the account opening.
b) Copy of the National Identity Card, Alien Resident Certificate or company registration (or amendment registration) certification of the domestic agent or representative.

340) 證券商允許開設綜合帳戶（omnibus accounts），但是自從中華台北對於外來投資設限後，每家證券商在其總公司或分公司，都僅能以自己名義開設二個綜合帳戶，作爲境外華僑、外籍人士、外商銀行或保險公司在境內之分行、國內機構投資人及全權投資客戶使用，相關委託人只有在開設證券交易帳戶後，始得使用多用途交易帳戶。如果委託人已指定代理者從事並處理有關交易價格與數量之分配，必須要有委任狀載明交易價格與數量之分配及相關授權事項，如果代理者係機構投資者，委任狀必須由該機構投資者簽名／蓋章。然而，如果同一位代理者由境外華僑、外籍人士、國內基金或同一團體之不同單位所指定。必須有聲明文件載明委託人國民身分證統一編號或營利事業統一編號、姓名／名稱及其他相關資訊。當一家證券商接到指示透過多用途交易帳戶進行證券交易時，必須注意委託人之姓

340) Securities firms are allowed to open omnibus accounts, but since Chinese Taipei still has some ceilings on foreign investment, each securities firm, be it a head office or a branch, is allowed to open only two omnibus accounts in its own name for use by offshore overseas Chinese and foreign nationals, branches established in Chinese Taipei by foreign banks or insurance companies, domestic institutional investors, and discretionary investment customers. A principal may use an omnibus trading account only after opening a securities trading account. If a principal has mandated a mandatory to conduct trades and handle allocation of trade prices and volumes, it must provide a power of attorney and specify the allocation of trade price and volume and relevant authorized matters. If a mandatory is an institutional investor, the power of attorney must be signed/sealed by that institutional investor. However, where a same mandatory is mandated by offshore overseas Chinese or foreign nationals, domestic funds, or units of a same group, the mandatory must provide a statement specifying the principals' ID numbers or uniform invoice numbers,

名或指定之代理者或交易指示紀錄。

names, and other relevant information. When a securities firm accepts orders to trade securities through an omnibus trading account, it must note the name or symbol of the principal or the mandatory on the order form or the trading order record.

341) 臺灣期貨交易所股份有限公司業務規則亦規定期貨商處理帳戶開戶之詳細程序，當期貨商被要求開設交易帳戶時，必須與委託人有經紀合約，載明帳戶開設日期、姓名、性別、年齡、職業、地址、電話號碼及個人身分證統一編號；如委託人係法人時，經紀合約必須載明名稱、地址、及營利事業統一編號。

341) The Operating Rules of the Taiwan Futures Exchange Corporation also set out detailed procedures for futures commission merchants' handling of account opening. When a futures commission merchant is mandated to open an account, it must enter into a brokerage contract with the principal specifying the account opening date, and the name, gender, age, profession, address, telephone number, and personal identification card number of the principal; where the principal is a juristic person the contract must specify the name, address, and the uniform invoice number of the principal.

342) 當期貨商接受保管機構代表委託人全權期貨交易委託之帳戶開設申請，委託人姓名及保管機關名稱必須載明於帳戶名稱，並需簽訂帳戶開戶及全權委託期貨交易之經紀合約，以及簽署同意書指定保管機構爲保證金、權利金之收付及清算代理人，且要取得下列文件：

a) 由委託人、受託人及保管機構簽訂相對權利與義務之合同影本。

b) 如委託人爲自然人，則需國民身分證影本；如委託人爲法人則需要登記文件、稅捐機關發給之設立扣繳單位編配統一編號，法人之代表

342) When a futures commission merchant accepts application for account opening from a custodian institution representing a principal that mandates discretionary futures trading, the names of both principal and the custodian must be specified in the account name. A brokerage contract for account opening and discretionary futures trading must be signed, and an agreement must be signed mandating the custodian institution to work as the agent for collection/payment and settlement of margin and premium. The following documents must also be obtained:

a) a photocopy of the written agreement signed by the principal, mandatory, and custodian institution regarding their respective rights and obligations;

b) where the principal is a natural person, a

人國民身分證等影本。

c) 受託人及保管機構之公司登記文件及公司代表人國民身分證影本。

d) 全權委託交易決定人員(含職務代理人)及其他執行交易之業務員身分證明文件影本，及全權委託期貨交易之受託人對該等人員出具之授權書正本。

photocopy of his/her National Identity Card; where the principal is a juristic person, a photocopy of its juristic person registration document, photocopy of the notice of issuance of uniform number for taxable entities issued by the tax authorities, and a photocopy of the National Identity Card of the representative of the juristic entity must be submitted;

c) photocopies of the company registration documents of the mandatory and the custodian institution, and photocopies of the National Identity Card of the responsible person; and

d) photocopy of the National Identification Card of the person who makes decisions in the discretionary trading (including any deputy thereof) and of any other associated persons who execute trades, and original copy of power of attorney issued by the discretionary futures trading mandatory to the aforesaid personnel.

343) 華僑及外籍人士應依「華僑及外國人申請投資國內有價證券或從事國內期貨交易登記作業要點」規定，檢具相關書件，辦理身分登記後，始得從事國內期貨交易。境外華僑及外籍人士委託已向期貨商開立綜合帳戶之境外外國期貨商，經由綜合帳戶從事國內期貨交易者，亦應依「華僑及外籍人士申請投資國內有價證券或從事國內期貨交易登記作業要點」規定，檢具相關書件，辦理身分登記後，始得從事國內期貨交易。應檢具下列文件進行登記：

343) Overseas Chinese and foreign nationals can engage in domestic futures trading only after submitting the relevant documents and carrying out identity registration as required in accordance with the Directions for Applications by Overseas Chinese and Foreign Nationals for Registration for Domestic Securities Investment or Trading of Domestic Futures. An offshore overseas Chinese or a foreign national trading through a foreign futures commission merchant with an omnibus account at a domestic futures commission merchant must also complete identity registration before doing transactions. For such registration, the following documents must be submitted:

a) 代理人委任狀或代表人指派書。
b) 身分證明文件(自然人爲護照或其他附有照片且可以證明申請人國籍之身分證明文件;法人則爲當地主管機關核發之登記證明)。
c) 其他主管機關或期貨交易所要求之文件。

a) a power of attorney for the agent or a letter of appointment for the representative;
b) identity documents (for a natural person, passport or other identification certificate with a photo attached which can prove the applicant's nationality; for a non-natural person, registration certificate issued by a local governing authority); and
c) other documents as required by the competent authority or the Futures Exchange Corporation.

344) 期貨商受理境外華僑及外籍人士開戶從事期貨交易,應取得下列文件,並由其國內代理人或代表人簽章,始得辦理開戶:
a) 完成身分登記證明文件影本。
b) 指定國內代理人或代表人辦理國內期貨交易之開戶、買賣交割、資料申報、買入商品之權利行使、結匯之申請及繳納稅捐之委託書或指派書。
c) 國內代理人或代表人之國民身分證、居留證影本或公司登記(或變更登記)後之證明文件影本。
d) 與保管機構之合約影本。

344) When processing account opening for an offshore overseas Chinese or a foreign national, a futures commission merchant must obtain the following documents which are signed or sealed by the domestic agent or representative before it may open an account:
a) photocopy of the certificate of completion of identity registration;
b) the power of attorney/agency letter authorizing a domestic agent or representative to handle the procedures pertaining to domestic futures trading account opening, trade settlement, information reporting, exercise of rights associated with purchased products, applying for foreign exchange settlement, and payment of taxes;
c) photocopy of the national identity card, alien resident certificate or company registration (or amendment registration) certification of the domestic agent or representative; and
d) the photocopy of the contract with the custodian institution.

345) 期貨商受理境內華僑及外籍人士開戶從事期貨交易,應

345) When opening an account for an onshore overseas Chinese or foreign national, the

取得境內華僑及外籍人士檢具之下列文件，始得辦理開戶：

a) 完成身分登記證明文件影本。
b) 華僑及外國自然人：護照及華僑身分證明書（或外僑居留證）。
c) 外國機構投資人：經濟部認許證、公司登記證明文件、商業登記證明文件及負責人身分證（或外僑居留證或護照）。

futures commission merchant must obtain the following documents:

a) photocopy of the certificate of completion of identity registration;
b) passport and overseas Chinese identity certificate (or alien resident certificate) for a natural person; and
c) ministry of Economic Affairs recognition certificate, company registration certificate, business registration certificate, and national identity card (or alien resident certificate or passport) of the responsible person for an institutional investor.

346) 期貨商具有期貨交易所結算會員資格者始得受理境外外國期貨商開立綜合帳戶，接受境外華僑及外籍人士經由綜合帳戶從事國內期貨交易。開立綜合帳戶之境外外國期貨商不得接受境外華僑及外籍人士以外之人經由綜合帳戶從事國內期貨交易。境外華僑及外籍人士委託向本國期貨商開立綜合帳戶之境外外國期貨商從事國內期貨交易，應由境外外國期貨商、保管機構或受理開立綜合帳戶之期貨商應向期貨交易所申報綜合帳戶下個別交易人期貨交易買賣明細。

346) Offshore foreign futures commission merchants can open omnibus accounts at domestic futures commission merchants that are qualified clearing members of the Futures Exchange Corporation. Offshore foreign futures commission merchants opening omnibus accounts at domestic futures commission merchants cannot accept orders to engage in domestic futures trading through the omnibus account by any person other than offshore overseas Chinese and foreign nationals. Where an offshore overseas Chinese or foreign national places orders with an offshore foreign futures commission merchant that has opened an omnibus account at a domestic futures commission merchant, the offshore foreign futures commission merchants, the custodian institution, or the domestic futures commission merchant must submit itemized report of futures transactions of the individual clients under omnibus accounts to the Futures Exchange Corporation.

347) 臨時性金融交易：依據洗

347) Occasional transactions: All the CDD

錢防制法第7條及其授權規定事項，所有現金交易達新台幣1百萬元以上者，必須進行客戶審查，本項要求及於所有證券業者。在實務上，現金交易的情形有限，因爲大部分客戶交易之結算會在帳戶清算制度下透過電匯方式完成。

requirements that apply to cash transactions exceeding NT$1 million stipulated in Article 7 of the MLCA and the Regulations Regarding Article 7 of the MLCA apply to the securities sector. In practice, however, cash transactions are handled only in a very limited range of situations because settlements with customers are mostly carried out through wire transfers under the fullscale book entry settlement system.

348) 當疑似洗錢交易發生時：洗錢防制法第8條及其授權規定事項要求金融機構對於任何可疑交易要確認客戶身分，此要求及於證券業，對於交易涉及外國政府提供之恐怖分子或團體時之客戶審查要求於及於證券業。

348) When there is a suspicion of money laundering: Article 8 of the MLCA and the Regulation Regarding Article 8 of the MLCA, which require financial institutions to ascertain the identity of the customer for any suspicious transaction apply to the securities sector. The CDD obligations for any transaction where the ultimate beneficiary is a terrorist or a terrorist group as listed by foreign governments also apply to the securities sector.

349) 證券商業同業公會、證券投資信託暨顧問商業同業公會及中華民國期貨業商業同業公會分別爲所屬會員訂定之防制洗錢注意事項範本，均分別列出可疑交易活動表徵，並要求所屬會員對於可疑交易活動要確認客戶身分及向洗錢防制中心申報。

349) The Money Laundering Prevention Guidelines and Procedures issued by the Taiwan Securities Association, the Securities Investment Trust & Consulting Association, and the China National Futures Association for their respective members also set out examples of signs of suspicious activities and require the member institutions to verify customer identity and file STRs to the Money Laundering Prevention Center when they see suspicious activities.

350) 對先前取得之客戶資訊有所懷疑時：對先前取得客戶資訊有所懷疑之客戶審查義務並未於法律、法規或任何準則中予以規範。

350) When previous obtained customer information is dubious: Obligation to perform CDD when previously obtained customer information is dubious is captured neither by any law/regulation nor any

guidelines.

保險業(Insurance Sector)

351) 當建立新業務關係時：保險法第55條及第108條規定有關保險契約中應載明之身分資訊，已涵蓋保險公司建立新業務關係時之基本客戶審查義務，第55條規定當事人之姓名及地址必須載明於保險契約，第108條規定在人壽保險契約中，除第55條所訂相關資訊外，另須載明被保險人之姓名、性別、年齡及地址，受益人姓名以及與被保險人之關係。

351) When establishing new business relationships: Articles 55 and 108 of the Insurance Law, which specify the information to be included in insurance contracts, contain the basic levels of CDD obligations for insurance companies' establishment of new business relationship. Article 55 states that the names and addresses of the parties must be specified on insurance contracts. Article 108 provides that life insurance contracts, in addition to the customer information stipulated in Article 55, must specify the name, sex, age and address of the insured and the names of beneficiaries and their relations to the insured.

352) 人壽保險商業同業公會及產物保險商業同業公會已爲所屬會員訂定防制洗錢注意事項範本，該注意事項範本詳列保險業者在建立新業務關係時之客戶審查程序，並要求保險業者確認要保人及被保險人兩種不同身分證明文件，其中一項文件必須是自然人國民身分證或是法人事業登記證明，同時亦要核對第二身分證明文件以確認客戶身分。

352) The Life Insurance Association and the Non-life Insurance Association have issued Money Laundering Prevention Guidelines and Procedures for their respective sectors. The Guidelines set out detailed CDD procedures for establishment of new business relationships by insurers. The Guidelines require insurers to verify the identities of the applicant and the insured by checking two different ID documents, one of which should be the national ID card for natural persons and the business registration certificate for legal persons. The Guidelines also require insurance companies to check a second ID document to reconfirm the customer identity.

353) 人壽保險公司之防制洗錢注意事項亦列出承保作業之客戶審查程序，要求核保人員

353) The Guidelines for life insurance companies also set out CDD procedures for underwriting operations. the require

於核保時應審核要保書是否爲當事人親自填寫，招攬報告對當事人之確認是否確實。

underwriters to check if the policy application was written by the applicant himself/herself and if the identification information written in the solicitation report is true.

354) 在保險業之實務運作是保險公司即便不是爲反洗錢與打擊資助恐怖分子之目的，亦會基於核保風險管控，執行嚴謹之客戶審查程序。

354) General practice in the sector is that insurance companies perform quite comprehensive CDD procedures even though it is not for the explicit purpose of AML/CFT but for underwriting risk control.

355) 對於臨時性之交易：洗錢防制法第7條及其授權規定事項，要求金融機構對於任何達新台幣一百萬元以上之現金交易須確認客戶身分，此要求及於保險公司。

355) Occasional transactions: Article 7 of the MLCA and the Regulation Regarding Article 7 of the MLCA, which require financial institutions to ascertain the identity of the customer for any cash transaction exceeding NT$1 million, apply to insurance companies.

356) 當疑似洗錢交易發生時：洗錢防制法第8條及其授權規定事項要求金融機構對於任何可疑交易要確認客戶身分。

356) When there is a suspicion of money laundering: Under Article 8 of the MLCA and the Regulation Regarding Article 8 of the MLCA, financial institutions are required to verify customer identity for any transaction suspected to be money laundering activity.

357) 人壽保險商業同業公會及產物保險商業同業公會訂定之防制洗錢注意事項範本，均分別列出可疑交易活動表徵，並要求所屬會員對於可疑交易活動要確認客戶身分。

357) The Money Laundering Prevention Guidelines and Procedures published by the Life Insurance Association and the Non-life Insurance Association set out examples of suspicious activities and require member institutions to verify customer identity when they see such suspicious activities.

358) 對先前取得之客戶資訊有所懷疑時：對先前取得之客戶資訊有所懷疑時，有義務再進行客戶審查。

358) When previous obtained customer information is dubious: Obligation to perform CDD when previously obtained customer information is dubious is captured neither by any legislation nor by any guidelines.

客戶審查作爲要求(Required CDD Measures)

運用相關文件進行身分確認(ID Verification Using Reliable Documents)

359) 銀行業：在處理帳戶開戶時，銀行被要求查核二種身分證明文件以確認身分，銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法規定在處理帳戶開戶時，必須查核雙重身分證明文件，其中一項必須是國民身分證(或公司登記證明)及另一具足夠身分辨識力之證明文件。

359) Banking sector: When handling account opening, banks are required to verify customer identity by checking two ID documents. Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions provides that when processing account opening, a bank must require dual identification documents, one of which must be the National ID Card (or Incorporation Certificate), and the other of which must be an identification document with sufficient identification capability.

360) 銀行公會訂定之銀行防制洗錢注意事項範本更詳列有關在處理開戶時可接受之身分證明文件種類之指引。依據該範本，客戶二種身分證明文件之一必須是國民身分證(自然人)及事業登記證或其他官方發給之正式文件（法人），對於第二身分證明文件，銀行應徵取其他可資證明身分之文件，個人戶部分，如健保卡、護照、駕照、學生證、戶口名簿或戶口謄本等；非個人戶部分，應徵取公司章程、董事會議紀錄或財務報表等。

360) The "Money Laundering Prevention Guidelines and Procedures for Banks" issued by the Bankers' Association sets out more detailed guidelines as to the types of ID documents acceptable for identity verification when processing account opening. Under the Guidelines, one of the two customer ID documents that banks check when processing application for account opening must be the national ID card for a natural person and the certificate of incorporation or other official documents verifying registration for a juristic person. For the secondary ID document, banks must check an ID document with sufficient identification capability. Examples of such secondary ID documents acceptable for natural persons include the National Health Insurance Card, passport, driver's license, student ID card, and household registry book or certificate. For non-natural persons, such documents include articles of incorporation, minutes of board of directors meeting, and financial statements.

361) 證券業：臺灣證券交易所股份有限公司營業細則第75-1條規定證券經紀商在處理開戶時必須查核之身分識別文件種類，如果委託人是自然人，應親持身分證正本辦理開戶；委託人爲法人者，由被授權人檢附法人登記證明文件影本、稅捐機關發給之設立扣繳單位編配統一編號通知單影本、委任書暨法人代表人及被授權人身分證影本辦理。

361) Securities sector: Article 75-1 of the Operating Rules of the Taiwan Stock Exchange Corporation sets out the types of ID documents that a securities broker must check when handling account opening. If the principal is a natural person, he/she must appear in person and present his/her original ID Card. If the principal is a juristic person, the authorized person must present a copy of the registration document of the juristic person, a copy of the notice of issuance of uniform number for taxable entities issued by the tax authorities, the power of attorney, and photocopies of the identification cards of the responsible person of the juristic entity and the authorized person.

362) 臺灣期貨交易所股份有限公司營業細則第44條規定期貨商在處理開戶時必須查核之身分識別文件種類，委託人爲自然人者，應親持身分證明文件辦理開戶並當場簽名或蓋章；委託人爲法人者，應由法人及其代表人在受託契約上簽名或蓋章，且出具授權書。

362) Article 44 of the Operating Rules of the Taiwan Futures Exchange Corporation also sets out the types of ID documents that a futures commission merchant must check when opening an account. A principal who is a natural person must open the account by appearing in person with his or her National ID Card and affixing his or her signature or seal on site. Where the principal is a juristic person, the juristic person and the representative must affix their signatures or seals on the brokerage contract and shall bestow a power of attorney.

363) 證券商業同業公會、證券投資信託暨顧問商業同業公會及中華民國期貨業商業同業公會分別訂定之防制洗錢注意事項範本列出可作爲客戶審查目的之身分識別文件，要求會員機構對自然人客戶以身分證，對法人以公司證照或其他登記證明爲識別文

363) The Money Laundering Prevention Guidelines and Procedures published by the Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the China National Futures Association also set out the types of ID documents acceptable for CDD purposes. They require their member institutions to use the National ID Card for natural persons and

件。另外，證券投資信託暨顧問商業同業公會及中華民國期貨業商業同業公會訂定之防制洗錢注意事項範本，要求會員機構查核第二身分證明文件。

the certificate of incorporation or other certificate of registration for legal persons. In addition, the Guidelines issued by the Securities Investment Trust & Consulting Association and the China National Futures Association require the member institutions to check a second ID document.

364) 保險業：對於保險業，可作爲客戶審查目的之身分識別文件之種類只見於人壽保險商業同業公會及產物保險商業同業公會所訂定之防制洗錢注意事項範本，在該注意事項範本中，保險業者被要求對自然人客戶查核身分識別文件如國民身分證、護照、駕照，對法人要求登記證明、公司執照、營業執照或營利事業登記，並要求查核第二身分識別文件。

364) Insurance Sector: For the insurance sector, the types of ID documents acceptable for CDD purposes are set out only in the Money Laundering Prevention Guidelines and Procedures issued by the Life Insurance Association and the Non-life Insurance Association. Under the guidelines, insurers are required to verify customer identity by checking ID documents such as the national ID card, passport, or driver's license for natural persons and corporate registration certificate, company license, business license, or certificate of profit-seeking enterprise business registration if the customer is a legal person. The Guidelines also require the member institutions to check a second ID document

法人與法律合意(Legal Persons and Legal Arrangements)

365) 個人代表法人行事是否得到授權之查核義務並未充分規範在法律或相關規定之中。

365) The obligation to check if a person purporting to act on behalf of a legal person is so authorized is not fully captured by laws or regulations.

366) 銀行業：銀行公會訂定之銀行業防制洗錢注意事項範本已涵蓋處理本問題之規定，依據該注意事項範本，當一個申請人委託或授權他人代表其本人開設帳戶，銀行必須確認該委託／授權之事實，如果確認此事實有困難，必須拒絕開

366) Banking sector: The Money Laundering Prevention Guidelines and Procedures for Banks adopted by the Bankers' Association contain requirements that address the issue. According to the Guidelines, when an applicant mandates or authorizes another to open an account on its behalf, the bank must confirm the facts of the

戶申請，對於非個人戶申請開設帳戶，銀行必須在同意之前取得公司登記證影本並查核第二證明文件，諸如董事會議紀錄、公司章程或財務報表等。

mandate/authorization and must refuse to open an account if verification of such facts proves difficult. Where a non-individual applies to open an account, the bank must obtain a copy of the certificate of incorporation registration and check a second document showing the status of the juristic person such as the minutes of its Board of Directors meeting, a copy of the articles of incorporation, or financial statements before approving the account opening.

367) 證券業：臺灣證券交易所股份有限公司營業細則及臺灣期貨交易所股份有限公司營業細則列出證券經紀商及期貨商必須查核帳戶開戶申請是否有合宜授權，第75-1條規定證券經紀商在處理法人開戶時，必須取得稅捐機關發給之設立扣繳單位編配統一編號通知單影本、委任書暨法人代表人及被授權人身分證影本。

367) Securities sector: The Operating Rules of the Taiwan Stock Exchange Corporation and the Operating Rules of the Taiwan Futures Exchange Corporation set out requirements for securities brokers and futures commission merchants to check if a person applying for account opening is so authorized. Article 75-1 of the Operating Rules of the Taiwan Stock Exchange Corporation provides that when handling account opening for a juristic person, a securities broker must obtain a copy of the notice of uniform number for taxable entities issued by the tax authorities, power of attorney, and photocopies of the identification cards of the person acting on behalf of the juristic person.

368) 臺灣期貨交易所股份有限公司營業細則第47條規定如果該代表法人行事之人無法提出法人授權證明，期貨商不應接受開戶。第44條規定，委託人如果是法人，申請開戶之代表必須提出法人登記證明、稅捐機關發給之設立扣繳單位編配統一編號通知單（如

368) Article 47 of the Operating Rules of the Taiwan Futures Exchange Corporation provides that a futures commission merchant should not accept an application to open an account for a juristic person if the person acting on behalf of the juristic person is unable to present a document evidencing the authorization. Article 44 of the same Rules provides that a principal that is a juristic

果是營利事業可以免除繳交此一證明文件）。

person must present a photocopy of its juristic person registration document, a photocopy of the notice of issuance of uniform number for taxable entities issued by the tax authorities (a profit-seeking enterprise may be exempt from submitting such copy of notice), and a photocopy of the National Identity Card of the representative to open an account.

369) 期貨商管理規則第25條規定期貨商對客戶代表法人行事却無法提出授權開戶文件者，不得接受其申請開戶。

369) Article 25 of the Regulations Governing Futures Commission Merchants provides that a futures commission merchant must not accept application for account opening if the customer is acting on behalf of a juristic person but fails to present the documents issued by such juristic person authorizing the opening of the account.

370) 證券投資信託暨顧問商業同業公會訂定之防制洗錢注意事項範本規定客戶如果爲法人，被授權人於處理交易時必須提出委任書。

370) The Money Laundering Prevention Guidelines and Procedures adopted by the Securities Investment Trust & Consulting Association states that when the customer is a legal person, the authorized person handling the transaction must present Power of Attorney.

所有權（Beneficial Ownership）

371) 要求金融機構確認利益擁有者之明確規定，僅限於金融機構知悉當事人代表他人從事金融交易之情形，舉例如下：

a) 金融監督管理委員會針對銀行、證券商、人壽保險公司分別發布之財富管理業務應注意事項，金融機構從事財富管理業務，對於客戶授權他人代爲簽名並開設帳戶，必須對被授權人進行

371) Explicit requirements for financial institutions to verify the beneficial owner are confined to situations where they know that the person carrying out a financial transaction is acting on another person's behalf. Such situations include the following examples:

a) The Financial Supervisory Commission issued directions for wealth management businesses undertaken by banks, securities firms, and life insurance companies respectively. Under these directions, a

額外之客戶審查作爲，並確認最終之最終利益擁有者。

b) 當簽署信託契約時，信託公司必須辨識信託人及受益人。

c) 當證券經紀商或期貨商接受保管機構代表委託人交付全權委託投資之帳戶開設申請，委託人及受託人姓名必須分別載明於帳戶中。

d) 證券經紀商受理信託財產之受託人申請開戶時，其帳戶應爲信託專戶且必須辨識信託人及受託人之身分。

e) 證券商或期貨商受託以綜合交易帳戶買賣有價證券時，應依委託人或受任人之委託分別爲買賣之申報，並於委託書或買賣委託紀錄註記委託人或受任人之名稱或代號。

financial institution engaging in wealth management business must perform additional due diligence measures in situations where a customer authorizes another person to sign and open an account on his/her behalf. The financial institution must conduct due diligence on such an authorized person and identify the ultimate beneficial owner.

b) When signing a trust agreement, a trust enterprise must identify both the trustor and the beneficiary.

c) When a securities broker or a futures commission merchant accepts account opening from a custodian institution representing the principal consigning discretionary account investments, the name of both principal and consignee must be specified in the account name.

d) When a trustee applies for opening of an account, a securities broker must indicate in the account name that it is a segregated trust account and must identify both the trustor and the trustee.

e) When a securities firm or a futures commission merchant accepts orders to trade securities through an omnibus trading account, it must make trading quotes corresponding to the orders placed by the principals or the mandatories, and should note the name or symbol of the principal or the mandatory on the order form or the trading order record.

372) 但是除了這些情形外，無特別法律或規定明確要求金融機構採取合理作爲，並視同例行性客戶審查程序，以查核客戶是否是爲他人行事，另亦

372) But other than these situations, there is no law or regulation that explicitly requires financial institutions to take reasonable measures as a routine CDD procedure for all customers to check if the customer is acting

無特別要求金融機構採取合理作爲以了解法人客戶之擁有權架構或最終擁有或控制該法人之自然人身分。

on behalf of another person. Nor are there any explicit requirements for financial institutions to take reasonable measures to understand the ownership structure of a customer that is a legal person or to identify the natural person that ultimately owns or controls the legal person.

業務往來關係之目的與性質(Purpose and Nature of Business Relationship)

373) 銀行業：對銀行而言，並無特別要求必須取得所有業務往來關係之目的與性質資訊，依照銀行公會訂定之防制洗錢注意事項範本，要求盡可能深究複雜、異常或缺乏合理經濟目的金融交易背後之動機，但未要求對所有業務往來關係之目的進行了解，並視爲一種例行性作業。

373) Banking sector: For banks, there is no specific requirement to obtain information on the purpose and intended nature of all business relationships. Under the Money Laundering Prevention Guidelines and Procedures issued by the Bankers' Association, banks are required to, as far as possible, look into the motive behind financial transactions that are complex, unusual or lack any reasonable economic purposes. Banks, however, are not required to understand the purpose of business relationship on a routine basis for all business relationships.

374) 證券業：依據證券商管理規則及期貨商管理規則，證券商及期貨商被要求在處理帳戶開戶申請時，要建立客戶開戶理由資料。

374) Securities sector: Under the Regulations Governing Securities Firms and the Regulations Governing Futures Commission Merchants, securities firms and futures commission merchants are required to establish the reason why the customer is opening the account when handling application for account opening.

375) 保險業：對於保險業者之要求僅限於人壽保險業者於從事財富管理時，需對業務往來關係之目的與本質進行了解。人壽保險公司辦理財富管理業務應注意事項要求人壽保險公司要有評估認識

375) Insurance sector: The requirement for insurers to establish an understanding on the intended purpose and nature of business relationship addresses only wealth management engaged by life insurers. The Directions for Life Insurance Enterprises Engaging in Wealth Management Business

客戶表現之程序，評估事項是依據保險業務之屬性，至少要涵蓋下列項目：客戶接受政策、帳戶開戶審查政策、評估客戶投資能力及經常性的監控。保險公司於從事財富管理業務時，被要求建立對於開設此類帳戶目的與需求之了解。

requires life insurers to have in place procedures for evaluating their KYC performance. The matters to be evaluated depend on the nature of the insurance business in question, but should in any case include at least the following: a customer acceptance policy, account opening due diligence policy, assessment of customer investment capacity, and regular monitoring. As part of the account opening procedure, life insurers engaging in wealth management are required to establish an understanding on the purposes and needs for opening such an account.

持續性監控（On-going Monitoring）

376) 銀行業：銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法要求銀行建立明確之「認識客戶」（Know Your Customer）政策及程序，並涵蓋監控存款帳戶與交易之監控標準。

376) Banking sector: The Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions require banks to establish clear 'Know Your Customer' policies and procedures that include standards for monitoring of deposit accounts and transactions.

377) 該管理辦法亦要求銀行建立資訊系統以協助檢查異常存款帳戶之交易，對於交易超過特定門檻、交易金額與帳戶日常平均餘額顯不相當或在短期內密集使用電子交易功能，應設立預警指標，且要派專人每日至少檢查一次，必要時要追蹤及作成紀錄，依照內部程序送交權責主管核閱。

377) The same Regulations also require banks to establish information systems to help inspect for unusual deposit account transactions. Banks are required to establish early warning criteria focusing on transaction amounts exceeding a certain threshold, transaction amounts clearly inconsistent with average account balances, or frequent use over a short period of time electronic transaction functions. Banks are also required to assign a specific individual to inspect at least once per day, follow up as necessary, and prepare an inspection record, which is delivered in accordance with internal procedures to the proper supervisor

for review.

378) 銀行辦理財富管理業務應注意事項第8點第(4)項規定辦理財富管理業務之銀行，應建立理財業務人員定期以電話或親訪客戶制度，以了解客戶財務、業務變動之狀況，並及時更新客戶資料檔，配合檢討評估客戶投資能力。

378) Article 8(4) of the Directions for the Conduct of Wealth Management Business by Banks provides that banks operating wealth management businesses must establish for its wealth managers to stay up-to-date on any change in a customer's financial or business status by regular telephone calls or face-to-face visits, to update customer data files in a timely manner, and to review and assess customers' investment capacities accordingly.

379) 證券業及期貨業：證券商業同業公會、證券投資信託暨顧問商業同業公會及中華民國期貨業商業同業公會分別訂定之防制洗錢注意事項範本，要求所屬會員機構定期檢查客戶交易報告，並要求建立並追蹤每個客戶交易模式，並運用該模式辨識異常或可疑交易。

379) Securities sector: The Money Laundering Prevention Guidelines and Procedures issued by the Taiwan Securities Association, the Securities Finance Enterprises Association, the Securities Investment & Trust Association, and the China National Futures Association require their respective member institutions to check customer transaction reports regularly. The Guidelines also require member institutions to establish and track each customer's transaction pattern and use the patterns to identify abnormal or suspicious transactions.

380) 證券商辦理財富管理業務應注意事項第8(3)條規定證券商從事財富管理業務之「認識客戶」規則必須涵蓋及時更新客戶評估資訊之機制。

380) Article 8(3) of the Directions for the Conduct of Wealth Management Business by Securities Firms provides that the "Know Your Customer" rules of securities firms engaged in wealth management business must include mechanisms for updating customer evaluation information in a timely manner.

381) 保險業：人壽保險公司辦理財富管理業務應注意事項要求人壽保險公司建立評估「認識客戶」表現之程序，評估事項是依據保險業務之屬

381) Insurance sector: The Directions for Life Insurance Enterprises Engaging in Wealth Management Business require life insurers to formulate procedures for evaluating their KYC performance. The matters to be

性，至少要涵蓋下列項目：客戶接受政策、帳戶開戶審查政策、評估客戶投資能力及經常性的監控。

evaluated depend on the nature of the insurance business in question, but should in any case include at least the following: a customer acceptance policy, account opening due diligence policy, assessment of customer investment capacity, and regular monitoring.

382) 該注意事項規定人壽保險公司經營財富管理業務，經理人必須定期以電話或親自拜訪方式及時更新客戶資料，保存客戶最新的財務與生意狀況，並據以重新檢查評估客戶投資能力。

382) Article 8(4) of the same Directions provides that life insurers operating wealth management businesses must establish for its wealth managers to stay up-to-date on any change in a customer's financial or businesses status by regular telephone calls or face-to-face visits, update customer data files in a timely manner, and review and assess customers' investment capacities accordingly.

風險(Risk)

加強客戶審查(Enhanced Due Diligence)

383) 法律或法規有明文規範應實施加強客戶審查作爲義務者，僅限於有洗錢嫌疑或其他非法活動及財富管理客戶。

383) The obligations to apply enhanced due diligence measures that are explicitly set out in laws or regulations are limited to cases where there is suspicion of money laundering or other illegal activities and wealth management customers.

384) 依據銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法第15條規定，銀行對於透過專業中介機構處理之交易、曾被通報爲警示帳戶而已解除者或其他涉及高風險客戶或交易者，都要加強客戶審查。同條亦規定適用於高風險客戶／交易之客戶審查措施必須涵蓋：(1)帳戶之開立應經高階主管核准；(2)取得交易資金之來源、目的

384) Article 15 of the Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions requires banks to establish enhanced due diligence procedures for transactions processed through professional intermediary institutions, deposit accounts which used to be classified as Watch-listed Account but have since been de-listed, or for other transactions involving deposit customers or transactions identified as high risk. The same Article also provides that the due diligence procedure used for

地及其合理性之相關資訊；(3)持續性監控此類帳戶之交易。

such high risk customers/transactions must include (1) senior level approval for account opening; (2) gathering of information on the source, destination, and reasonableness of funds; (3) on-going monitoring and control of the transactions in such accounts.

385) 金融監督管理委員會爲銀行、證券商及人壽保險公司從事財富管理業務訂定之應注意事項要求金融機構應依據業務特性種類，量身訂做「認識客戶」評估原則，亦要求每個金融機構對於具洗錢高風險之特定背景或職業之客戶及其家庭成員施以較嚴格之客戶審查及核准程序。

385) The directions issued by the FSC for banks, securities firms, and life insurance companies engaged in wealth management business require such financial institutions to tailor their "Know Your Customer" evaluating rules according to the characteristics of each type of their businesses. The directions also require such financial institutions to apply stricter due diligence and approval procedures to individuals of certain background or professions and their family members identified as high risk customers.

386) 銀行公會訂定之防制洗錢注意事項範本列出銀行應特別注意加強審查確認客戶身分之情形，但並未指出應加強何種作爲，這些列舉應特別加強確認客戶身分之情形如下：

a) 委任帳戶、由專業中間人代爲處理交易及對銀行商譽具有高風險之個人或團體。
b) 非居民型之客戶。
c) 私人理財金融業務客戶。
d) 被其他銀行拒絕金融業務往來之客戶。
e) 對於非「面對面」之客戶。
f) 銀行得知或必須假定客戶往來資金源自貪瀆或濫用公共資產之交易。

386) The Money Laundering Prevention Guidelines and Procedures for Banks issued by the Bankers' Association set out a list of cases where banks should take extraordinary caution in customer verification. The Guidelines, however, do not specify what types of enhanced measures are required. The examples of cases where banks should take extraordinary caution include the following:

a) customers who handle transactions through an agent or a professional intermediary and those clients who are found to present a high risk toward the bank's goodwill;
b) non-resident customers;
c) private banking customers;
d) customers who have been rejected by other banks;
e) customers who are not in face-to-face

transactions; and

f) transactions where the bank know or has reason to assume that the fund come from corrupt sources or misuse of public assets.

對於低風險交易之簡化客戶審查作爲(Simplified CDD Measures for Low Risk Transactions)

387) 洗錢防制法第7條規定現金交易達新台幣1百萬元以上之辨識客戶、紀錄保存及客戶審查義務，但並不適用於低風險團體交易。另依該法條授權規定事項，金融機構對於下列交易即使達新台幣1百萬元以上，並不需要確認客戶身分、留存交易紀錄憑證及申報大額通貨交易：

a) 與政府機關、公營事業機構、行使公權力機構 (於受委託範圍內)、公私立學校、公用事業及政府依法設立之基金，因法令規定或契約關係所生之交易應收應付款項。

b) 金融機構間之交易及資金調度。但金融同業之客戶透過金融同業間之同業存款帳戶所生之應付款項，如兌現同業所開立之支票，同一客戶現金交易達新台幣一百萬元以上者，仍應依規定辦理。

c) 公益彩券經銷商申購彩券款項。

d) 證券商或期貨商開立之期貨保證金專戶。

e) 代收款項交易 (不包括存

387) The obligation to perform customer identification, record-keeping and CDD for cash transactions exceeding NT$ 1 million as is stipulated in Article 7 of the MLCA does not apply to transactions between low risk entities. Under the Regulations Regarding Article 7 of the Money Laundering Control Act, financial institutions are exempt from the requirement to verify customer identity, keep transaction records, and to file CTR for the following transactions even if the amount is NT$1 million or larger:

a) transactions that involve receivables or payables that are due, in connection with statutory or regulatory provisions or contractual relationships, to/from government agencies, government owned businesses, agencies acting with power delegated by the government, public/private schools, public enterprises or foundations established by the government;

b) transfers between financial institutions except those arising from cashing a cheque from another financial institution by a customer in the amount of NT$1,000,000 or larger;

c) lottery ticket purchases by lottery merchants;

d) margins posted by securities firms or futures commission merchants;

入股款代收專戶之交易），其繳款通知書已明確記載交易對象之姓名、身分證明文件號碼。

f) 非個人帳戶基於業務需要經常或例行性須存入現金新台幣一百萬元以上之百貨公司、量販店、連鎖超商、加油站、醫療院所、交通運輸業及餐飲旅館業等，金融機構經確認有事實需要，經法務部調查局核備者，每年應至少審視一次。

388) 除了前述免除狀況外，並無法律／法規或指引明確規定FATF建議第52項所敘簡化客戶審查作爲之情形。

e) transfers received when acting as collection agent (excluding special subscription accounts) where the collection agent has provided the relevant parties' names; and

f) cash transactions with entities that have frequent need to make cash receipts/payments such as department stores, supermarkets, gas stations, hospitals, transportation businesses, and restaurants where the list of such entities is approved by the Investigation Bureau of the Ministry of Justice and is renewed at least once a year.

388) Other than the exemption described above, there is neither law/regulations nor guidelines that specify simplified CDD measures for any situation where CDD is required as is described in Recommendation 5.2.

確認客戶時機點及未滿足充分客戶審查之情形(Timing of verification and failure to satisfactorily complete CDD)

389) 依據銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法規定，銀行必須在處理存款帳戶申請時必須確認客戶身分，如果有下列情形，應予拒絕：

a) 疑似使用假名、人頭、虛設行號或虛設法人團體開立存款帳戶者。

b) 持用僞、變造身分證明文件或出示之身分證明文件均爲影本者。

c) 提供之文件資料可疑、模糊不清、不願提供其他佐證資料、或提供之文件資料無法進行查證者。

389) According to Article 13 of the Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions, a bank must verify the identity of a customer before processing his/her deposit account opening application. A bank must reject a customer's account opening application, if any of the following is the case:

a) the customer is suspected of using a fake name, a nominee, a shell entity, or a shell corporation to open a Deposit Account;

b) the customer uses forged or fraudulent identification documents or only provides photocopies of the identification documents;

c) documents provided by the customer are

d) 客戶不尋常拖延應提供之身分證明文件者。
e) 客戶開立之其他存款帳戶經通報為警示帳戶尚未解除者。
f) 受理開戶時有其他異常情形，且客戶無法提出合理說明者。

suspicious or unclear, or the customer refuses to provide other documents, or the documents provided cannot be authenticated;
d) the customer procrastinates in providing identification documents in an unusual manner;
e) another Deposit Account opened by the same customer has been reported as a Watch-listed Account; or
f) other unusual circumstances exist and the customer fails to provide a reasonable explanation.

390） 人壽保險商業同業公會及產物保險商業同業公會所訂定之防制洗錢注意事項範本要求保險公司在客戶身分確認之前，不可接受要保申請。

390) The Money Laundering Prevention Guidelines and Procedures issued by the Life Insurance Association and the Non-life Insurance Association require insurance companies not to accept an application to buy a policy until satisfactory identity verification is completed.

391) 依據各相關公會訂定之防制洗錢注意事項範本，人壽保險公司、產物保險公司、證券投資信託暨顧問公司及期貨公司被要求在客戶身分確認之前，不可接受開戶或要保申請。

391) Under the Money Laundering Prevention Guidelines and Procedures issued by their respective commercial associations, life insurance companies, non-life insurance companies, securities investment and consulting businesses, and futures commission merchants are required not to accept application to open an account or buy a policy until satisfactory identity verification is completed.

392) 臺灣證券交易所股份有限公司營業細則規定證券經紀商在完成帳戶開戶及確認帳戶資訊之前，不可接受委託人對於證券交易及認購之委託，並將相關資訊及帳戶號碼鍵入證交所電腦系統，而臺灣期貨交易所股份有限公

392) The Operating Rules of the Taiwan Stock Exchange Corporation provide that a securities broker must not accept any consignment to trade in or subscribe to securities from the principal before it completes the account opening, confirms the account information, and keys-in the information and account number into the

司營業細則亦有類似規定，期貨商在完成帳戶開戶程序完成前及將相關資訊與帳戶號碼鍵入臺灣期貨交易所股份有限公司前，不可以接受委託從事期貨交易。

computer system of the Taiwan Stock Exchange Corporation. The Operating Rules of the Taiwan Futures Exchange Corporation also have similar provisions. They provide that a futures commission merchant must not accept a mandate to engage in futures trading until after the account opening procedure has been completed and the required information and account number have been entered into the computer files of the Taiwan Futures Exchange Corporation.

現存客戶（Existing Customers）

393） 中華台北並未比照國際標準，針對現存客戶實施客戶審查作爲，訂定特別的法律或指引。客戶審查作爲只有在現存客戶之帳戶交易啓動客戶審查義務時才會進行，此類交易包括現金提／存新台幣1百萬元以上、國內匯款超過新台幣3萬元（約美金900元），任何金額之海外匯款及任何可疑交易。

393) Chinese Taipei has no specific legislation or guideline that address the issue of applying CDD measures for "existing customers" as is defined in the international standards (existing customers as at the date that the national requirements are brought into force). CDD is to be performed on such an account only when a transaction that triggers CDD obligation is conducted on the account. Examples of such transactions include cash withdrawal/deposit of over NT$1 million, domestic remittance of over NT$30,000(approximately US$900), overseas remittance of any amount, and any suspicious transaction.

建議第6項(Recommendation 6)

394) 中華台北無明確要求金融機構對於高知名度政治人物（Politically Exposed Persons）加強客戶審查作爲，銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法及相關商業同業公會訂定之防制洗錢注意事項範本都要求金融機構對於高風險之

394) Chinese Taipei has no explicit requirement for financial institutions to apply enhanced customer due diligence measures to Politically Exposed Persons (PEPs). The Regulation Governing Bank Handling of Accounts with Suspicious or Unusual Transactions, Directions Governing Suspected Illegality or Obviously Irregular Activities, and the Money Laundering

或交易採取合宜之風險管理系統，然而現地評鑑所有受訪之金融機構，均未在其內控系統中將高知名度政治人物歸類爲高風險客戶。

Prevention Guidelines and Procedures issued by commercial groups require financial institutions to put in place appropriate risk management system for customers or transactions identified as high risk. However, none of the financial institutions interviewed during the on-site visit said that PEPs were categorized as high risk in their internal control systems.

395) 銀行公會訂定之防制洗錢注意事項範本明訂銀行如果得知或必須假定客戶往來資金來源自貪瀆或濫用公共資產時，應不予接受或斷絕業務往來關係。但是銀行除了不接受資金明顯來自貪污之情形外，並無法律／法規或指引要求金融機構採取積極作爲以發掘客戶是否是高知名度政治人物或建立其財富來源資訊。

395) The Money Laundering Prevention Guidelines and Procedures for Banks issued by the Bankers' Association state that a bank should refuse to handle a transaction or terminate the banking relationship altogether if it discovers or finds it necessary to assume that the funds flowing through a customer's account come from corruption or misuse of public assets. But other than this requirement not to accept funds coming from an obviously corrupt source, there is neither law/regulation nor any guideline that requires financial institutions to take proactive measures to find out if a customer is a PEP or to establish the source of wealth.

396) 其他行業對於高知名度政治人物並沒有特別要求。

396) The other sectors do not have specific requirements regarding PEPs.

397) 中華台北非聯合國反腐敗公約簽署國，由於複雜的政治問題阻礙該國簽署並批准該公約，然而有關機關引用該國參與並支持亞太經濟合作（APEC）對於打擊貪瀆及確保透明行動（COA），作爲參與國際社會打擊貪瀆之管道，在COA所規劃之具體行動中包括採取符合會員國經濟狀況之所有合宜作爲，以批准並履行聯合國反腐敗公

397) Chinese Taipei is not a signatory to the UN Convention against Corruption. The complex political issues have prevented Chinese Taipei from signing or ratifying the Convention. The authorities, however, cited Chinese Taipei's participation and support for APEC Course of Action on Fighting Corruption and Ensuring Transparency (COA) as one of the channels through which Chinese Taipei works with the international community in the fight against corruption. The concrete actions outlined in COA

約，爲達到此一目標，法務部於2006年10月特定調查局爲專責機關。

include taking all appropriate steps, consistent with each member economy's status, towards ratification of, or accession to, and implementation of the United Nations Convention Against Corruption (UNCAC). To work for the goal, Chinese Taipei designated the Ministry of Justice Investigation Bureau as the dedicated agency in October 2006.

建議第7項(Recommendation 7)

398) 銀行防制洗錢注意事項範本涵蓋跨國通匯往來銀行業務完全遵循FATF建議，該注意事項範本第3點第10項明定金融機構必須：

a) 蒐集足夠之可得公開資訊，以充分了解該通匯往來銀行之業務性質，並評斷其商譽及管理品質，包括是否遵循洗錢或資助恐怖分子之調查或規範。
b) 評估該通匯往來銀行對「反洗錢與打擊資助恐怖分子」具備相當之控管政策及執行效力。
c) 金融機構在與其它銀行建立通匯往來關係前，應先取得內部業務主管層級人員核准後始得辦理。
d) 以文件證明各自對「反洗錢與打擊資助恐怖分子」之責任作爲。
e) 當通匯往來銀行業務涉及過渡帳戶(payable through accounts) 時，須確認所通匯往來之銀行確實已執行確認客戶身份等措施，必要

398) The Money Laundering Prevention Guidelines and Procedures for Banks contain guidelines with respect to cross-border correspondent banking that are in full compliance with the FATF Recommendations. Point 3 Paragraph 10 of the Guidelines states that a financial institution must:

a) gather publicly available information to understand the nature of a respondent's business and to determine the reputation of the institution and the quality of supervision;
b) assess whether the respondent institution's AML/CFT control policy is adequate and effective;
c) obtain approval from senior management officers prior to establishing new correspondent relationships;
d) document the respective AML/CFT responsibilities of each institution; and
e) ensure that the respondent institution has duly performed CDD measures and is able to provide information related to customer identification where the correspondent relationship involves the maintenance of payable-through

時並能提供客戶確認相關資料。

399) 評鑑團拜會之銀行對於跨國通匯往來銀行業務訂有認識客戶問卷，確有遵循該注意事項範本之規定，然而該注意事項範本在現地評鑑前2個月（2006年11月）才新增此一規定，在修訂之前，銀行對於通匯銀行之審查程序著大都重於信用評估。

accounts.

399) Banks that the Evaluation Team interviewed had KYC questionnaires for correspondent banking that were in compliance with the Guidelines. However, this part of the Guidelines was added only about two months before the Evaluation Team's onsite visit (November 2006). Before the revision of the Guidelines, banks' due diligence procedures for respondent banks focused mostly on credit assessment.

建議第8項(Recommendation 8)

400) 臺灣證券交易所股份有限公司營業細則詳細規定證券商處理非面對面交易委託之程序：

a) 以電話、書信或電報委託者，應由受託證券經紀商之受託買賣業務人員以書面或電子方式填具委託書、印製委託買賣紀錄。

b) 指委託人以語音、網際網路、專線、封閉式專屬網路等電子式委託買賣方式，證券經紀商得免製作、代填委託書，但應依時序別列印買賣委託紀錄，並於收市後由經辦人員及部門主管簽章。該交易委託紀錄必須涵蓋委託人姓名或帳戶委託時間、證券種類、股數或面額、限價、有效期間、受託買賣業務人員姓名或代碼、委託方式等內容。委託人以網際網路委託者，其委託紀錄之內容，應記錄其網

400) The Operating Rules of the Taiwan Stock Exchange Corporation set out detailed procedures for securities firms' handling of orders placed through non-face-to-face methods:

a) When an order is placed by telephone, letter, or telegraph, the associated person of the securities broker taking the order must complete the order form in writing or electronically and print a record of the order, and process it.

b) When an order is made by electronic transaction methods such as voice mail, the Internet, dedicated line, or closed dedicated network, the securities broker is not required to prepare and complete trading order records; provided that it prints records of the trading orders in the sequence that they were received, and upon closing of the market, the processing person and the chief of the department sign such records. The trading order records must contain the name or account number of the principal, time of order, type of

路位址（IP）及電子簽章；以語音委託者，應配合電信機構開放顯示發話端號碼之功能，記錄其來電號碼，即時列印委託紀錄時，得免列印上述項目。

c) 除語音委託外，證券經紀商與採行電子式交易型態之委託人間，其有價證券買賣之委託、委託回報及成交回報等電子文件之傳輸，應使用憑證機構所簽發之電子簽章簽署，憑以辨識及確認；但採行電子式專屬線路下單之委託人與證券經紀商之聯結入口皆在中華台北境外時，其間連線方式如符合所在國當地法令規定者，不在此限。

securities, number of shares or par value, limit price, period of validity, name or code number of the associated person taking the order, and the order method. When the principal places an order through the internet, the content of the order record must bear the internet protocol (IP) and electronic signature. Where the principal places an order through voice mail, the incoming telephone number shown on the system of the telecommunications institution must be recorded. When the order records are printed out on real-time basis, the said items may be waived.

c) The transmission of the order for purchase/sale of securities, order report, trading report, and other electronic documents between a securities broker and the principal who uses an electronic transaction method other than voice mail must carry the electronic signature issued by a certificate authority; however, this restriction do not apply for orders placed between a principal and securities broker electronically over a dedicated line if the connection access points are all located outside the Chinese Taipei and the connection method complies with the local laws and regulations of the country(countries) in which they are located.

401) 臺灣期貨交易所股份有限公司營業細則亦爲期貨商訂出類似程序：

a) 以書面、電話、電報或其他方式委託者，應由受託買賣之業務員依委託內容填寫買賣委託書。

401) The Operating Rules of the Taiwan Futures Exchange also sets out similar procedures for futures commission merchants:

a) When an order is made in writing or by telephone, telegram, or other means, the associated person accepting the order must fill out the trading order form in

b) 以IC卡或網際網路委託者，如能確認該筆委託歸屬之受託買賣業務員，期貨公司得免逐一列印委託書，惟應依受託買賣業務員別及時序別，列印買賣委託紀錄，並於收市後由受託買賣業務員及業務部門主管簽章。前項委託紀錄內容，應含委託人帳號及戶名、委託方式、委託日期、時間及委託有效期限、期貨交易所名稱、期貨交易之種類、數量及交割月份、市價委託、限價委託或其他下單方式、業務員姓名或代碼等；以網際網路委託者，期貨商應記錄其網路位址（IP）及電子簽章；以電話語音委託者，期貨商應配合電信機構開放顯示發話端號碼之功能，記錄委託人之來電號碼，惟列印委託紀錄時得免列印；買賣委託書除委託人當面委託並簽章或當事人事前另有約定外，如非先行請委託人填寫「非當面委託免簽章同意書」，期貨商應於事後交由委託人補行簽名或蓋章。

c) 期貨商受理及執行期貨交易委託時，以電話進行者，必需同步錄音存證，並將電話錄音紀錄置於營業處所。

d) 期貨商接受以傳真機、電報、電腦系統或其他傳輸設備傳輸買賣委託書內容時，應將所傳輸內容存檔備

accordance with the particulars of the order.

b) When an order is made through an electronic medium such as an IC card or the Internet, the futures commission merchant is not required to prepare and complete an order form on the principal's behalf; provided that it immediately prints records of the trading orders in the order that they were received, and upon closing of the market, the processing person and the chief of the department sign such records. The record of the trading order must contain the name and account number of the principal, order method, date and time of the order, period of validity, the name of the futures exchange, the name of the futures contract, volume, and the delivery month, type of order (market order, limit order, or other), and the name or code number of the associated person taking the order. When an order is made over the Internet, the futures commission merchant should record the principal's IP address and electronic signature; where an order is given by telephone, the futures commission merchant must record the principal's telephone number by using the caller ID display function provided by telecommunications institutions; Unless the principal places the order in person and signs/seals the order form or the parties commit otherwise by prior agreement, a futures commission merchant must deliver the order form to the principal to sign or seal after the order is placed unless the principal is asked in advance to fill out a

查。

e) 除語音委託外，期貨商與採行電子式交易型態之委託人間，其期貨交易買賣之委託、委託回報及成交回報等電子文件之傳輸，應使用憑證機構所簽發之電子簽章簽署，憑以辨識及確認。

f) 以IC卡或網際網路委託等電子式交易，其列印之買賣委託紀錄及電腦檔案委託紀錄至少應保存5年，錄音及傳輸內容至少應保存2個月。

Non-in-Person Order Signature/Seal Waiver Consent Form.

c) When a futures commission merchant accepts and executes futures trading orders by telephone, it shall make a synchronous tape recording and keep the record at its business place.

d) When a futures commission merchant accepts transmission of the contents of a futures trading order by fax, telegram, computer system, or other equipment, the transmitted contents must be kept on file for inspection.

e) Transmission of futures trading orders, order confirmations, trade confirmations, and other electronic documents between a futures commission merchant and a principal employing an IC card, the Internet, or other mode of electronic trading shall carry an electronic signature issued by a certificate authority.

f) Printouts of order records made through electronic media such as IC card or the Internet and computer file order records must be kept for no less than five years; recordings and transmission contents must be kept on file for no less than two months.

402) 期貨商管理規則第36條亦規定期貨商受理及執行期貨交易委託時，以電話進行者，必須同步錄音存證。期貨商以傳真機、電報、電腦系統或其他設備傳輸買賣委託書內容時，應將所傳輸內容存檔備查。錄音及傳輸內容至少應保存二個月。

402) Article 36 of the Regulation Governing Futures Commission Merchants also provides that when a futures commission merchant accepts and executes a consignment order for futures trading by telephone, it shall make a tape recording of the phone call. The same article also provides that when a futures commission merchant transmits the contents of a consignment order form by fax, telegram,

computer system, or other equipment, the transmitted contents must be kept on file for future reference. Futures commission merchants are required to keep the tape recording and transmitted contents on file for at least two months.

403) 銀行防制洗錢注意事項範本要求銀行對於非「面對面」之客戶，應該施以具相同效果之確認客戶程序，且必須有特別和足夠之措施，以降低風險。

403) The Money Laundering Prevention Guidelines and Procedures for Banks requires banks to implement procedures that allow them to verify customer identity on non-face-to-face transactions just as effectively as they do on transactions conducted in person. The same Guidelines also require banks to take extraordinary and adequate measures so as to minimize risks.

404) 主要風險管理控制應用於非面對面交易限於電子銀行業務之交易，大部分銀行限制在自動櫃員機之提款上限爲每次交易新台幣3萬元(大約美金900元)，如屬跨行交易，上限爲每次交易新台幣2萬元，而一日累積提款上限爲新台幣10萬元(大約美金3千元)。

404) The primary risk management controls banks apply for non-face-to-face transactions are transaction limits placed on electronic banking. Most banks limit the amount of withdrawal at the ATM per each transaction to NT$30,000(approximately US$900) when the transaction is conducted on an ATM owned by the account holder's own bank is limited to NT$30,000 (the limit is NT$20,000 when using ATMs owned by other banks for cross-bank services). The total amount of withdrawals is limited to NT$100,000(approximately US$3,000) in one single day by most banks.

405) 對於透過自動櫃員機轉帳亦有類似規定，每筆交易上限爲新台幣3萬元，如果是指定帳戶轉帳交易，上限爲每筆交易新台幣2百萬元。

405) Similar limits are applied to fund transfers conducted at the ATM. Each fund transfer is limited to NT$30,000. When the fund is transferred to designated account, the maximum amount per transaction is NT$2 million.

3.2.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

406) 中華台北反洗錢與打擊資

406) A considerable part of Chinese Taipei's

助恐怖分子體制值得注意的是FATF建議中應以法律或法規訂定之事項，僅以訂定指引之方式處理。中華民國應確保客戶審查義務被納入法律或法規，以符合國際標準之要求。

407) 中華台北應：

a) 降低對臨時性交易客戶審查義務之門檻及鼓勵使用更具安全與透明的交易方式。

b) 明確規範金融機構應辨識利益擁有狀態，以作爲例行性客戶審查程序之一部分。

c) 要求金融機構須對所有客戶採取合理作爲以查核客戶是否代替他人行事，並辨識最終控制或擁有該利益之自然人。

d) 要求金融機構辨識最終有效控制該法人／法律合意（legal person/arrangements）客戶之自然人。

e) 要求金融機構對於免申報通貨交易報告之大額現金交易應進行客戶審查與紀錄保存。

f) 要求金融機構對於免申報通貨交易報告之高值（large-value）現金交易應進行客戶審查與紀錄保存。

AML/CFT regime, which according to the FATF Recommendations should be explicitly stipulated in laws or regulations, are captured only by guidelines. Chinese Taipei should ensure that key CDD obligations are contained in laws or regulations in keeping with the requirements under the international standards.

407) Chinese Taipei should:

a) lower the thresholds that trigger CDD obligations for occasional transactions and consider ways to encourage use of more secure and transparent means of transactions;

b) introduce explicit requirements for financial institutions to identify the beneficial ownership as part of the routine CDD procedures;

c) require financial institutions to take reasonable measures on all customers to check if the customer is acting on behalf of another person and to identify the natural person who ultimately controls or owns the customer;

d) require financial institutions to identify the natural person with ultimate effective control over customers that may be legal person/arrangements;

e) require financial institutions to perform customer due diligence and record-keeping for cash transactions of large amount that are exempt from CTR; and

f) require financial institutions to perform CDD and to keep transaction records on large-value cash transactions even when they are exempt from CTR filing.

3.2.3 建議第5至8項遵循評等(COMPLIANCE WITH RECOMMENDATIONS 5 TO 8)

	評等	評　　等　　理　　由　　摘　　述
建議第5項	PC	● 臨時性現金交易啓動客戶審查義務之門檻（新台幣100萬元，約美金3萬元）太高。 ● 未明確要求金融機構採取合理措施以查核客戶是否是代理他人行事並辨識利益擁有人，作爲所有客戶例行性客戶審查程序之一部分。 ● 融資業者（financial leasing sector）未被涵蓋在反洗錢與打擊資助恐怖分子體制之中。 ● 只有證券業明確要求要取得業務往來關係之目的與本質。 ● 對於先前取得之客戶資訊有疑問時之客戶審查要求僅訂在銀行業之防制洗錢注意事項範本，對於證券業及保險業並無特別要求。 ● 保險業對於運用可靠資訊以辨識客戶身分之義務只訂在防制洗錢注意事項範本，未明訂於法律或規定之中。 ● 查核各戶代表法人行事之合宜授權，在銀行業及保險業都未規範在法律或規定之中。 ● 對於現有客戶之客戶審查在法律及防制洗錢注意事項均未規範。
R.5	PC	● The threshold for occasional cash transactions that triggers CDD obligation (NT$1 million, which is approximately US$30,000) is too high. ● There is no explicit requirement for financial institutions to take reasonable measures to check if a customer is acting on behalf of another person and to identify the beneficial owner as part of the routine CDD procedure for all customers. ● The financial leasing sector is not covered by the AML/CFT regime ● Only the securities sector has explicit requirement to obtain information on the purpose and intended nature of the business relationship ● The requirement to perform CDD when the previously obtained customer information is dubious is captured only by the Money Laundering Prevention Guidelines and Procedures for the banking sector, and there is no specific requirement for the securities and the

		insurance sectors. ● The obligation to verify customer identity using reliable information is captured only by the Money Laundering Prevention Guidelines and Procedures and is not clearly captured by a law or a regulation for the insurance sector. ● The obligation to check if a person purporting to act on behalf of a legal person is so authorized is not captured by a law or regulation for the banking sector and the insurance sector. ● There is neither legislation nor any guideline that specifically addresses the treatment of existing customers.
建議第6項	NC	無特別法律或指引要求金融機構對於高知名度政治人物採取合宜的風險管理程序。
R.6	NC	There is no specific legislation or guideline that requires financial institutions to have appropriate risk management procedures for PEPs.
建議第7項	LC	銀行業之防制洗錢注意事項範本於評鑑團進行現地評鑑之前二個月才修正施行，其成效及執行情形尚無法判斷。
R.7	LC	Guidelines were introduced only two months before the Evaluation Team's onsite visit, and therefore, it is too early to form a judgment on the effectiveness or the implementation of the Guidelines.
建議第8項	LC	銀行缺乏有效作爲以監督所有個別之電子方式交易。
R.8	LC	Banks lack effective measures to monitor all individual transactions conducted electronically.

3.3 透過仲介或第三者進行部分客戶審查項目--建議第9項(THIRD PARTIES AND INTRODUCED BUSINESS - R.9)

3.3.1 說明與分析(DESCRIPTION AND ANALYSIS)

408) 銀行業：依據行政院金融監督管理委員會訂定之「金融機構作業委託他人處理應注意事項」規定，金融機構作業委外，須確保行政院金融監督管理委員會、中央銀行及中央存款保險股份有限

408) Banking sector: The FSC's "Directions for the Outsourcing of Financial Institution Operations" requires that banks outsourcing some of their operations must ensure that the FSC, the Central Bank, the Central Deposit Insurance Corporation, and other competent authorities have access to relevant records

公司等主管機關得取得相關資料或報告及進行金融檢查。

and reports and can carry out financial examinations.

409) 金融機構作業委外不得違反法令強制或禁止規定、公共秩序及善良風俗，對經營、管理及客戶權益，不得有不利之影響，並應確保遵循銀行法、洗錢防制法、電腦處理個人資料保護法及其他法令之規定。

409) The same Directions also provide that financial institutions' outsourcing of their operations must not violate any legal provisions, disturb public order or accepted morals, and that such outsourcing must not adversely affect the institutions' business operations, management, or the rights and interests of their customers. Under the Directions, financial institutions must also ensure compliance with the Banking Act, the MLCA, the Data Protection Law, or other laws and regulations.

410) 金融機構對於涉及營業執照所載業務項目或客戶資訊之相關作業委外，以下列事項範圍爲限：

a) 資料處理：包括資訊系統之資料登錄、處理、輸出，資訊系統之開發、監控、維護，及辦理業務涉及資料處理之後勤作業等。

b) 信用卡之行銷業務、客戶資料輸入作業、表單列印作業、裝封作業、付交郵寄作業，及開卡、停用掛失、預借現金、緊急性服務等項目之電腦及人工授權作業。

c) 委請辦理有價證券、支票、表單及現鈔運送作業及自動櫃員機裝補鈔等作業。

d) 委請律師、代書處理之事項，及委託其他機構處理因債權承受之擔保品等作業。

410) A financial institution may outsource matters related to the conduct of its registered lines of business or customer information only if such matters are among the following:

a) data processing including input, processing and output of data in the relevant computer system and improvement, control and maintenance of such computer system, and logistical support for data processing in connection with the financial institution's business;

b) the marketing of credit cards, input of customer information, printing of relevant forms and statements, matters regarding envelope stuffing, matters regarding sorting and mailing, matters regarding computerized or manual card activation, reporting of lost cards, cash advances and emergency services;

c) transporting securities, checks, forms and statements, and cash, and delivering cash to ATMs;

d) hiring a law firm or real estate closing agent

e) 車輛貸款逾期繳款之尋車及車輛拍賣 (不含拍賣底價之決定) 作業。

f) 鑑價作業。

g) 表單、憑證等資料保存相關作業。

h) 應收債權之催收作業。

i) 車輛貸款業務之行銷、貸放作業管理 (不含授信審核之准駁)、服務及諮詢等作業。

j) 內部稽核作業，惟不得委任其財務查核會計師辦理。

k) 代客開票 (支票、匯票) 作業相關事宜。

l) 貿易金融業務 (信用狀開發、讓購、及進出口託收等) 之後勤處理作業。

m) 消費性貸款之申請書有關客戶身分及親筆簽名之核對。

n) 房屋貸款行銷業務。

o) 電子通路客戶服務業務 (包括電話自動語音系統服務、電話行銷業務、客戶電子郵件之回覆與處理作業、電子銀行客戶及電子商務之相關諮詢及協助，及電話銀行專員服務等)。

p) 消費性貸款行銷及對保作業。

q) 不良債權之評價、分類、組合及銷售。但應於委外契約中訂定受委託機構參與作業合約之工作人員，於合約服務期間或合約終止後一

to handle relevant legal matters, and approaching other institutions to handle matters related to taking over title to collateral;

e) locating services and auctioning services for automobiles, where repayment on a car loan is overdue (excluding the determination of the floor price for such auctions);

f) appraisal of real estate;

g) warehousing of relevant documents such as forms, statements and certificates;

h) collection of debts;

i) matters related to marketing, management (other than the granting or denial of loan applications), [customer] service and consulting for auto loans;

j) internal audits (provided that such audits may not be conducted by the certified public accountant who audits such financial institution's finances);

k) matters related to drawing negotiable instruments (e.g., checks and drafts) for customers;

l) back office functions for international trade financing activities (e.g., the issuance and negotiation of letters of credit and import and export collections);

m) verification of the identities and signatures of consumer loan applicants;

n) marketing of housing loans;

o) electronic customer services (including: automated telephone voice menu systems; telemarketing; management of and response to customer e-mail; inquiries about, and assistance for, electronic banking and electronic commerce customers; and specialized electronic banking customer services);

定合理期間內，不得從事與委外事項有利益衝突之工作及提供顧問或諮詢服務。

r) 金塊、銀塊、白金條塊等貴金屬之報關、存放、運送及交付。

s) 已提供信用額度之往來授信客戶之信用分析報告編製。

t) 其他經財政部核定得委外之作業項目。

p) marketing of, and identity confirmation for, consumer loans;

q) evaluation, classification, packaging and sale of non-performing loans; provided, that such outsourcing agreements shall provide that the service providers and their employees shall not engage in any work or provide any consulting or advisory services which give rise to a conflict of interest with the outsourced services during the term of such outsourcing agreements or for a reasonable period of time after termination/expiry thereof;

r) customs clearance, deposit, transportation and delivery of precious metals such as gold bars, silver bars and platinum bars;

s) compiling and editing credit analysis reports on customers to whom credit has been extended; and

t) other matters as approved by the MOF.

411) 金融機構作業委外如因受委託機構或其僱用人員之疏失致客戶權益受損，仍應對客戶負責。金融機構委外作業如未善盡對受託機構之監督責任，致損害客戶之權益者或影響金融機構健全經營時，行政院金融監督管理委員會將視情節輕重，依銀行法相關規定對金融機構採取適當之處分措施或停止部分或全部委外業務。

411) If the outsourcing of financial institution operations results in harm to the rights and interests of a customer due to some mistakes on the part of a third-party provider or its employees, the financial institution is liable to the customer. If a financial institution that outsources operations fails to exercise due care in overseeing the activities of a thirdparty provider, thereby harming the rights and interests of a customer or affecting the proper management of the financial institution itself, the FSC may impose sanctions or suspend the outsourcing of operations.

412) 2006 年 4 月 1 日金融監督管理委員會發布命令，要求銀行停止委外辦理信用卡、現金卡、消費貸款行銷作業

412) On 1 April 2006, the FSC issued an order requiring banks to suspend outsourcing of credit card, cash card, and consumer loan marketing, as well as the outsourcing of

及客戶身分確認。

413) 金融機構作業委託至國外之案件，咸屬銀行業務之內部後台作業，其委外性質內容，尚不涉及開戶、存提款、匯款等有關須進行反洗錢之客戶審查要求事項。

414) 保險業：依據保險業務員管理規則第 15 條規定，業務員經授權從事保險招攬之行為，視為該所屬公司授權範圍之行為，同法條亦規定保險公司對其業務員之招攬行為應嚴加管理。保險招攬之行為，係指下列之行為：

a) 解釋保險商品內容及保單條款。

b) 說明填寫要保書注意事項。

c) 轉送要保文件及保險單。

415) 人壽保險商業同業公會所訂之防制洗錢注意事項範本中列出人壽保險業者在招攬及核保階段之不同客戶審查措施，該注意事項範本要求核保人員應取得當事人所有必要之身分證明文件，並審核要保書是否為當事人親自填寫，並將確認身分資訊載明於招攬報告。

identity verification.

413) Operations that banks outsource overseas are all internal back-office activities that have nothing to do with account opening, withdrawals, deposits, wire transfers, or anything else that would trigger AML customer due diligence requirements.

414) Insurance sector: Article 15 of the Regulations Governing Supervision of Solicitors provides that insurance solicitation by a solicitor authorized for that purpose is deemed an activity within the scope of authorization granted by the employing company. The same Article also provides that the employing company should administer rigorous supervision of solicitation by its solicitors. The term "insurance solicitation" as referred to in Article means any of the following:

a) explanation of the content of an insurance product and the relevant policy provisions;

b) explanation of any points for attention in filling out an insurance proposal; and

c) forwarding of an insurance proposal document or insurance policy.

415) The Money Laundering Prevention Guidelines and Procedures issued by the Life Insurance Association sets out different CDD measures for the solicitation and the underwriting stages of life insurers' operations. Under the Guidelines, solicitors are required to obtain all the necessary ID documents, and underwriters are required to check whether the policy application was written by the applicant himself/herself and to verify the identification information written in the solicitation report.

3.3.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

416) 中華台北完全遵循本項建議。

416) Chinese Taipei is compliant with this recommendation.

3.3.3 建議第 9 項遵循評等

	評 等	評 等 理 由 摘 述
R.9	C	This recommendation is fully observed.
建議第9項	C	本建議完全遵循。

3.4 金融機構秘密法或機密法--建議第 4 項(FINANCIAL INSTITUTION SECRECY OR CONFIDENTIALITY (R.4))

3.4.1 說明與分析(DESCRIPTION AND ANALYSIS)

417) 依據銀行法第 48 條規定，銀行對於顧客之存款、放款或匯款等有關資料，除其他法律或中央主管機關另有規定者外，應保守秘密。另洗錢防制法第 8 條第 2 項訂有金融機構對疑似洗錢之交易應向指定之機構申報，依規定爲申報者，免除其業務上應保守秘密之義務。

417) Under Article 48 of the Banking Act, banks must keep confidential all information regarding deposits, loans, or remittances of their customers. The secrecy obligation, however, can be overruled if required by other law or by order of the central competent authority. Article 8 Paragraph 2 of the MLCA provides that financial institutions filing STRs to the designated authority are discharged from the confidentiality obligation if they can provide proof that they acted in good faith.

418) 許多法律授權相關機關基於反洗錢與打擊資助恐怖分子之目的可以取得金融相關資訊，依據行政院金融監督管理委員會組織法，金管會在進行金融檢查時，有權從金融機構取得相關資訊，包括：(1)得要求金融機構及其關係人與公開發行公司提示有關帳簿、文件及電子資料檔等資料，或(2)通知被檢查者到達指定辦公處所備詢。對涉有金融犯罪嫌疑之案件，得敘明事由，報請檢察官許可，向該

418) Several laws empower competent authorities to obtain information for AML/CFT purposes. Under the Organic Act Governing the Establishment of the Financial Supervisory Commission, Executive Yuan, the FSC is empowered to obtain relevant information from financial institutions when conducting examinations: the FSC can (1) require a financial institution and related parties or a public company to produce account books, documents, electronic files, and other materials; or (2) order an examinee to appear at a designated office to answer questions. When dealing with a case of suspected financial crime, the FSC can seek permission

管法院聲請核發搜索票後，會同司法警察，進入疑爲藏置帳簿、文件、電子資料檔等資料或證物之處所，實施搜索。

of a prosecutor to file a motion in the court for issuance of a search warrant. Once the search warrant is issued, the FSC can, accompanied by judicial police authorities, can conduct a search.

419) 依據調查局組織條例及刑事訴訟法規定，洗錢防制中心基於分析疑似洗錢交易報告及追查不法資金流向之需要，可以直接或間接取得金融、行政及執法相關資訊。另依據行政院金融監督管理委員會2006年5月23日金管銀(一)字第09510002020號函規定，洗錢防制中心在執行疑似洗錢交易報告分析時，有權要求金融機構提供帳戶及交易紀錄。

419) Under the Investigation Bureau Organization Act and the Criminal Procedure Code, the MLPC has directly or indirectly access to the financial, administrative and law enforcement information that it needs for analysis of suspicious transaction reports and for tracing of illegal funds. And according to the authorization of Decree #09510002020, which was promulgated on May 23, 2006 by the FSC, the MLPC has the power to obtain additional information from financial institutions including accounts and banking records in the course of carrying out analysis of STRs.

420) 有關機關可以分享資訊。洗錢防制中心受理海關通報之入出境旅客攜帶大額外幣申報資料，並可以基於分析疑似洗錢交易報告需要，向金融監督管理委員會及中央銀行查詢有關資訊，並能分送金融情報予相關執法機關，包括地檢署、法務部調查局其他業務單位、警政署及金融監督管理委員會等。

420) Competent authorities can share information. The MLPC receives International Currency Transportation Reports (ICTRs) from the Directorate General of Customs and can make information enquiries to the FSC and CBC in the course of analyzing STRs. It can also disseminate financial intelligence to relevant law enforcement agencies including the Prosecutors' Office, other departments in the Ministry of Justice Investigation Bureau, the National Police Agency, the FSC, etc.

3.4.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

421) 中華台北完全遵循本項建議。

421) Chinese Taipei is in full compliance with this recommendation.

3.4.3 建議第4項遵循評等(COMPLIANCE WITH RECOMMENDATION 4)

	評等	評等理由摘述
R.4	C	This recommendation is fully observed

建議第4項	C	本建議完全遵循

3.5 紀錄保存和電匯規則--建議第 10 項及特別建議第 VII 項(RECORD-KEEPING AND WIRE TRANSFER RULES -- R.10 & SR.VII)

3.5.1 說明與分析(DESCRIPTION AND ANALYSIS)

建議第 10 項(Recommendation 10)

交易紀錄--必要準則 10.1(Transactions Records - c.10.1)

422) 洗錢防制法第 7 條及第 8 條授權規定事項已分別訂定，對於大額通貨交易之確認紀錄與交易憑證應以原本方式保存五年，對於疑似洗錢交易申報之紀錄及交易憑證，亦應以原本方式保存五年。

422) Record-keeping requirements are broadly provided under Article 7 of the MLCA that requires financial institutions to keep transaction and customer identification records for five years for only cash transactions exceeding NT$1,000,000. Article 8 of the MLCA also requires financial institutions to keep transaction and customer identification records for suspicious transactions.

423) 雖然交易紀錄廣泛運用在反洗錢與打擊資助恐怖分子之法律與規定，但其定義並未規範。對於交易紀錄保存方式及期限，依洗錢防制法第 7 條授權規定事項規定，金融機構必須留存姓名、帳戶號碼及交易金額等資訊。

423) Although “transaction records” is extensively used in the governing AML/CFT laws and regulations, its definition is not provided. Regarding the method and time period of safe-keeping transaction records as provided under Regulation Article 7.1.2.i, financial institution are required to keep the records such as name, account number and amount in relation to a transaction.

424) 洗錢防制法對於金融機構申報大額通貨交易報告予洗錢防制中心後之紀錄留存並無規範。依據洗錢防制法第 7 條授權規定事項附件 2 之大額通貨交易申報表格，列出現金交易達新台幣 1 百萬元以上者應向洗錢防制中心申報之欄位及其他交易資訊：

a) 帳戶號碼。

b) 帳戶名稱。

424) There are no requirements under the MLCA on financial institutions to retain records of currency transaction reports submitted to MLPC. However, the currency transaction reporting form that was issued as attachment 2 under Regulation Article 7 provides a list of reportable fields when a cash transaction above NT$1,000,000 is reported to MLPC and includes among other things the following transaction information:

a) account number;

b) account name;

c) 交易日期與時間。
d) 交易金額。
e) 交易種類。
f) 客戶名稱。
g) 客戶地址。

425) 依據洗錢防制法，金融機構違反前述紀錄保存義務者，處新臺幣二十萬元以上一百萬元以下罰鍰。

426) 中華台北反洗錢與打擊資助恐怖分子相關法律與規定對於交易紀錄保存之要求尚有不足，並未完全符合FATF 建議要求之要項如下：

a) 金融機構未被要求對於非現金交易留存交易紀錄。
b) 金融機構未被要求對於現金交易低於新台幣1百萬元留存交易紀錄。
c) 相關法律與規定未特別要求金融機構保存之交易紀錄要能夠重建個別交易以作爲證據使用。
d) 保留期限並不包括一般交易完成後之交易紀錄保存5年。
e) 國際金融交易紀錄保存未被納入現有紀錄保存體制。

c) date and time of transaction;
d) transaction amount;
e) type of transaction;
f) name of customer; and
g) customers address.

425) A financial institution that violates the provisions above record-keeping obligations could be fined NT$200,000 NT to NT$1 million under the MLCA.

426) The requirement to keep transaction records under Chinese Taipei's AML/CFT laws and regulations is inadequate and does not fully satisfy the essential elements under the FATF Recommendations as follows:

a) financial institutions are not required to keep transaction records for any non-cash transactions;
b) financial institutions are not required to keep transaction records for cash transactions below NT$1,000,000;
c) laws and regulations do not specifically require financial institutions to keep transactions records that would allow individual transactions to be reconstructed by the financial institutions for evidentiary purposes;
d) retention period exclude the requirement to keep transaction records for five years following the completion of a transaction; and
e) International transaction records are not captured under the current recordkeeping regime;

客戶身分紀錄，帳戶及業務往來文件--必要準則10.2 (Customer ID Records, Account Files and Business Correspondence -- c.10.2)

427) 洗錢防制法第7條授權規定事項要求金融機構對於

427) Regulations regarding Article 7 of the MLCA require financial institutions to keep

現金交易達新台幣 1 百萬元以上者要確認客戶身分並留存交易紀錄憑證 5 年，第 8 條授權規定事項亦要求金融機構對於疑似洗錢交易要留存客戶身分紀錄。確認客戶身分之原始資料必須留存，下列客戶資訊必須保存：

a) 姓名。
b) 出生年月日。
c) 住址。
d) 電話。
e) 身分證明文件號碼。

certain customer identification and verification records for five years for cash transactions exceeding NT$1,000,000. Regulations regarding Article 8 of the MLCA also require financial institutions to keep customer identification records for suspicious transactions. The originals of verified customer records are to be retained. The following customer information is required to be kept:

a) name;
b) birth date;
c) address;
d) telephone number; and
e) identification document number.

428) 除了上述之外，大額通貨交易申報表格要求金融機構記錄客戶國籍，但是留存確認國籍紀錄並未規範在相關法律或規定之中。

428) In addition to the above, the currency transaction reporting form requires financial institutions to record the nationality of the customer, however, keeping of nationality verification records is not evidenced in the laws or regulations.

429) 中華台北反洗錢與打擊資助恐怖分子相關法律與規定對於留存客戶紀錄之要求缺乏前面所述類似情形：

a) 金融機構未被要求留存帳戶檔案。
b) 金融機構未被要求留存業務往來文件。
c) 保留期限並不包括帳戶或業務往來終止之客戶紀錄保存 5 年。

429) The requirement to keep customer records under Chinese Taipei's AML/CFT laws and regulations is lacking in similar ways noted above including in the following areas:

a) financial institutions are not required to keep account files;
b) financial institutions are not required to keep business correspondence; and
c) retention period exclude the requirement to keep customer records for five years following the termination of an account or business relationship.

資訊適時提供相關機關查詢--必要準則 10.3 (Availability of Information to Competent Authorities - c.10.3)

430) 前段所述之交易及客戶紀錄亦被要求遞送給指定

430) Transaction and customer records noted in preceding paragraphs are also required to be

機關法務部調查局，其他相關機關如金融監督管理委員會依職權具備特別檢查權力，可以要求金融機構提供相關必要交易紀錄，且紀錄要及時提供有關機關。

submitted to the designated authority, the Investigation Bureau of the Ministry of Justice. Other relevant agencies such as the FSC have specific examination powers under their respective establishments to compel financial institutions to make available all necessary records. Records are available on a timely basis to competent authorities upon appropriate authority.

建議第10項遵循評等之額外資訊 (Additional Information for Assessing Compliance with R10)

431) 對於留存交易及客戶資訊之要求在其他規定或指引亦多所常見，而評鑑團留意到評鑑指引及評鑑方法論之準則對於建議第10項之遵循評等，對於紀錄保存要求要有法律或規定爲基礎。

431) Requirements for keeping of transaction and customer information are also imposed under other supporting regulations, guidelines and checklists. The Evaluation Team is mindful of the assessment guidelines and criteria in the Methodology for assessing compliance with R10 that require that record-keeping requirements must be set out in law or regulations.

432) 中華台北有其他相關法律課以金融機構保存確認紀錄，諸如1948年1月7日國民政府第1次公布，2000年4月26日最近一次修正，並經總統公告之商業會計法，該法所稱商業，指以營利爲目的之事業，其範圍依商業登記法、公司法及其他法律之規定；對於商業會計事務之處理，係指商業從事會計事項之辨認、衡量、記載、分類、彙總，及據以編製財務報表；商業之支出達一定金額者，應使用匯票、本票、支票、劃撥、電匯、轉帳或其他經主管機關

432) CT has other supporting laws that obligate intuitions to keep certain records. One such law is the Business Accounting Act. This legislation is also referred as the Business Entity Accounting Act that was first promulgated on 7 January 1948 by the National Government and was last amended on 26 April 2000 by Presidential Promulgation. The businesses referred to in this law refer to profit-making institutions; and require all business dealings to be in accordance with the Business Registration Act, corporate laws and other laws. The law stipulates the accounting affairs for business entities in regards to record keeping must address the recognition, measuring, recording, classification, consolidation and composition

核定之支付工具或方法，並載明受款人。

of financial reports. The law also refers to business transactions above a certain amount, either it be money order, cashier`s cheque, business cheque, appropriate transfer, telegraphic transfer, transfer of accounts or other payment tools or methods that need to be approved by a competent authority with payee clearly specified.

433) 依據商業會計法第 38 條規定，各項會計憑證，除應永久保存或有關未結會計事項者外，應於年度決算程序辦理終了後，至少保存五年；各項會計帳簿及財務報表，應於年度決算程序辦理終了後，至少保存十年。代表商業之負責人、經理人、主辦及經辦會計人員或受委託處理會計事務之人違反前揭法條者，處新臺幣六萬元以上三十萬元以下罰鍰。上述相關條文可以適用於所有種類之交易。就此而論，金融機構被要求對所有類別之交易都要留存交易紀錄，包括現金、非現金、國際及國內金融交易。

433) According to Article 38 of the Business Accounting Act, all accounting documents, except those which should be permanently kept or which are related to unsettled accounting events, shall be kept for at least five years after the completion of annual closing procedures; all the accounting books and financial statements shall be kept for at least ten years after the completion of annual closing procedures except for the unsettled accounting events. The responsible person representing a business, its managerial officers, in-charge accountants, and assistant accountants, or a person entrusted to handle the accounting affairs of another according to law involved in violation of the said Article shall be fined not less than NT$60,000 and not more than NT$300,000. It could be construed from the above that the said provisions have general applicability as to all kinds of transactions. As such, financial institutions are required to keep transaction records for all kinds of transactions, including cash, non-cash, international and domestic ones.

434) 依據商業會計法第 15 條規定，商業會計憑證分下列二類：1. 原始憑證：證明會計事項之經過，而爲造具記帳憑證所根據之憑證；2.

434) According to Article 15 of the Business Accounting Act, business entity accounting documents are divided into the following two categories: 1. Source document: The documents which prove the course of an

記帳憑證：證明處理會計事項人員之責任，而爲記帳所根據之憑證。該法條之要求是對所有中華台北境內商業團體之一般性要求。中華台北反洗錢與打擊資助恐怖分子架構下所涵蓋之金融機構都被要求在紀錄保存上執行額外特別之規範，如同建議第10項必要準則10.1至10.3之要求。

event, based on which bookkeeping slips are prepared. 2. Bookkeeping slip: The documents, which prove the responsibilities of the person handling accounting events and serve as the basis for account keeping. The requirements imposed under Article 15 are general requirements for all business entities in CT. Financial institutions that are covered under Chinese Taipei's AML/CFT framework must be required to implement additional specific rules on record-keeping as noted in R.10 and in the essential criteria 10.1 to 10.3.

交易紀錄(Transactions Records)

435) 稅捐稽徵機關管理營利事業會計帳簿憑證辦法第26、27條及依據商業會計法第38條規定，營利事業設置之帳簿，除有關未結會計事項者外，應於會計年度決算程序辦理終了後，至少保存十年。另外，營利事業之各項會計憑證或副本及其他會計憑證依稅法必須取得或開給他人者，應於會計年度決算程序辦理終了後，至少保存五年，但應永久保存或有關未結會計事項者除外。

435) Articles 26 and 27 of the regulations Governing Regulation by Tax Collection Agencies of Profit-seeking Enterprise Account Vouchers and Article 38 of the Business Accounting Act provide that, with the exception of open accounts, the account books established by a profit-seeking enterprise must be maintained on file for at least ten years after the annual closing of accounts. In addition, voucher stubs or duplicate vouchers and other account vouchers that by tax law must be obtained from or furnished to another party must be maintained on file for at least five years after the annual closing of accounts; the preceding does not apply, however, to vouchers that must be kept in perpetuity, or to vouchers pertaining to accounts that remain open.

436) 另外，銀行公會訂定之防制洗錢注意事項範本要求銀行：

(1) 特別注意所有複雜、不尋常大額交易及所有沒有明顯經濟目的或合法目的之

436) In addition, the Bankers Association has adopted the Checklist of Money Laundering Prevention Guidelines and Procedures for Banks, which requires that banks:

(1) should pay special attention to all complex, unusual large transactions, and all unusual

不尋常型態交易；
(2) 應儘可能審視上述交易之背景及目的，並將所發現建立書面資料；
(3) 該書面資料至少保留 5 年，客戶身分紀錄及交易憑證要以原本方式保存 5 年。

patterns of transactions, which have no apparent economic or visible lawful purpose;
(2) should, as far as possible, examine and keep a written record of the background and purpose of such transactions; and
(3) should keep such written records on file for at least five years. Customer identification records and transaction vouchers must be kept on file in their original form for five years.

437) 證券商業同業公會、證券投資信託暨顧問商業同業公會及中華民國期貨業商業同業公會分別訂定之防制洗錢注意事項範本針對此問題亦有所規定，確認單或對帳單及其他文件有關買賣、贖回、移轉或境外信託交易者，必須依據商業會計法及其他法令規定之期限至少留存 5 年。另外紀錄保存在證券集中保管事業管理規則及商業會計法中亦有所規定。

437) The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a Checklist of Money Laundering Prevention Guidelines and Procedures for their respective members, and the Checklists address this issue. Confirmation statements or reconciliation statements and other documents relating to the purchase, redemption, transfer, or trading of offshore trust units must be maintained in the form and for the time period required by the Business Accounting Act and other applicable legal provisions (for at least five years in any case). In addition, records maintenance requirements are also set out in the Regulations Governing Centralized Securities Depository Enterprises and the Business Accounting Act.

438) 中華台北人壽及產物保險之全國性公會分別爲所屬會員訂定防制洗錢注意事項範本，列出相關交易（要保申請、收繳保費、保險給付、保單質借及償還等）之紀錄要保存 5 年不可毀損。

438) Chinese Taipei's national associations for both non-life and life insurance have each issued a Checklist of Money Laundering Prevention Guidelines and Procedures for their respective members. Each checklist sets out a list of transactions (insurance applications, collection of premiums, insurance benefits payments, policy loans, and policy loan repayments) that insurers are required to maintain on file for five years without

439) 銀行公會的會計系統範本要求會計人員在審核原始憑證發現有下列情形之一者，應使之更正或拒絕簽署：

a) 未註明用途或案據者。
b) 依照法律或習慣應有之主要書據缺少或形式不具備者。
c) 未依採購或處分財物相關法令規定程序辦理者。
d) 應經各級主管或事項之主管或主辦人員之簽名或蓋章，而未經其簽名或蓋章者。
e) 應經經手人、驗收人及保管人簽名或蓋章而未經其簽名或蓋章者；或應附送品質或數量驗收之證明文件而未附送者。
f) 關係財物增減、保管、移轉之事項時，應經主辦經理事務人員簽名或蓋章，而未經其簽名或蓋章者。
g) 書據之數字或文字有塗改痕跡，而塗改處未經負責人員簽名或蓋章證明者。
h) 書據上表示金額或數量之文字、號碼不符者。
i) 其他與法令不符者。

destroying.

439) The Bankers Association's Model Accounting System for Banking Enterprises requires that an accountant who discovers any one of the following situations upon inspection of an original voucher must require corrective action or refuse to sign the voucher:

a) the purpose or reference number of the transaction is not indicated;
b) documentation that is required under law or customary practice is missing or provided in an improper format;
c) the transaction has not been handled in accordance with laws and regulations applying to procurement or disposal of property;
d) the voucher should have been signed or chopped by a supervisor or other such person, but was not;
e) the voucher should have been signed or chopped by an access person, checker, or custodian, but was not; or the voucher should have been (but was not) accompanied by proof that quality or quantity had been checked;
f) the transaction involved an increase/decrease in property, or custody or transfer thereof, and therefore should have been (but was not) signed or chopped by the person in charge of the business in question;
g) there are signs that the numerals or text in the documentation have been altered, but the responsible person has not endorsed the alteration with a signature or chop;
h) written and Arabic numerals in the documentation pertaining to dollar amounts or quantities do not match up; and

i) other matters not in keeping with the law.

440) 銀行防制洗錢注意事項要求銀行留存交易報告及交易憑證檔案，應以原本方式保存 5 年。對於已經關閉之帳戶，該注意事項於要求銀行留存相關紀錄（諸如客戶身分文件影本、帳戶紀錄及通信紀錄）檔案至少 5 年。

440) the Checklist of Money Laundering Prevention Guidelines and Procedures for Banks requires banks to keep transaction reports and transaction vouchers on file in their original format for five years. For accounts that have already been closed, the Checklist requires banks to keep related records (e.g. photocopies of customer ID documents, account records, and communications records) on file for at least five years.

441) 證券業及期貨業之防制洗錢注意事項範本亦對此問題有所規範，另外這些事項在證券集中保管事業管理規則及商業會計法中亦有所規定。

441) The Checklist of Money Laundering Prevention Guidelines and Procedures for the securities and futures sectors also addresses this issue. In addition, these matters are also set out in the Regulations Governing Centralized Securities Depository Enterprises and the Business Accounting Act.

對相關機關之資訊可利用性(Availability of Information to Competent Authorities)

442) 依據行政院金融監督管理委員會 2006 年 5 月 23 日發布之函令規定，司法、軍法、稅務、監察、審計及其他依法律規定具有調查權之機關，有查詢銀行客戶存款、放款、匯款、保管箱等有關資料之需要者，得向相關銀行查詢。

442) In a circular dated 2 March 2005, the FSC ruled that judicial, military, tax, government oversight, public budget and accounting, and other government agencies with legal authority to carry out investigations are entitled under the various applicable laws and regulations to contact banks directly when they need to access records relating to customer deposits, loans, wire transfers, and safe deposit boxes.

443) 自 2005 年 12 月起，內政部警政署及法務部調查局因偵辦刑案需要或調查犯罪需要，得以個案方式向財團法人金融聯合徵信中心查詢客戶之授信資料。

443) Since December 2005, the NPA, MOI and MJIB have been allowed on a case by case basis to contact the Joint Credit Information Center to access credit information as necessary for the purpose of investigation criminal matters.

444) 金融監督管理委員會及所屬機關於辦理金融檢查

444) When the FSC and its subordinate agencies conduct financial examinations, they are

時，得依「行政院金融監督管理委員會組織法」第 5 條第 1 項規定要求金融機構提示有關文件；華僑及外國人投資國內證券依「華僑及外國人投資證券管理辦法」相關規定辦理。

empowered under Article 5, Paragraph 1 of the "Organic Act Governing the Establishment of the Financial Supervisory Commission" to require a financial institution to produce relevant documents. Overseas Chinese and foreign nationals investing in domestic securities do so in accordance with the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals."

445) 依據保險法第 148 條規定，主管機關得隨時派員檢查保險業之業務及財務狀況，或令保險業於限期內報告營業狀況，本項檢查主管機關得委託適當機構或專業經驗人員擔任，而所有客戶及交易紀錄與資訊都在此金融檢查範圍。

445) Article 148 of the Insurance Act provides that "the competent authority may, at any time, dispatch officers to inspect the business and financial conditions of an insurance enterprise, or order an insurance enterprise to report, within a prescribed limit of time, the condition of its business," and "the competent authority may engage an appropriate agency or professional expert to conduct the inspection referred to." All customers as well as all transaction records and data fall within the scope of such financial examinations.

特別建議第 VII 項（Special Recommendation VII）

446) 在中華台北境內，只有銀行、信用合作社、農會信用部、漁會信用部及台灣郵政公司儲匯局可以從事匯款業務。

446) In Chinese Taipei, only banks, credit cooperatives, Farmers' association credit departments, fishermen's association credit departments, and Postal Savings System of Taiwan Post Company are allowed to handle remittance.

447) 依據金管會發布之「金融機構辦理國內匯款作業確認客戶身分原則」規定，金融機構受理臨櫃國內匯款新台幣 3 萬元以上者，應留存匯款人姓名、身分證號碼（或統一證號）及電話（或地址）等資料。

447) Under the Directions for Confirming Customer Identity in Domestic Remittance Operations of Financial Institutions issued by the FSC, banks are required to record the name, the ID number (or government uniform invoice number), and telephone number (or address) of the originator for any domestic remittance of NT$30,000 or more.

448) 依據中央銀行發布之「銀行業辦理外匯業務作業規範」規定，銀行業辦理跨國境匯款時，必須查核匯款人之身分證（公司則爲登記證影本）。

448) Under the Directions Governing Banking Enterprises for Operating Foreign Exchange Business issued by the Central Bank of China, a financial institution must check the ID card (or a registration copy of the corporate registration certificate for a corporation) of the originator for any cross-border remittance that it handles.

449) 依據「財金公司之金融資訊系統跨行業務處理規則」之規定，任何國內電匯資訊必須涵蓋全部匯款人之資訊，金融機構辦理國內匯款作業確認客戶身分原則。另依據「銀行業辦理外匯業務作業規範」規定，任何匯往國外之跨國境電匯資訊必須涵蓋匯款人之全名、帳戶號碼(或身分證號碼）及地址。

449) Any domestic wire transfer message must include full originator information according to the Rules for Handling of Financial Information System Interbank Operations of the Financial Information Service, Co., which operates the interbank funds transfer system. And under the Directions Governing Banking Enterprises for Operating Foreign Exchange Business, any outward cross-border wire transfer message must include the full name, the account number (or I.D. number), and address of the originator.

450) 無清楚之法令或指引要求接受匯款之金融機構採取以風險爲基礎之程序，進行辨識及處理未跟隨匯款人資訊之電匯，但是接受評鑑團拜會之銀行表示，在實務上，銀行對於未跟隨匯款人資訊之電匯，會拒絕匯入。

450) There is no clear law/regulation or guidelines that require beneficiary financial institutions to adopt risk-based procedures for identifying and handling wire transfers that are not accompanied by full originator information. But the banks that the Evaluation Team interviewed said that, as a matter of business practice, they reject any inward remittance that does not come with full originator information.

451) 行政院金融監督管理委員會對於銀行之檢查，將電匯是否遵循反洗錢要求列爲檢查項目之一部分。依據檢查手冊，檢查人員將核對銀行內控指引，是否要求跨國境電匯要跟隨所有匯款人資訊，並檢視銀行依據洗錢防制法、防制

451) As part of its examination of banks, FSC checks if they comply with AML requirements regarding wire transfers. According to the Examination Manual, FSC examiners check if banks' internal control guidelines require inclusion of full originator information in cross-border wire transfer messages. The examiners review banks' antimony laundering operations according to the Money Laundering

洗錢注意事項指引、中央銀行第 0930053089 函令、銀行局「金融機構辦理國內匯款作業確認客戶身分原則」之反洗錢作業情形。依銀行法第 61 條之 1 之規定，金融監督管理委員會得施以糾正、命令限期改善之制裁，並得視情節之輕重，得為停止銀行部分業務、命令銀行解除經理人或職員職務等必要之行動。

Control Act, the Money Laundering Prevention Guidelines and Procedures for Banks issued by the Bankers' Association, and Central Bank Letter # Taiwan – Central – Foreign – VII - 0930053089, and the Directions for Confirming Customer Identity in Domestic Remittance Operations of Financial Institutions issued by the Banking Bureau of the FSC. Under Article 61-1 of the Banking Act, the FSC can impose sanctions in the form of official reprimand or order of corrective action within a specified period of time. Depending on the severity of circumstances, the FSC may also take other necessary actions, such as suspension of part of the banks' business, order of discharge of officers or other employees.

3.5.2 建議與評論

452) 依據洗錢防制法規定，金融機構應被要求留存交易及客戶紀錄如下：

a) 涵蓋有交易包括國際金融交易，而非僅及於超過新台幣 1 百萬元以上之現金交易。

b) 要能夠重建各別交易實況，作為證據目的之用。

452) Financial institutions should be required under MLCA to keep transaction and customer records:

a) for all transactions including international transactions and not just for cash transactions above NT$1,000,000;

b) that would allow individual transactions to be reconstructed by the financial institutions for evidentiary purposes;

453) 保留期限應包括下列要求：

a) 交易紀錄於交易完成後之 5 年。

b) 客戶紀錄於帳戶終止或停止生意往來關係之後 5 年。

453) Retention period should include the requirement to keep:

a) transaction records for five years following the completion of a transaction;

b) customer records for five years following the termination of an account or business relationship.

454）金融機構應被要求留存帳戶檔案及業務往來通信資料。

454) Financial institutions should be required to keep account files and keep business correspondence.

455) 洗錢防制法有關紀錄保存條款應擴及所有交易及客戶紀錄，以符合 FATF 建議事項。

456) 中華台北境內之金融機構一般都會遵循交易及客戶紀錄保存規定，即便一些要求並非明定於法令之中。

457) 檢察署、執法、管理及監理機關在取得使用金融機構留存之金融紀錄並無困難。

458) 中華台北應考慮對金融機構處理電匯匯入款項未跟隨完整匯款人資訊之處理程序要有明確要求。

455) The record-keeping provisions in the MLCA should be extended and applied to all transactions and customer records as required in the FATF Recommendations.

456) Financial institutions in Chinese Taipei are generally complying with transaction and customer record-keeping rules although some requirements are not specifically provided in laws and regulations.

457) Prosecutorial, law enforcement, regulatory and supervisory authorities do not have difficulty accessing records kept by financial institutions.

458) Chinese Taipei is advised to introduce explicit requirement for financial institutions to put in place clear procedures to deal with inward remittances that do not come with full originator information.

3.5.3 建議第10項及特別建議事項第VII項之遵循評等（COMPLIANCE WITH RECOMMENDATION 10 AND SPECIAL RECOMMENDATION VII）

	評 等	評 等 理 由 摘 述
建議第10項	PC	洗錢防制法對於交易紀錄留存之要求仍有下列不足： ● 金融機構未被要求對於非現金交易留存紀錄。 ● 金融機構未被要求對於現金交易低於新台幣1百萬者留存交易紀錄。 ● 法規未特別要求金融機構留存交易紀錄應足以重建個別交易以作爲證據之目的。 ● 保留期限未及於交易完成後之紀錄保存5年。 ● 國際交易紀錄目前並未納入紀錄留存體制之內。 ● 金融機構未被要求留存帳戶檔案。 ● 金融機構未被要求留存生意往來通信資料。 ● 保留期限規定未及於帳戶關閉或生意往來終止後留存5年。
	Rating	**Summary of factors underlying rating**
R.10	PC	The requirement to keep transaction records under the MLCA is inadequate in the following areas: ● Financial institutions are not required to keep

		transaction records for any non-cash transactions; ● Financial institutions are not required to keep transaction records for cash transactions below NT$1,000,000; ● Laws and regulations do not specifically require financial institutions to keep transactions records that would allow individual transactions to be reconstructed by the financial institutions for evidentiary purposes; ● Retention periods exclude the requirement to keep transaction records for five years following the completion of a transaction; ● International transaction records are not captured under the current record-keeping regime; ● Financial institutions are not required to keep account files; ● Financial institutions are not required to keep business correspondences; ● Retention period exclude the requirement to keep customer records for five years following the termination of an account or business relationship.
特別建議第VII項	LC	● 無明確法規或指引要求銀行對於處理電匯匯入款項未跟隨完整匯款人資訊之程序。
SR.VII	LC	● There is no clear requirement for banks set out in any legislation or a guideline to have in place procedures for handling inward crossborder remittances that do not come with full originator information.

異常與可疑交易（Unusual and Suspicious Transactions）

3.6 金融交易與生意往來之監控 - 建議第 11 及 21 項（MONITORING OF TRANSACTIONS AND RELATIONSHIPS - R.11 & 21）

3.6.1 說明與分析（DESCRIPTION AND ANALYSIS）

建議第 11 項（Recommendation 11）

459) 行政院金融監督管理委員會於 2006 年 4 月發布之「銀行對疑似不法或顯屬異常交易之存款帳戶管理	459) The regulations governing bank handling of accounts with suspicious or unusual transactions issued by the FSC in April 2006 attempt to impose certain requirements to

辦法」對於監控交易有一些要求，銀行應以資訊系統輔助清查存款帳戶異常交易，對於交易金額超過一定門檻、交易金額與帳戶平均餘額顯不相當、或短期間內密集使用電子交易功能等狀況，應設立預警指標，每日由專人至少查核及追蹤乙次並作成紀錄，依內部程序送交權責主管核閱。

monitor transactions. The regulations require banks to make use of information systems to help inspect for unusual deposit account transactions and to establish early warning criteria focusing on transaction amounts exceeding a certain threshold, transaction amounts clearly inconsistent with average account balances, or frequent use over a short period of electronic transaction functions, and to assign a specific individual to inspect at least once per day, follow up as necessary, and prepare an inspection record, which is required to be delivered in accordance with internal procedures to the proper supervisor for review.

460) 該辦法進一步規定檢查紀錄及其相關資訊，至少應保存 5 年，並得提供主管機關、有關單位及內部稽核單位調閱。這些要求是依據該辦法第16條規定辦理，並自 2007 年 1 月開始施行。

460) The regulations further provide that the inspection record and data should be maintained for at least five years, and may be provided to the competent authority, relevant units, and internal audit units for review. These are required under Article 16 of the Regulations that came into force only recently on 1 January 2007.

461) 銀行公會訂定之防制洗錢注意事項亦要求銀行建立洗錢防制之內控程序，特別是：

a) 運用資訊系統識別有問題之交易。
b) 對較高風險帳戶加強監控。
c) 應特別注意沒有明顯經濟目的或合法目的之所有複雜、不尋常大額交易或所有不尋常型態交易。
d) 儘可能審視上述交易之背景及目的。
e) 將所發現建立書面資料並

461) Checklist issued by Bankers Association also requires banks to establish internal control procedures for money laundering prevention, in particular:

a) to make use of information systems to identify questionable transactions;
b) to strengthen control over high risk accounts;
c) to exercise extraordinary diligence over complicated transactions, transactions of huge amounts or unusual transactions which are done without economic or legal purpose;
d) as far as possible, to look into the backgrounds and motivation behind the

至少至少保留 5 年。

these transactions; and

e) to set up documented data on all findings for 5 years.

462) 其他農委會金融局、證券商業同業公會、證券投資信託暨顧問商業同業公會及中華民國期貨業商業同業公會分別訂定之防制洗錢注意事項範本，對於交易之監控亦有一些要求。

462) Other checklists issued by the BOAF, the Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association indirectly address some of the requirements on monitoring of transactions.

463) 例如依據「臺灣證券交易所股份有限公司公布或通知注意交易資訊暨處置作業要點」第 3 條第 1 項規定，爲確保證券交割安全，臺灣證券交易所股份有限公司分析發現證券商當日受託買賣前條所列之有價證券有左列情形之一時，即於收盤後以書面通知該證券商內部稽核主管或營業部門主管，並副知該證券商總公司總經理，外國證券商在台設立分支機構者，通知其分公司經理人注意：

a) 投資人於該證券商委託買賣該有價證券之差額超過新台幣三億元並超過該證券商淨值一倍，且其委託買進（賣出）金額占該有價證券總委託買進（賣出）金額百分之二十以上。

b) 證券商受託買賣該有價證券之差額超過新台幣五億元並超過該證券商淨值一・五倍，且其受託買進（賣出)金額占該有價證

463) For example, according to Article 3, Paragraph 1 of the “Taiwan Stock Exchange Corporation Directions for Announcement or Notice of Attention to Trading Information and Dispositions”, to ensure security of settlement for securities trades, when TSEC analysis reveals any of the following circumstances in intraday trading at a securities firm, it will, promptly after market closing, issue written notice to the internal auditing or operations department of the aforesaid securities firm, with a copy to the general manager of its head office; in the case of the Taiwan branch office of a foreign securities firm, it will bring the matter to the attention of the branch office manager:

a) where the difference between an investors' purchase/sale orders for the given security at the given securities firm exceeds NT$300 million and also exceeds 100% of the net worth of the given securities firm, and where the volume of its purchase (or sale) orders accounts for 20 percent or more of the total monetary volume of total purchase (or sale) orders for the given security;

b) where the difference between orders accepted by a securities firm for purchase/sale of the given security exceeds

券總委託買進（賣出）金額百分之四十以上。

c) 投資人於該證券商成交買賣該有價證券之差額超過新臺幣一億元並超過該證券商淨值之〇・三倍，且其成交買進或賣出金額占該有價證券總成交金額之百分之十以上。

d) 證券商成交買賣該有價證券之差額超過新臺幣二億元並超過該證券商淨值之一倍，且

e) 其成交買進或賣出金額占該有價證券總成交金額之百分之二十以上。對於達前項第一款或第二款規定之證券商，臺灣證券交易所股份有限公司得於買賣申報之委託或交易時間內先以電話通知第一項人員。

NT$500 million and also exceeds 1.5 times the net worth of the given securities firm, and where the volume it accepted in purchase (or sale) orders accounts for 40 percent or more of the total monetary volume of all purchase (or sale) orders for the given security;

c) where the difference between an investor's confirmed purchases/sales of the given security through the given securities firm exceeds NT$100 million and also exceeds 0.3 times the net worth of the given securities firm, and where the volume of its confirmed purchases (or sales) accounts for 10 percent or more of the total monetary volume of all confirmed trades in the given security;

d) where the difference between confirmed purchases/sales of the given security by a securities firm exceeds NT$200 million and also exceeds the net worth of the given securities firm; and

e) where the volume of the confirmed purchases (or sales) thereby accounts for 20 percent or more of the total monetary volume of confirmed trades in the given security. When the circumstances under subparagraphs 1 or 2 of the preceding paragraph apply to a securities firm, the TSEC may inform the persons referred to in paragraph 1 by telephone when the trading order is placed or the trade is executed.

464) 依據中華民國證券投資信託暨顧問商業同業公會訂定之「證券投資信託事業證券投資顧問事業防制洗錢注意事項範本」第 2 點第 1 項第 7 款規定，如投資人突有不尋常之大額申購款項且與其身分、收入

464) The provision of subparagraph 7 of paragraph 1 of article 2 of the Template Guidelines for Anti-Money Laundering Operations by Securities Investment Trust Enterprises and Security Investment Consulting Enterprises prescribed by the Securities Investment Trust & Consulting Association of the R.O.C. provides that if there is an unusually large

顯不相當者，應特別注意有無疑似洗錢之情形。第 2 點第 3 項第 2、3 款規定（註：應爲第 2 點第 3 項第 2 款第 7 目之誤），客戶簽訂全權委託投資契約後如有下列情形之一者，應通知全權委託保管機構注意其委託投資帳戶之現金出入有無疑似洗錢之表徵，例如客戶於全權委託投資契約存續期間增加大額之委託投資資金或密集增加委託投資資金，而該款項與客戶之身分、收入顯不相當者。

subscription amount that is not in keeping with the investor's status or income, it is necessary to be especially alert to the possibility of money laundering. The provision of subparagraph 2 and 3 of paragraph 3 of Article 2 of the above-mentioned Guidelines provide that if any of the following occurs after the signing of a discretionary investment agreement, the discretionary depository institute should be informed to monitor whether there is a sign of money laundering in the cash inflows and outflows of the investment account, e.g. a customer's shows a precipitous increase investment amounts or frequency at some point during the discretionary investment agreement period and it is not in keeping with the status and income of the customer.

465) 證券商業同業公會證券商防制洗錢注意事項範本第 2 點第 2 項要求如有異常或大額交易活動發生，證券商應確認客戶身分、必要時應實地查訪客戶，並作成紀錄。TDCC 防制洗錢注意事項範本第 2 點第 1 項要求處理提存作業時，發現任何大額或異常洗錢交易，應向調查局洗錢防制中心申報，相關規定亦可見於期貨商防制洗錢注意事項範本第 2 點第 5 項第 1 至 6 款及 8 至第 11 款對期貨商之要求事項。

465) Paragraph 2 of article 2 of the Model Money Laundering Control Guidelines for Securities Finance Enterprises requires that whenever there is unusual or large–volume transaction activity by a customer, a securities finance enterprise shall verify the customer's identity, visit the customer in person, and make a record of the visit. Paragraph 1 of Article 2 of TDCC Money Laundering Control Guidelines requires that when processing deposit and withdrawal operations, pledge operations and erroneous transactions for participants, the TDCC discovers any large-volume or unusual transaction or suspected money laundering transaction, it shall submit a suspicious transaction report to the Ministry of Justice Money Laundering Prevention Center (MLPC). Relevant provisions have been set out in Item 1 through Item 6 and Item 8 through Item 11, Subparagraph 5 of Article 2

of the CNFA's Template Guidelines for Anti-Money Laundering Operation by Futures Commission Merchants.

466) 銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法第16條要求銀行建立資訊系統以輔助檢查異常存款帳戶之交易，同法條亦要求銀行建立交易超過一定金額門檻、交易金額與帳戶平日餘額顯不相當或在短期內頻繁利用電子交易之預警系統，並應指定專人每日至多檢查 1 次，次並作成紀錄，依內部程序送交權責主管核閱。

466) Article 16 of the Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions requires banks to establish information systems to help inspect for unusual deposit account transactions. The same Article also requires banks to establish early warning criteria focusing on transaction amounts exceeding a certain threshold, transaction amounts clearly inconsistent with average account balances, or frequent use over a short period of electronic transaction functions, and shall assign a specific individual to inspect at least once per day, follow up as necessary, and prepare an inspection record, which is delivered in accordance with internal procedures to the proper supervisor for review.

467) 銀行公會訂定之防制洗錢注意事項範本亦有類似規定，銀行應逐步利用資訊系統，輔助發現可疑交易，對較高風險帳戶加強監控，特別注意沒有明顯經濟目的或合法目的之所有複雜、不尋常大額交易或所有不尋常型態交易。

467) The Money Laundering Prevention Guidelines and Procedures for Banks issued by the Bankers' Association have similar requirements. Under the Guidelines, banks are required to put in place and utilize information systems to find questionable transactions. The same guidelines also require banks to apply strengthened control over high risk accounts and to exercise extraordinary diligence over complicated transactions, transactions of huge amounts or unusual transactions which lack reasonable economic or legal purpose.

468) 銀行辦理財富管理業務應注意事項第 6 條規定，銀行從事財富管理業務必須建立並執行內控系統，至少要涵蓋對異常及可疑交

468) Article 6 of the Directions Governing Banks Engaging in Wealth Management Business provides that banks engaging in wealth management business must establish and implement an internal control system, which

易之「認識客戶」及監控規則。

must at least include "Know Your Customer" rules and monitoring rules for unusual and suspicious transactions.

469) 同注意事項第 8(4)條規定銀行應建立理財業務人員定期以電話或親訪客戶制度，以了解客戶財務、業務變動之狀況，並及時更新客戶資料檔，並配合檢討評估客戶投資能力。

469) Article 8(4) of the same Directions provides that banks operating wealth management businesses must establish for their wealth managers to stay up-to-date on any change in a customer's financial or business status by regular telephone calls or face-to-face visits, update customer data files in a timely manner, and review and assess customers' investment capacities accordingly.

470) 證券商、證券投資信託暨顧問商及期貨商在個別所屬公會所訂之防制洗錢注意事項範本要求下，應定期監控交易報告並建立爲每位客戶建立交易模式，以作爲辨識異常交易之參考。

470) Under the Money Laundering Prevention Guidelines and Procedures issued by their respective commercial associations, securities companies, securities investment trust & consulting companies, securities finance companies, and futures commission merchants are required to monitor transaction reports regularly and to establish trading patterns for each customer for reference in identifying unusual transactions.

471) 證券商辦理財富管理業務應注意事項第 9 條要求證券商經營財富管理業務應建立管理系統以辨識、追蹤並控制異常或可疑交易。同注意事項第 8(3)條規定證券商有關「認識客戶」之規則應涵蓋適時更新客戶資料。

471) Article 9 of the Directions for the Conduct of Wealth Management Business by Securities Firms requires securities firms operating wealth management business to establish a management system that identifies, tracks, and controls unusual or suspicious transactions. Article 8(3) of the same Directions provides that the “Know Your Customer” rules for such securities firms must include mechanisms for updating of customer evaluation information in a timely manner.

472) 人壽保險公司辦理財富管理業務應注意事項第 8(4)條規定，保險公司經營財富管理業務應建立理財業務人員定期以電話或親訪

472) Article 8(4) of the Directions for the Conduct of Wealth Management Business by Life Insurance Companies provides that life insurers operating wealth management businesses must establish for its wealth

客戶制度，以了解客戶財務、業務變動之狀況，並及時更新客戶資料檔，並配合檢討評估客戶投資能力。

managers to stay up-to-date on any change in a customer's financial or businesses status by regular telephone calls or face-to-face visits, update customer data files in a timely manner, and review and assess customers' investment capacities accordingly.

建議第 21 項 (Recommendation 21)

473) 金融機構無義務對於與來自未充分遵循 FATF 建議之國家生意往來關係及交易予以特別注意。

473) There is no obligation on financial institutions to give special attention to business relationships and transaction from or in jurisdictions that do not or insufficiently apply the FATF Recommendations.

474) 有關機關並無採取措施以忠告金融機構有關其他國家在反洗錢與打擊資助恐怖分子系統上之弱點。

474) Authorities do not have measures in place to advise financial institution of concerns about weaknesses in the AML/CFT systems of other jurisdictions.

475) 洗錢防制法第 8 條授權規定事項第 1(2)iii 點有關交易款項源自「防制洗錢金融行動工作組織(FATF)」所列舉不合作國家名單等地區匯入，五個營業日內提現或轉帳，且該交易與客戶身分、收入顯不相當或與本身營業性質無關者，應申報疑似洗錢交易報告。此項義務並不及於對於交易源自遵循 FATF 建議較弱而需要加強交易監控之情形。對於非 FATF 列名之國家，此一規定目前並不適用。

475) Section 1(2)iii of the Regulations Regarding Article 8 of the Money Laundering Control Act address filing an STR if inward remittance of funds from countries or territories on the FATF NCCT list is withdrawn or transferred within five business days of the receipt where the amount is not consistent with the customer's status or income or is unrelated to the nature of the customer's business. This obligation does on address monitoring and places a narrow set of circumstances in which the originating jurisdiction's compliance with the FATF Recommendations would suggest a need for enhanced scrutiny of a transaction. In the absence of an FATF list, this section of the regulation is not applicable at present.

3.6.2 建議與評論 (RECOMMENDATIONS AND COMMENTS)

476) 有關機關應確認在洗錢防制法對於交易監控之要求，應涵蓋銀行業及所有其他金融機構並充分執

476) Authorities should ensure requirements on monitoring of transactions under the MLCA that would cover the banking sector and all other covered financial institutions and are

行。

477) 當洗錢防制法修正時，相關管理、監理及自治團體可以考慮將這些要求納入相關指引之中。

478) 有關銀行業務之交易監控規定最近才剛開始施行，其執行情形及成效可能無法完全判定。

479) 證券及保險業採行一個共用且普通方式以監控交易，作爲疑似洗錢交易申報架構之補充，與 FATF 交易監控之要求有所不足。

480) 中華台北應：

- 課以金融機構對於未遵循 FATF 建議或有所不足國家之生意往來及交易特別注意之義務。
- 採取積極作爲以忠告金融機構有關其他國家反洗錢與打擊資助恐怖分子系統弱點之資訊。
- 提供所有金融機構有關監控與來自未遵循 FATF 建議或遵循上有所不足國家之人員進行生意生來之指引，且要特別強調此一要項。

481) 對於處理來自列名不合作國家名單金融交易之現有規定太過狹隘，且對於非名單上之國家，目前並不合用。

fully implemented.

477) When the MLCA is amended, the relevant regulatory, supervisory and SROs may consider including these requirements in their respective guidelines.

478) The banking regulation on monitoring of transactions had only recently come into force and therefore its implementation and its effectiveness could not be fully determined.

479) Securities and insurance sectors have adopted a common and more general approach to monitoring of transactions that is intended to complement their suspicious transactions reporting framework. This approach falls short of the requirements of FATF.

480) Chinese Taipei should

- oblige financial institutions to give special attention to business relationships and transaction from or in jurisdictions that do not or insufficiently apply the FATF Recommendations;
- establish positive measures to advise financial institution of concerns about weaknesses in the AML/CFT systems of other jurisdictions; and
- provide guidance to all sectors on how to monitor business relationships with persons from countries not or insufficiently applying the FATF standards, and the various guidance should more specifically deal with this point.

481) The existing Regulations that addresses transactions from an NCCT listed jurisdiction is too narrow and in the absence of an FATF list, this section of the regulation is not applicable at present.

3.6.3 建議第 11&21 項之遵循評等 (COMPLIANCE WITH RECOMMENDATIONS 11 &

21)

	評 等	評 等 理 由 摘 述
建議第11項	PC	● 除了銀行業之外，金管會並無課以金融機構監控複雜、異常大額或交易型態異常且無明顯經濟或合法目的之特別義務。 ● 同樣情形亦發生在對於發現此類交易紀錄保存5年之要求。 ● 執行成效無法充分判定。
R.11	PC	● With the exception of banking sector there are no specific obligations under FSC’ s regulations on financial institutions to monitor complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. ● Similar exceptions are noted on requirement to keep record of such findings for 5 years. ● and its effectiveness could not be fully determined.
建議第21項	NC	● 金融機構無義務對於與來自遵循FATF建議有所不足國家之生意往來關係予以特別留意。 ● 有關機關未採取作爲以忠告金融機構有關其他國家反洗錢與打擊資助恐怖分子系統弱點之資訊。 ● 對於處理來自列名不合作國家名單金融交易之現有規定太過狹隘，且對於非名單上之國家，目前並不合用。
R.21	NC	● No obligation on financial institutions to give special attention to business relationships and transaction from or in jurisdictions that do not or insufficiently apply the FATF Recommendations. ● Authorities do not have measures in place to advise financial institution of concerns about weaknesses in the AML/CFT systems of other jurisdictions. ● The existing Regulations that addresses transactions from an NCCT listed jurisdiction is too narrow and in the absence of an FATF list, this section of the regulation is not applicable at present.

3.7 可疑交易報告和其他報告 - 建議第 13-14、19、25 項及特別建議第 IV 項 （3.7 SUSPICIOUS TRANSACTION REPORTS AND OTHER REPORTING - R.13-14, 19,

25 & SR.IV)

3.7.1 說明與分析 （DESCRIPTION AND ANALYSIS1）

建議第13項（Recommendation 13）

481) 洗錢防制法第8條第1項課以金融機構申報疑似洗錢交易義務，以及相關確認客戶身分與留存交易紀錄。

482) Paragraph 1 of Article 8 of the MLCA legally obligates financial institutions to report suspicious transactions along with a requirement that they ascertain the identity of the customer involved in the transaction and that they retain all relevant records relating to that transaction.

483) 洗錢防制法第8條授權規定事項規範疑似洗錢交易必須向洗錢防制中心申報，更進一步規範申報之範圍與程序。

483) Regulations regarding Article 8 define that the report must be submitted to the MLPC and further define the scope, and handling procedures for the reports.

484) 該授權規定事項定義所謂可疑情形，並涵蓋涉及資助恐怖分子及 FATF 不合作國家名單之交易。

484) The regulations clearly define and describe situations that are suspicious. These situations describes situations the include transactions that may relate to FT and the transactions involving the FATF list of NCCT.

485) 雖然法律及相關規定未清楚要求申報未遂之可疑交易，評鑑團被告知在實務上已確實有申報。

485) Although not clearly defined in Law or regulation that there is a requirement to report attempted transactions, the Evaluation Team has been advised that this actually occurs in practice.

486) 金管會及財政部同意之防制洗錢注意事項範本更進一步定義交易有可疑之情形，這些範本指引僅提及大額交易爲可疑目標，而未提供足夠指引以充分遵循本項建議。

486) The Money Laundering Prevention Guidelines approved by the Ministry of Finance, and FSC, further define situations where transactions are suspicious. These guidelines frequently refer to values that are 'large' or are 'huge' which are subjective and do not provide sufficient guidance to fully comply with this Recommendation.

建議第14項(Recommendation 14)

487) 依照洗錢防制法第8條第2項規定，金融機構及其歸屬員工依規定向洗錢防制

487) Pursuant to Paragraph 2 of Article 8 of the MLCA, financial institutions and their employees are discharged from their

中心爲善意申報者，免除其業務上應保守客戶秘密之義務。

488) 依據洗錢防制法第11保第2項規定，金融機構從業人員洩漏或交付關於申報疑似洗錢交易或洗錢犯罪嫌疑之文書、圖畫、消息或物品者，處二年以下有期徒刑、拘役或新臺幣五十萬元以下罰金。

confidentiality obligations to the customers when reporting suspicious financial transactions to the MLPC in good faith.

488) Under Paragraph 2 of Article 11 of the MLCA, any employee of a financial institution is subject to imprisonment of not more than two years or a fine of not more than NT$500,000 if he/she reveals, discloses or hands over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others.

建議第19項(Recommendation 19)

489) 金管會發布之洗錢防制法第 7 條授權規定事項要求所有現金交易達新台幣 1 百萬元以上者要以電子方式在 5 個營業日內向洗錢防制中心申報。

489) The FSC's Regulation regarding Article 7 of the MLCA establishes that all cash transaction of NT$1 million or more shall be reported via electronic means to the MLPC within 5 business days.

490) 目前有 99.9%的大額通貨交易申報，金融機構都是以電子方式傳送到洗錢防制中心，這些報告存在洗錢防制中心資料庫，並提供有關機關基於反洗錢與打擊資助恐怖分子目的需要之運用。

490) At present 99.9 % of CTRs are transmitted by electronic means from the financial institution to the MLPC. These reports are stored on the MLPC database and are available to competent authorities for AML/CFT purposes.

491) 爲保護大額通貨交易報告之安全及確保資訊合宜使用，調查局洗錢防制中心「法務部調查局大額通貨交易檔案資料管理要點」相關規定如下：

a) 大額通貨交易檔案資料保存期限爲十年。

b) 洗錢防制中心及有關機關，包括執法機關、檢察

491) To safeguard and control the proper use of the CTR reports the MLPC 'Operation Regulation of MLPC' defines regulations that include:

a) the transaction records shall be kept for at least 10 years in the computer database; and

b) the MLPC and relevant authorities including law enforcement agencies, prosecutor officers and courts can access the data base for investigating prosecuting and convicting

署及法院基於調查、偵查、審判刑事案件之需要，得利用大額通貨交易檔案資料。

492) 大額通貨交易檔案資料利用規定如下:

a) 任何可疑交易被洗錢防制中心發現有疑似洗錢或其他重大犯罪嫌疑時，應即開始調查分析，並將分析結果移交有關機關進行偵查。

b) 調查局所屬單位因調查刑事案件之需要，得經單位主管核准後，查詢大額通貨交易檔案資料。

c) 其他機關基於調查、偵查、審判刑事案件之需要，可以向洗錢防制中心提出查詢資料庫之要求。

493) 利用大額通貨交易檔案資料後之檢查規定：

a) 洗錢防制中心主任應每月抽查調查局各單位之大額通貨交易查詢紀錄，抽查比例不得少於百分之一，並應作成檢查紀錄後陳報調查局局長。

b) 調查局應將其他公務機關查詢紀錄每季彙整列表乙次，函請各查詢公務機關辦理檢查。

c) 法務部得向本局調閱檢查紀錄。

494) 經檢查發現有違反本要點或其他違法情事者，洗錢防制中心應協調權責機關

criminal cases.

492) The detailed conditions to access CTRs database are as follows:

a) If any suspicious transactions are found from the CTRs database, the MLPC shall initiate analyzing procedures and the information will be disseminated to authorities for further investigation when there is reasonable ground to suspect any criminal involved;

b) the staff from other divisions of Investigation Bureau can access the database for investigating criminal cases are obtaining prior permission from the director of the division; and

c) relevant authorities can access the database for investigating, prosecuting and convicting criminal cases, and it is necessary to raise a formal request to the MLPC.

493) Supervision of the database is as follows:

a) the Director of the MLPC makes a sample check each month of the query records that were raised by the MLPC and other divisions of the Investigation Bureau, and the ratio of the sample must be no less than the total query records. The check must be recorded and submitted to the Director General of the Investigation Bureau for further review;

b) the records of query raised by relevant authorities are printed out quarterly and delivered to the authorities for internal review; and

c) the Ministry of Justice may check the records.

494) Any violation of this regulation or other decrees are found, the MLPC shall coordinate the relevant authorities to ascertain

查明責任，並採取必要行動，包括行政及法律制裁。

responsibility for the violation and take necessary actions including administrative and legal punishments.

建議第25項 （Recommendation 25）

回饋（Feedback）

495) 調查局洗錢防制中心提供下列回饋予金融機構：

a) 分送洗錢防制中心出版品。

b) 協助金融機構教育所屬員工遵循「反洗錢與打擊資助恐怖分子」之要求。

c) 建置維護「反洗錢與打擊資助恐怖分子」資訊網站，提供最新訊息給金融機構，內容涵蓋洗錢防制法令、金融機構遵循指引、大額通貨交易報告及疑似洗錢交易報告空白表格及相關研究報告等。

d) 提供金融機構有關「反洗錢與打擊資助恐怖分子」線上諮詢。

e) 建議金融監理機關及金融機構對於金融從業人員適時申報疑似洗錢交易報告有助犯罪調查者，予以適當獎勵。

495) The MLPC has provided the following feedback to financial institutions:

a) delivering the printed reports published by the MLPC;

b) assisting financial institutions to educate employees to comply with AML/CFT requirements;

c) maintaining an updated website for providing the newest information to financial institutions including the related laws and regulations, compliant guidance for financial institutions, CTR and STR blank forms and reporting guidance, related research papers etc;

d) providing online consultations to financial institutions for AML/CFT compliance; and

e) suggesting that financial supervisory authorities and financial institutions give appropriate rewards to the employees who report STRs in time and have contributed to the investigation of criminal cases.

洗錢防制中心建議有關機關獎勵適時申報疑似洗錢交易報告而有助犯罪調查之金融機構及所屬從業人員統計				
年度	2002	2003	2004	2005
件數	5	3	9	14
Statistics of MLPC suggesting authorities to reward financial institution and its employees for reporting STRs in time which are contributive to criminal investigation				

year	2002	2003	2004	2005
Cases number	5	3	9	14

496) 除提供上述回饋外，洗錢防制中心採取了各式作爲以檢討在中華台北領域內洗錢／資助恐怖分子之方式、趨勢與技巧，包括：

(1) 出版「洗錢案例彙編」：在每一輯彙編中蒐集了在本領域內發生的洗錢／資助恐怖分子實際案例，並逐案分析其洗錢方式與技巧、金融交易過程中曾出現的表徵以及經驗教訓等。

(2) 舉辦「銀行洗錢防制負責人研討會」：邀請所有國內重要之本國銀行及外商銀行負責協調監督洗錢防制業務主管人員共同研討洗錢／資助恐怖分子之新管道、趨勢與技巧、銀行在面對「反洗錢與打擊資助恐怖分子」相關要求所面臨之問題與解決方式、洗錢防制中心與銀行間之回饋機制等。該研討會大約每二年舉辦乙次。

(3) 籌辦「洗錢防制法修法研討會」：邀請在此領域具有專業之法官、檢察官、法務部、金融監理機關、調查局、刑事警察局之代表及洗錢防制中心所有職員全部參加，共同研討洗錢

496) In addition to the above feedback the MLPC has taken various measures to review the ML/FT methods, trends and techniques in this jurisdiction which include:

a) publishing “ML/FT Case Study Collections”. In each Collection, some important ML/FT cases which happened in this jurisdiction have been collected, the methods and techniques of money laundering analysed, and the indicators of ML that might appear in the financial transactions and the experiences that can be referred on AML/CFT in the future have been identified;

b) hosting “Forum for Compliance Officers of banks”: In the forum, all the dedicated compliance officers for AML/CFT from important domestic and foreign banks are invited to get together to discuss the new methods, trends, techniques of Ml/FT, the problems that banks may face, the solutions on AML/CFT requirements and the feedback mechanism between MLPC and banks. The forum is held about once every two years;

c) Organizing “Amending MLCA Seminar”. In the seminar, scholars expert in this field, judges, prosecutors, representatives from the Ministry of Justice, financial supervisory authorities, Investigation Bureau, Criminal Investigation Bureau and all staff of MLPC are invited to discuss the practical problems caused by the existing MLCA and to suggest amendments to the Act. This seminar is held about one or twice per year; and

防制法在實務操作上面臨之問題及修法建議。該研討會大約一年舉辦乙次或二次。

(4) 建置維護「反洗錢與打擊資助恐怖分子」資訊網站：為提供最新訊息給相關機關及金融機構，洗錢防制中心在調查局網站中開闢一個洗錢防制專區，網頁內容涵蓋洗錢防制法令、金融機構遵循指引、大額通貨交易報告及疑似洗錢交易報告空白表格及相關研究報告等。

d) maintaining an updated website for providing AML/CFT information: For providing the newest information to relevant authorities and financial institutions, the MLPC creates a specific web page on the Investigation Bureau website. All the related laws and regulations, compliant guidance for financial institutions, CTR and STR blank forms and reporting guidance, related research papers etc have been posted in the web page.

特別建議IV(SR.IV)

497) 金融機構在洗錢防制法之下並未被要求申報有關資助恐怖分子之疑似洗錢交易申報，第 8 條授權規定事項對於處理疑似洗錢交易範圍規定如下：第1(2)(iv):交易最終受益人或交易人為行政院金融監督管理委員會函轉外國政府所提供之恐怖分子或團體者；或交易資金疑似或有合理理由懷疑與恐怖活動、恐怖組織或資助恐怖主義有關聯者。

497) Financial institutions are not required under MLCA to report STRs for terrorist financing. Regulation regarding Article 8 of the MLCA on the scope of handling a suspicious money laundering transaction states that:
1(2)(iv): “Transactions where the ultimate beneficiary or transaction party is a terrorist or terrorist group as listed by the MOF (FSC) based on information provided by foreign governments”.

498) 除上所述，金管會於 2004 年 8 月 4 日發布指引，要求金融機構對於交易最終受益人或交易人為恐怖分子或團體者，必須向法務部調查局申報，以便進行進一步調查。

498) In addition to the above the FSC issued a guideline on 4 August 2004, demanding all financial institutions to file STRs with the MLPC should the final beneficiary or parties of the financial transaction have been found to be a terrorist or terrorist group for further investigation.

499) 銀行防制洗錢注意事項範本要求銀行櫃員對於客戶有下列情形者，應特別留意並向法務部調查局申報：

"交易最終受益人或交易人爲行政院金融監督管理委員會函轉外國政府所提供之恐怖分子或團體者，或交易資金疑似或有合理理由懷疑與恐怖活動、恐怖組織或資助恐怖主義有關聯者。"

499) The Money Laundering Prevention Guidelines and Procedures for Banking Industry requires bank tellers to exercise extraordinary diligence if the transaction of a client meets, among other things, the situation listed below and to report the case to the Investigation Bureau, Ministry of Justice:

"Where the end beneficiary or transaction counterpart is found to be a terrorist individual or entity as advised by foreign governments via the Financial Supervisory Commission, Executive Yuan; or where the transaction is suspected or bears reasonable reason to suspect to have been linked with a terrorist activity, terrorist organization or subsidy to terrorism."

500) 證券商防制洗錢注意事項範本要求證券商於發現下列可疑洗錢活動時，應辨識客戶身分並於必要時實地查訪客戶，作成查訪紀錄："證券交易之開戶者或交易、交割者或代理人或最終受益人，爲金管會函轉外國政府所提供之恐怖分子或團體者。"

500) The Money Laundering Prevention Guidelines and Procedures for Securities Firms require securities firm to verify the identity of the customer and, when necessary, visit the customer in person and make a record of the visit when the following sign of suspicious activity suggesting money laundering is seen:

" A party opening a securities trading account, or a trading or settling party, or an agent, or an ultimate beneficiary, is a terrorist or a terrorist organization whose identity has been provided by a foreign government and forwarded by official letter of the Financial Supervisory Commission."

501) 人壽及產業保險之防制洗錢注意事項範本要求保險公司於發現下列交易事實，應於10個營業日內向法務部調查局申報："保險契約之要保人、被保險人

501) The Money Laundering Prevention Guidelines and Procedures for Life and Nonlife Insurance Industries require the insurer to declare to the Investigation Bureau of Ministry of Justice within 10 business days when the facts of the following transaction

或受益人或其他交易之最終受益人爲相關機關函轉所列之恐怖分子或團體者。”

are found:
“Any insurance contract's Applicant, Assured or Beneficiary, who are the terrorists or their gangs listed by the transferring letter from the competent authorities, and other transactions with personal or their gangs or their final beneficiary.”

502) 洗錢防制中心自上列指引發布之後，曾接獲 11 件有關資助恐怖分子之疑似洗錢交易報告，其中 2 件屬於境內工作之外籍人士姓名與列名之恐怖分子雷同，另 9 件與出口公司有關，相關資訊被分送國內有關機關及國外對等機關進一步調查。

502) The MLPC has received 11 STRs related to FT since the above guidelines were issued. two of the STRs were related to a match of last names of foreign workers in Chinese Taipei and 9 STRs were linked to export companies. The information was disseminated to domestic authorities and foreign counterparts for further investigations.

3.7.2 建議與評論（RECOMMENDATIONS AND COMMENTS）

503) 中華台北應確保：

- 法規有清楚規定，課以金融機構申報可疑但與金額無關之交易；且
- 要有法規要求金融機構申報在本質上有可疑但未遂之金融交易。

503) Chinese Taipei should ensure that:

- there is a clear obligation in law or regulation that obliges a financial institution to report a transaction that is suspicious irrespective of the amount; and
- there is a requirement in law for a financial institution to report attempted transactions that are suspicious in nature.

504) 在目前洗錢防制法及防制洗錢注意事項對於申報資助恐怖分子可疑交易之要求未達到特別建議第 IV 項所定義之最低要求，申報範圍未能涵蓋懷疑或有相當理由懷疑資金涉及、或用於恐怖主義或恐怖分子或被恐怖分子組織或資助恐怖主義人士等有關交易或未遂交易之強制申報

504) The current requirements to report suspicious transaction reports for terrorist financing under the MLCA Regulations and AML guidelines fall short of the minimum requirements as defined under SR.IV as they do not adequately cover the mandatory reporting of suspicious transactions or attempted transactions when financial institutions suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist

義務。

505) 因此建議有關特別建議第IV項所要求之義務項目應清楚的涵蓋在洗錢防制法之中。

506) 洗錢防制中心應確保在疑似洗錢交易報告調查完成之後提供足夠回饋予金融機構，以確認疑似洗錢交易報告之接收。

acts or by terrorist organizations or those who finance terrorism.

505) It is therefore recommended that the clear obligations incorporating all elements as defined under SR.IV should be expressively adopted in the MLCA.

506) The MLPC should ensure that adequate feedback on STRs is provided (STR cases that fhave been completed) and that acknowledgement of the receipt of STRs is provided.

3.7.3 建議第13, 14, 19 AND 25 （準則第25.2）及特別建議第IV項遵循評等（COMPLIANCE WITH RECOMMENDATIONS 13, 14, 19 AND 25 (CRITERIA 25.2), AND SPECIAL RECOMMENDATION IV）

	評等	評等理由摘述
建議第13項	PC	未見法律要求金融機構申報具可疑本質但未遂之金融交易。
R.13	PC	● There is an absence in law that requires a financial institution to report attempted transactions that are suspicious in nature.
建議第14項	C	● 本建議完全遵循。
R.14	C	● This recommendation is fully observed
建議第19項	C	● 本建議完全遵循。
R.19	C	● This recommendation is fully observed
建議第25項	PC	● 洗錢防制中心未在疑似洗錢交易報告調查完成之後或在接收疑似洗錢交易報告確認上，提供足夠回饋予金融機構。
R.25	PC	● MLPC does not provide feedback on or acknowledgement of the receipt of STRs and STR cases that have been completed.
特別建議第IV項	NC	● 洗錢防制法及防制洗錢注意事項對於申報資助恐怖分子可疑交易之要求未達到特別建議第IV項所定義之要求。 ● 資助恐怖分子尚未罪刑化，所以資助恐怖主義非（洗錢防制法所稱）重大犯罪。 ● 建議第13項所發現之缺失於適用於本（特別建議第IV項）評等。

SR. IV	NC	● The requirements to report suspicious transaction for terrorist financing under the MLCA Regulations and AML guidelines fall short of the requirements under SR.IV. ● Financing of terrorism is not covered as a serious offence as FT is not yet criminalized in Chinese Taipei. ● Shortcomings and deficiencies identified in R.13 also apply and contribute to the assessment and rating of SR.IV.

內控與其他作爲（Internal controls and other measures）

3.8 內控、遵循、稽核與國外分支機構-建議第15及22項（INTERNAL CONTROLS, COMPLIANCE, AUDIT AND FOREIGN BRANCHES-R.15 & 22)

3.8.1 說明與分析

內控（Internal controls）

507) 洗錢防制法第 6 條要求金融機構訂定防制洗錢注意事項，報請目的事業主管機關及財政部備查。

507) Article 6 of the MLCA requires financial institutions to establish money laundering prevention guidelines and procedures. Financial institutions are required to submit the guidelines and procedures to the competent authorities for review as a prerequisite to their implementation.

508) 除了其他經目的事業主管機關依據洗錢防制法指定之事項外，金融機構被要求將下列納入防制洗錢注意事項：

a) 防制洗錢之作業及內部管制程序。
b) 定期舉辦或參加防制洗錢之在職訓練。
c) 指派專責人員負責協調監督本注意事項之執行。

508) In addition to powers of competent authorities to prescribe additional cautionary measures under the MLCA, financial institutions are required to include the following items in their money laundering prevention guidelines and procedures:

a) the operation and the internal control procedures for money laundering prevention;
b) the regulatory on-the-job training for money laundering prevention; and
c) the designation of a responsible person to coordinate and supervise its implementation.

509) 中華台北已經採行一個簡單而清楚的方式以執行內控、遵循與稽核之要求，

509) Chinese Taipei has adopted a simple and clear approach to implement this requirement on internal control, compliance

訂定防制洗錢注意事項之責任由金融機構及所屬之自律組織（公會）共同負擔。自律組織由相關機關，特別是監理機關及調查局，接收相關指引及指示，並依據洗錢防制法第6條之要求辦理。自律組織在訂定防制洗錢注意事項範本時，應先透過內部程序尋求會員同意，再送給會員內化爲自己內部防制洗錢程序，這是中華台北境內常見的實際作爲，特別是小型金融機構，對於規模較大之金融機構，會有較高之要求標準並與自己內部營業規則相符。例如，自律組織訂定之防制洗錢注意事項範本要求留存交易紀錄5年，這些金融機構會保存10年，以符合內部營業規則。

and audit. The responsibility to develop money laundering prevention guidelines and procedures is shared between the financial institution and their respective SROs. The SRO would receive guidance and directive from the competent authorities, namely the supervisory authority or the MJIB. As required under Article 6, the SRO would seek approval of the internal control procedures for money laundering prevention and submit to its members to accordingly incorporate these in their own internal procedures. It is a common practice in Chinese Taipei that financial institutions would adopt the entire procedures as their internal document. This approach is more common in the smaller categories of financial institutions. As for larger financial institutions, the guidelines and procedures are implemented in a manner where by it adopts an even higher requirement that is consistent with their internal business rules. For example, while the internal control guidelines template issued by a SRO would require records to be kept for 5 years, these financial institutions may in fact keep records for 10 years in order to comply with their internal business rules.

510) 銀行業自律組織，中華民國銀行商業同業公會，已經持續更新”銀行防制洗錢注意事項範本”，銀行被要求將該範本內化爲內部控制程序，涵蓋下列範圍：

a) 確認客戶身分程序。
b) 留存交易紀錄憑證之方式與期限。
c) 查核與確認客戶身分之規則。

510) The banking sector SRO, the Bankers Association of the Republic of China (BAROC) has continuously updated its “Specimen of points for attention by banks on money laundering prevention”. (The terms Specimen, Model, Template, Guideline and Checklist are used interchangeably primarily due to translation from original text.) Banks are required to adopt the specimen in their internal controls. The following areas are covered:

d) 持續監控帳戶及交易。
e) 銀行行員處理客戶交易注意事項。
f) 內部申報程序之要求。
g) 防止申報資料及消息洩漏之保密規定。
h) 內部管制措施以確保遵循。
i) 稽核單位對防制洗錢工作之職責。
j) 銀行兼營業務時，該兼營部門亦應適用與該業務有關之防制洗錢注意事項，如銀行兼營票券業務。
k) 對具有跨國通匯往來銀行業務之要求。
l) 確保其國外分行及子公司遵循反洗錢與打擊資助恐怖分子作爲。
m) 教育訓練要求。
n) 防制洗錢有功行員之獎勵措施。

a) procedures for verifying the client identities;
b) methods and duration of keeping transaction and voucher records;
c) rules for checking and verifying clients' identities;
d) continual control over accounts and transactions and its monitoring;
e) notes for bank staff in dealing with clients;
f) requirements on internal declaration procedures;
g) requirements on non-disclosure;
h) regular examination of the internal control measures to ensure its compliance;
i) powers and duties of the audit office on the tasks of money laundering prevention;
j) extension and application of money laundering prevention measures to banks other business areas such as if the bank operates bills business;
k) cross-border correspondent banking requirements;
l) application of AML/CFT measures to foreign branches and subsidiaries;
m) requirements on educational and training programs; and
n) incentives to tellers who are outstanding in performance in money laundering prevention.

511) 銀行商業同業公會亦發布其他諸如信用卡、匯款、新帳戶、國外分行及幽靈帳戶等之防制洗錢等指引，並要求銀行內化這些要求爲內部程序、政策與管控。

511) BAROC has also issued other guidance such as a model for AML for credit card, remittance, new accounts, foreign branches and phantom account prevention and requires banks to incorporate these in their internal procedures, policies, and controls.

512) 另證券商、人壽保險、產業保險及銀樓業相關之防制洗錢注意事項範本亦要

512) of other sector namely to the securities firms, life insurance industry, non-life insurance industry, and precious metals and stones

求金融業者將這些要求內化爲自己的內部控制系統。證券業自律組織，證券商業同業公會，亦訂有防制洗錢注意事項範本，提供證券商反洗錢作業之指引，依據該公會統計資料顯示，迄2006年12月底，所有156個證券商會員都建立了個別的反洗錢內規或作業方式，以遵循注意事項範本之要求。相關反洗錢規則對證券商從事金融與資產管理亦有所要求，諸如營業人員應執行客戶檢查程序，以決定客戶是否有從事洗錢及非法交易活動，並做成書面紀錄；內部稽核部門應加強認識客戶程序之稽核，客戶投資上限與範圍之適當性及反洗錢作爲等等，並確保相關控制系統之執行成效。

distributors. The guidelines and checklists also require financials to adopt the requirements into their own internal control system. The securities sector SRO, the Chinese Securities Association, prescribes the template guidelines for AML operation by securities firms. According to the statistical records compiled by the Chinese Securities Association, as of the end of December 2006, all 156 member securities firms of the Association established their respective antimony laundering rules or operation measures in compliance with the requirements set forth in the Template Guidelines for Anti-Money Laundering Operation by Securities Firms prescribed by the Chinese Securities Association. Relevant anti-money laundering rules are also provided in the Guidelines for Securities Firms Engaging in Financial and Asset Management, such as: associated persons shall perform the customer examination procedure to determine whether the customer has laundered money and conducted illegal trading, and file a written confirmation report; the internal auditing division shall enhance the auditing of know-your-customer procedures, the suitability of the investment limit and scope of customers, and the status of the anti-money laundering measures taken, and etc. and ensure the effectiveness of the relevant controls and system.

513) 1997年8月，證券投資信託暨顧問商業同業公會爲會員訂定之防制洗錢注意事項範本，內含防制洗錢作業指引、內控程序、定

513) In August 1997, the Securities Investment Trust & Consulting Association prescribed the Template Guidelines for Anti-Money Laundering Operation by Securities Investment Trust Enterprises and Securities

期舉辦或參與防制洗錢教育訓練、防制洗錢有功人員獎勵等，做爲所屬會員企業（證券投資信託事業及經營全權委託投資業務之證券投資顧問事業）建立個別防制洗錢作業規則及內部控制程序，並報請金管會備查。

Investment Consulting Enterprises, which include anti-money laundering operation guidelines, the internal control procedures, holding or participating in periodical anti-money laundering training courses, and outstanding anti-money-laundering personnel encouragement and awarding measures, and etc.), based on which member enterprises (SITEs and those SICEs engaging in discretionary investment management) have established their respective anti-money laundering operation regulations and internal control procedures, and submitted the same to the Commission for recordation.

遵循管理安排（Compliance Management Arrangements）

514) 如前所敘，洗錢防制法第 6 條要求金融機構指定專責人員協調督導防制洗錢注意事項之有效執行。

514) As mentioned earlier, Article 6 of the MLCA requires financial institutions to designate a responsible person to coordinate and supervise the implementation of the money laundering prevention guidelines and procedures.

515) 銀行公會訂定之「銀行防制洗錢注意事項範本」規定，銀行應指派副總經理或相當職位以上人員擔任專責人員，以協調監督防制洗錢注意事項之執行，並應指定一級單位爲事務單位；該副總經理應曾參加洗錢防制法訓練課程，新到任者應於 6 個月內參加該類訓練課程。各分支營業單位並應指定資深主管人員專責督導該項工作。

515) BAROC's checklist requires banks to appoint an assistant general manager or another person of equivalent or higher rank as AML compliance officer to coordinate implementation of the bank's money laundering prevention guidelines and procedures. It also require banks to designate a specific unit to handle AML matters. The assistant general manager is required to have previously participated in AML training, and if a person is newly appointed to the position, the checklist requires that AML training is provided within six months. Under the checklist a branch business unit should also designate a senior

supervisor to oversee AML work.

516) 證券商業同業公會、證券投資信託暨顧問商業同業公會及中華民國期貨業商業同業公會分別要求所屬會員應指派曾參加洗錢防制法訓練課程之副總經理或相當職位以上人員擔任專責人員，以協調監督防制洗錢注意事項之執行。

516) The checklist issued by the Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association requires their respective members to appoint an assistant general manager (or person of equivalent position) who has previously attended money laundering training courses to have exclusive responsibility for coordinating and supervising the execution of the money laundering control guidelines.

517) 人壽保險及產物保險公會之防制洗錢注意事項範本於要求所屬會員訂定合宜之遵循管理安排。

517) The checklist issued by the national associations for non-life and life insurance also requires its members to develop appropriate compliance management arrangements.

運用金融資訊與交易紀錄（Access to Information and Records）

518) 金融機構在防制洗錢注意事項範本中並未被特別要求允許反洗錢遵循專責人員得及時取得客戶及交易紀錄。然而反洗錢遵循專責人員通常是副總經理或相當職位以上人員，在實務上要取得金融資訊與交易紀錄並非困難。

518) Financial institutions are not specifically required under the regulations, guidelines and checklist to allow the AML compliance officer timely access to customer and transaction records. However, since the designated AML compliance officer is usually the vice president or equivalent senior officer of the financial institution, access to information and transaction records in a practical sense is not difficult.

519) 銀行防制洗錢注意事項範本之內控程序對於稽核單位之工作職責規定如下：

a) 稽核單位應依據所訂內部管制措施暨有關規定訂定查核事項，定期辦理查核。

b) 稽核單位發現各單位執行該項管理措施之疏失事

519) The internal control procedures for money laundering prevention under the AML Checklist for the banking industry provide for the following powers and duties of the Audit Office in relation to ML prevention:

a) the Audit Office shall conduct audit on a periodic basis in accordance with the Guidelines for Internal Control Measures and other provisions concerned;

項，應定期簽報專責副總經理或相當職位人員核閱，並提供行員在職訓練之參考。

c) 稽核人員查獲重大違規事項故意隱匿不予揭露者，應由總行權責單位適當處理。

d) 各銀行稽核單位得設立專責人員對各單位之大額交易抽查，並了解其交易之正當性。

b) the Audit Office shall, whenever noticing a defect or fault by any units in the enforcement of the management measures, report the cases to the Vice President or personnel of the equivalent level and shall provide the cases for reference in the on-the-job educational and training programs of tellers;

c) in the event that an auditor is found having wilfully concealed a gross offense from report, the case shall be reported to the responsible unit of the Head Office so that due action may be taken as the actual situations may justify; and

d) the Audit Office shall provide designated personnel to conduct sample checks on huge amount transactions of all units concerned to look into and make sure that transactions are justifiable.

520) 保險業防制洗錢注意事項要求保險業者對於內控系統要每年檢討 1 次，並要求稽核人員詳列檢查項目。

520) The AML Checklist for the insurance industry requires insurers to make an examination of their internal control system and review once a year. It also requires auditors to itemize the key checking items according to the conducting of requirements of AML guidelines and procedures by all departments of the insurer.

521) 證券業防制洗錢注意事項範本並未特別要求證券商維持一個有足夠資源及獨立稽核功能之單位，以檢測反洗錢程序、政策及內控之遵循情形。

521) The AML Checklist for the securities sector does not specifically require its covered institutions to maintain an adequately resourced and independent audit function to test compliance with the AML procedures, policies and controls.

522) 然而根據中華台北有關機關之報告，證券暨期貨市場各服務事業建立內部控制制度處理準則第 11 條規定，各服務事業應設置隸

522) However, as advised by Chinese Taipei authorities, Article 11 of the Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets provides that

屬於董事會之內部稽核單位，除主管機關另有規定外，應依其事業規模、業務情況、管理需要及其他有關法令之規定，配置適任及適當人數之專任內部稽核人員。

a service enterprise shall establish an internal audit unit in a direct reporting line to the board of directors and, except as otherwise required by the competent authority, shall appoint qualified persons in an appropriate number as full-time internal auditors according to its business size, business condition, management needs, and the provisions of other applicable laws and regulations.

523) 此外，證券投資信託事業管理規則第22-1條第5項及證券投資信託事業募集證券投資信託基金處理準則第23條規定證券投資信託事業及國內基金銷售機構應將洗錢防制及法令所訂應遵循之作業原則，納入內部控制制度。

523) Furthermore, Article 22-1, Paragraph 5 of the Regulations Governing Securities Investment Trust Enterprises and Article 23 of the Regulations Governing the Offering of Securities Investment Trust Funds by Securities Investment Trust Enterprises provide that the internal control systems of SITEs and domestic funds distribution institutions shall include operating principles regarding control of money laundering, and principles to be observed in accordance with relevant laws.

524) 證券投資信託事業及經營接受客戶全權委託投資業務之證券投資顧問事業建立內部控制制度處理準則（2006年11月28日修正）第7條第1項要求證券投資信託事業及經營接受客戶全權委託投資業務之證券投資顧問事業於從事客戶全權委託投資業務時，應將反洗錢控制作業納入內部控制制度，並依據該處理準則將防制洗錢作業列入年度稽核計畫之檢查項目。

524) Paragraph 1 of Article 7 of the Regulations Governing the Establishment of Internal Control Systems by Securities Investment Trust Enterprises and by Securities Investment Consulting Enterprises Conducting Discretionary Investment Business (amended on 28 November 2006) requires that internal control systems of SITEs and SICEs conducting discretionary investment business should include the control operation of AML in securities investment trust business and discretionary investment business. The said enterprise shall include AML activities as an audit item in its annual audit plan according to Paragraph 3 of Article 13 of the said

Regulations.

525) 其他補充要求涵蓋在金管會發布之「銀行內部控制及稽核制度實施辦法」之中，銀行應在董事會下建立一個內部稽核委員會，以獨立自主及公正精神辦理查核事宜，該內部單位應將稽核結果，至少每半年向董事會及主管人員報告。銀行被要求設立一個總稽核以執行所有稽核之行政管理。該總稽核必須具備領導及有效監督稽核工作之能力，並必須擁有能夠符合"銀行負責人資格要求規則"所訂之資格要求。該總稽核之職階應等同副總經理並兼任其他任何與稽核工作有衝突或妨礙之職位。

525) Other supplementary requirements contained in the Regulations Governing Implementation by Banks of Internal Control and Auditing Systems issued by the FSC require banks to establish an internal audit committee directly under the board of directors to implement audit affairs in a spirit of independence and impartiality. The internal unit should report the results of such audits at least semi-annually to the boards of directors and supervisors. Banks are required to establish a chief auditor system to exercise overall administration of audit matters. The chief auditor must possess leadership ability and the ability to effectively oversee audit work, and must possess qualifications that satisfy the provisions of the "Regulations Governing Qualification Requirements for Responsible Persons of Banks." The chief auditor's occupational rank shall be the equivalent of assistant general manager, and he or she may not concurrently hold any position that might conflict with or otherwise impede the audit work.

526) 銀行公會訂定之防制洗錢注意事項範本亦規定如下：

「稽核單位應依據所訂內部管制措施暨有關規定訂定查核事項，定期辦理查核。稽核單位發現各單位執行該項管理措施之疏失事項，應定期簽報專責副總經理或相當職位人員核閱，並提供行員在職訓練之參考。稽核人員查獲重

526) The BAROC AML checklist also provides as follows:

"A bank's internal audit unit shall determine what matters require auditing and carry out periodic audits in accordance with the internal control measures and other related rules that it has adopted. If it discovers that any unit has committed an error in implementing the management measures, it shall periodically submit reports for review by the assistant general manager in charge of auditing, or by another person of equivalent

大違規事項故意隱匿不予揭露者，應由總行權責單位適當處理。各銀行稽核單位得設立專責人員對各單位之大額交易抽查，並了解其交易之正當性。

occupational rank, and shall make the information available for reference in on-the-job training. Where an auditor discovers upon inspection any deliberate cover-up of a material regulatory violation, the proper unit from the head office shall handle the matter appropriately. A bank's audit unit may charge a specific individual with responsibility for randomly checking transactions involving large amounts and ascertaining the propriety of such transactions."

527) 前揭金管會發布之內控及稽核規則規定，銀行於執行一般性稽核時，內部稽核報告應評估及揭露有關內部控制、營業控制及各類營業內控及執行自我稽核等事項，保險業亦依金管會管理保險業相關規則中被要求具備類似之稽核範圍。

527) The FSC's regulations governing internal controls and auditing mentioned above provide that when a bank carries out a general audit, its internal audit report should assess and disclose among other things internal controls, operational controls and internal controls for each type of business and the status of implementation of self-audits. The insurance sector is also required to undertake similar audit scope as provided in FSC's regulations governing the insurance sector.

528) 行政院農業委員會亦發布有關內控及稽核之類似規定，要求所有農會漁會信用部內部遵循相關要求。

528) The BOAF has also issued similar regulations governing internal controls and auditing that requires all the Credit Departments of Farmers' and Fishermen's Associations to comply with the requirements.

529) 證券商業同業公會、證券投資信託暨顧問商業同業公會及中華民國期貨業商業同業公會分別訂定之防制洗錢注意事項範本要求所屬會員定期檢討內控作爲以有效防制洗錢，然而如前所揭，該注意事項範

529) The AML checklist issued by the Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association requires their respective members to regularly review their internal control measures for adequacy in preventing money laundering, however, as mentioned above, it does not require their members to

本並未要求所屬會員必須建立獨立之稽核功能。

establish independent audit function.

員工訓練措施（Employee Training Programme）

530) 如前所述，洗錢防制法第6條要求金融機構訂定防制洗錢注意事項，其中應包括洗錢防制之在職訓練，管理機關及自律組織特別廣泛要求金融機構將這些要求納入內部控制及經營系統中。

530) As mentioned earlier, Article 6 of the MLCA requires financial institutions to establish money laundering prevention guidelines and procedures that should include among other things on-the-job training for money laundering prevention. Regulatory authorities and SROs have addressed these extensively requiring financial institutions to adopt requirements as part of their internal control and operational systems.

531) 銀行業洗錢防制注意事項範本要求銀行定期辦理在職教育訓練，並強制員工參加，該注意事項範本規定如下：

a) 職前訓練。
b) 新進行員訓練班至少應安排若干小時以上有關洗錢防制法令及金融從業人員法律責任訓練課程。
c) 在職教育訓練課程。

531) Banks are required under BAROC checklist to hold on-the-job educational and training programs on a regular basis and also provides for a mandatory attendance by their employees. The checklist includes the following provisions:

a) Pre-job training;
b) Training programs for new employees must at least provide certain minimum hours of education and training on AML laws and regulations as well as the legal liability of financial services personnel; and
c) On-the-job educational and training programs.

532) 熟知相關法律：銀行被要求儘快將反洗錢法律公告週知，讓所有行員能夠熟知相關法令要求，並要求銀行確保能有一致之方式，讓所有參與訓練人員都能熟知。在洗錢防制專責單位完成訓練計畫後，應送交訓練單位充分執行。

532) Initial publicity of laws: banks are required to complete the publicity of AML laws as soon as possible so that the bank staff members are able to familiarize themselves with the basic requirements of the laws and regulations concerned. It also requires banks to ensure that this is undertaken in a coordinated manner so that it is made known to all trainees. After the department in charge of the money laundering prevention affairs

completes the training plan, it should submit the planning results to the unit in charge of training so that further educational and training programs may be carried out accordingly.

例行性教育訓練（Routine on-the-job training:）

533) 銀行業者得將防制洗錢教育訓練併入其他教育訓練之中一起辦理。

533) Banks may consolidate the educational and training programs into other educational and training programs as appropriate.

534) 銀行業者被要求培養反洗錢有關教育訓練之種子教官。

534) Banks are required to foster and develop the trainers and instructors AML related educational and training programs.

535) 除了提供反洗錢法律及規定之教育課程外，銀行被要求提供員工案例手冊，對可能之洗錢作爲有所警覺，對於辨識洗錢交易具有益處。

535) In addition to providing courses on AML laws and regulations banks are required to provide their employees with hands-on examples so that become aware of all possible practices of money-laundering that would also help in the identification of money laundering transactions.

536) 除了內部教育訓練之外，銀行得提供員工參加外部舉辦之相關訓練。

536) In addition to in-house educational and training programs, banks may provide their staff with externally sourced training programs.

537) 專題演講：銀行得舉辦專題講座，邀請學者專家蒞行演講，作爲反洗錢教育訓練之一部分。

537) Project lectures: Banks may also sponsor project lectures and workshops where scholars and experts could be invited as part of their AML training program.

538) 保險業防制洗錢注意事項範本亦要求保險公司定期舉辦或安排員工參加反洗錢教育訓練課程。

538) The AML checklist for the insurance sector also requires insurance companies to hold, or arrange for their employees to participate in, regular AML training programs.

539) 證券商業同業公會、證券投資信託暨顧問商業同業公會及中華民國期貨業商業同業公會分別訂定之防制洗錢注意事項範本亦要

539) The AML checklist issued by the Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association requires its members to hold or

求所屬會員要每年定期舉辦或安排員工參與相關反洗錢教育訓練課程，以強化員工辨識洗錢之能力及徹底熟悉洗錢特徵及可疑交易之形態。

arrange participation in relevant training courses or seminars for its employees on a regular annual basis, to enhance their employees' ability to recognize money laundering and thoroughly familiarize them with the characteristics of money laundering and types of suspicious transactions.

540) 在與私人企業會晤討論時，發現大部分金融機構對於反洗錢要求有非常高程度之了解，金融機構提供所屬員工許多有計劃性及持續性的教育訓練課程。除此之外，相關所屬自律組織、執法及監理機關亦為私人經營之金融機構舉辦一些警示及教育訓練研討會。

540) Discussions during private sector industry meetings generally showed a high level of understanding of AML/CFT requirements for most of the financial institutions. Financial institutions provide a number of structured and on-going training and awareness programs for their staff. In addition to financial institutions' initiatives to provide training, the respective SROs, law enforcement and supervisory authorities have also conducted numerous awareness and training workshops and seminars for the private sector financial institutions.

541) 在2006年，法務部調查局提供了 195 場次之教育訓練課程，有超過 12,000 名來自金融機構員工參加。

541) The Investigation Bureau of MOJ delivered 195 AML/CFT training programs in 2006 which were attended by more than 12,000 staff of financial institutions.

542) 金管會保險局於2005年及2006年，分別舉辦 15 場及 6 場之反洗錢與打擊資助恐怖分子研討會，計有超過 1,000 位來自保險公司人員參加。

542) The Insurance Bureau of FSC delivered 6 AML/CFT seminars in 2006 and 15 in 2005 which were attended by more than 1,000 staff of insurance companies.

獎勵措施 (Training Incentives)

543) 銀行防制洗錢注意事項範本規定，行員有下列對防制洗錢有功之具體事蹟者，應給予適當獎勵：(a)行員發現有疑似洗錢案件，依據洗錢防制相關規

543) It is important to note that the AML checklist for the banking sector provides incentives to tellers and who are eligible to receive rewards for outstanding performance in money laundering prevention for (a) identifying and reporting alleged offences

定申報，對檢警單位防範或偵破犯罪有貢獻者；(b)行員參加國內外防制洗錢相關業務講習，成績優良或蒐集國外法令研提對金融機構防制洗錢活動具有價值之資料者。

that results in remarkable contribution to the police, prosecutor authorities in crime prevention, and (b) a teller who participates in the AML educational and training programs in Chinese Taipei or abroad and makes prominent achievements, or searches and obtains valuable data regarding the laws and regulations concerned prevalent in foreign countries which prove valuable and conducive to financial institutions in the money laundering prevention activities.

544) 中華台北有關機關，特別是金管會及銀行商業同業公會對於提供私人機構這種獎勵措施應予讚揚。

544) Chinese Taipei authorities, in particular the FSC and BAROC, must be commended for providing such incentives to the private sector.

員工篩檢(Employee Screening)

545) 中華台北對於金融機構之人事管理制度具有完整的控制與稽核體制，包括人員之任用、升遷、考核、獎懲、訓練、輪調、命令休假和其他有關人事管理作業等所應採行之程序和規定。依各金融機構之內部人事管理辦法，原則上有下列情事之一者，不得任金融機構員工：

a) 犯內亂外患貪污罪經判決確定或通緝有案尚未結案者。
b) 褫奪公權尚未復權者。
c) 判處徒刑在刑期內者。
d) 宣告破產尚未復權或受禁治產宣告尚未撤銷者。
e) 在金融機構借款或保證借款逾期尚未清償者。
f) 虧欠公款者。

545) Chinese Taipei has thorough internal controls and audit regimes for covered financial institutions that set out the procedures and rules pertaining to personnel management systems, including hiring, promotions, evaluations, recognition and discipline, training, job rotation, mandatory vacation, and other personnel management operations. Under the internal personnel management rules of financial institutions, a person to whom any one of the following applies is not allowed in principle to be financial institution employee:

a) has received a final and un-appellable conviction for engaging in civil disorder, treason, or corruption, or is subject to a warrant for arrest in connection with such a crime and the case remains unclosed;
b) his or her citizen's right has been revoked, and is not reinstated;
c) has received a prison sentence, and the

g) 曾受主管機關或金融機構解職者。
h) 曾犯詐欺、背信罪經判刑有案者。
i) 正受拒絕往來處分者。

546) 銀行公會訂定之「銀行防制洗錢注意事項範本」規定，銀行行員有下列情形之一者，應對其經辦事務予以抽查，必要時可洽請稽核單位協助：
a)行員奢侈之生活方式與其薪資所得顯不相當。
b)行員依規定應休假而無故不願意休假。
c)行員無法合理解釋其自有帳戶之大額資金進出。

547) 證券投資信託事業負責人與業務人員管理規則及證券投資顧問事業負責人與業務人員管理規則列出從事此二種行業人員資格要求之正、負表列。證券暨期貨市場各服務事業建立內部控制制度處理準則第

sentence has yet to expire;
d) has been declared bankrupt and his or her rights is not reinstated, or has been placed under judgment of interdiction and the interdiction has not been voided;
e) has received or guaranteed a loan from a financial institution and the loan remain unpaid beyond the due date;
f) has engaged in embezzlement of funds;
g) has previously been fired by the competent authority or a financial institution;
h) has been convicted of fraud or breach of fiduciary duty; and
i) is currently blacklisted by financial institutions.

546) The AML checklist for the banking sector provides that when any of the following situations applies with respect to a bank employee, the bank must conduct random checks of the business matters handled by that employee, and may as necessary request assistance from its audit unit:
a) the bank employee leads an extravagant lifestyle that is inconsistent with his or her level of income;
b) the bank employee is required by rule to take a vacation but refuses, without reason, to do so; and
c) the bank employee is unable to provide a reasonable explanation for a large amount of money in his or her personal account.

547) The Regulations Governing Responsible Persons and Associated Persons of Securities Investment Trust Enterprises and the Regulations Governing Responsible Persons and Associated Persons of Securities Investment Consulting Enterprises set out positive and negative qualification requirements for personnel associated with

7條第1項規定，明確要求證券及期貨市場服務提供者在建立內部控制制度時，應慎重考慮「員工的操守與價值觀」。

these two types of enterprises. In addition, Article 7, Paragraph 1 of the Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets expressly requires service providers in securities and futures markets to give important consideration to "employees' integrity and values" when establishing their internal control systems.

548) 對於保險業，有下列情事之一者，不得受聘爲保險業務員/經紀人：

a) 無行爲能力或限制行爲能力。
b) 申請登錄之文件有虛僞之記載。
c) 曾犯組織犯罪防制條例規定之罪，經有罪判決確定，尚未執行完畢，或執行完畢、緩刑期滿或赦免後尚未逾五年。
d) 曾犯僞造文書、侵占、詐欺、背信罪，經宣告有期徒刑以上之刑確定，尚未執行完畢，或執行完畢、緩刑期滿或赦免後尚未逾三年。
e) 違反保險法、銀行法、金融控股公司法、信託業法、票券金融管理法、金融資產證券化條例、不動產證券化條例、證券交易法、期貨交易法、證券投資信託及顧問法、管理外匯條例、信用合作社法、洗錢防制法或其他金融管理法律，受刑之宣告確

548) For the insurance sector, a person to whom any of the following applies may not be hired as an insurance solicitor/agent:

a) has no legal disposing capacity or limited disposing capacity;
b) has made a false statement in a registration application document;
c) has previously been convicted by a final and unappealable judgment of a crime under the Organized Crime Prevention Act, and has not completed serving the sentence, or five years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon;
d) has received a final and unappealable sentence for a fixed prison term or a sentence of greater severity for committing forgery, embezzlement, fraud, or breach of trust, and execution of the sentence has not been completed or three years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be;
e) has received a final and unappealable sentence for violating the Insurance Act, Banking Act, Financial Holding Company Act, Trust Enterprise Act, Act Governing Bills Finance Business, Financial Asset

定，尚未執行完畢，或執行完畢、緩刑期滿或赦免後尚未逾三年。

f) 受破產之宣告，尚未復權。

g) 有重大喪失債信情事尚未了結或了結後尚未逾三年。

h) 最近三年有事實證明從事或涉及其他不誠信或不正當之活動。

Securitization Act, Real Estate Securitization Act, Securities and Exchange Act, Futures Trading Act, Securities Investment Trust and Consulting Act, Foreign Exchange Control Act, Credit Cooperative Act, Money Laundering Control Act, or any other financial regulatory act, and execution of the sentence has not been completed or three years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted.

f) has been declared bankrupt, and his or her rights have not been reinstated;

g) has undergone a material loss of creditworthiness that has yet to be settled or three years have not yet passed since settlement; and

h) there is factual proof that the solicitor has engaged in or otherwise been involved with any other dishonest or improper activities in the past three years.

549) 在與私部門討論後顯示一般金融機構具備足夠之員工篩選程序，大部分金融機構會透過警方查核員工品性資料。

549) Discussions with the private sector industry generally showed adequate implementation of employee screening procedures by financial institutions. Most financial institutions undertake a character check from police.

550) 部分金融機構招募新進人員委由中華台北金融研訓院辦理，申請人被要求先通過該院訓練及正式特考，再由人事部門查核個人背景及身分詳細資料。評鑑團被告知有一政府官方網站可以查詢個人身分證號碼及金融詐欺之刑事紀錄，所有新進員工都要通過此一程序，然而評鑑

550) Recruitment by some financial institutions is commissioned to the Chinese Taipei financial training institute. As a prerequisite, the applicants are required to go through the institute and they are also required to undertake formal special examination. If they pass, the HR section would then check on the person's background and would check and verify identification details. The Evaluation Team was also advised that an official government website has capability of

團無法確認中華台北那一個政府機關負責此一程序。

checking a citizens ID number, which covers criminal backgrounds for financial frauds only and all new employees go through that process. However, the Evaluation Team was unable to confirm the government agency in Chinese Taipei that is responsible for this process.

附加因素-遵循主管獨立自主行爲之能力（Additional Element: Compliance Officer's ability to act independently）

551) 銀行業、證券業及期貨業等金融機構之特定反洗錢遵循主管，應指派副總經理或同位階之資深官員擔任，基於該職位在金融機構內之位階架構，可以獨立自主行使職權，能夠直接向決策管理階層報告並在必要時向董事會報告反洗錢與打擊資助恐怖分子相關事務。

551) The designated AML compliance officers of financial institutions in the banking, securities, and futures sectors are usually at the vice president or equivalent senior officer level. Due to the seniority and reporting protocol structures within the financial institutions, the AML/CFT compliance officers are able to act independently and also able to report AML/CFT reporting and compliance matter to the financial institutions executive management and when required to the board of directors.

552) 如前所述，行政院金融監督管理委員會訂定之「銀行內部控制及稽核制度實施辦法」規定，銀行應指定一隸屬於董 (理) 事會或總經理之總行管理單位，負責遵守法令主管制度之規劃、管理及執行，並指派高階主管一人擔任總機構遵守法令主管，綜理法令遵循事務，至少每半年向董 (理)事會及監察人 (監事) 報告。銀行總機構、國內外營業單位、資訊單位、財務保管單位及其他管理單位應指派人員

552) As mentioned above, the FSC's Regulations Governing Implementation by Banks of Internal Control and Auditing Systems require banks to designate a head office management unit under the board of directors or the general manager to bear responsibility for planning, managing, and implementing the legal compliance system, and also requires banks to appoint a senior officer to serve as the head office legal compliance officer and exercise overall administration of legal compliance matters, reporting at least once every half-year to the board of directors and board of supervisors. The head office, domestic business units, overseas branches, information unit, asset

擔任遵守法令主管，負責執行法令遵循事宜。類似要求亦出現在證券業及保險業之防制洗錢注意事項範本中。

custody unit, and other administrative units are also required to appoint a person to serve as compliance officer and bear responsibility for implementing legal compliance matters. Similar requirements are provided in the checklists issued for the securities and insurance industries.

國外分行（Foreign Branches）

553) 銀行防制洗錢注意事項範本第 11 條要求在中華台北之銀行業對於客戶審查、紀錄保存及申報義務及於國外分行及子公司：”國外分行及子公司遵循與國內同樣嚴謹之「反洗錢與打擊資助恐怖主義(AML/CFT)」作爲，當總機構及分支機構所在國之最低要求不同時，分支機構應就兩地選擇高標準作爲遵循依據，惟就標準高低之認定有疑義時，以金融機構母公司所在國之主管機關之認定爲標準；倘因外國法規禁止，致無法採行與總機構相同標準時，應向行政院金融監督管理委員會銀行局陳報。”

553) Article XI of AML checklist issued by BAROC requires the banking industry in Chinese Taipei to apply the same CDD, record-keeping, and reporting provisions applicable to itself to its foreign branches and majority owned subsidiaries as follows: “Financial institutions should ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements to the extent that local laws and regulations of host country permit. Where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries should be required to apply the higher standard; provided, however, where there is any question about the level of standards, the opinion of the home country supervisor should be dispositive. Financial institutions should be required to inform the FSC when a foreign branch or subsidiary is unable to observe measures consistent with home country requirements due to prohibition of local laws and regulations in host countries.”

554) 在中華台北境內之銀行業包括銀行機構、信用合作社、票券金融公司、信用卡公司、信託業、郵政機

554) The Banking industry in Chinese Taipei includes banking institutions, credit cooperatives, bills finance companies, credit card companies, trust enterprises, the Postal

構之郵政儲金匯兌業務與其他銀行服務業之業務及機構。

Saving and Remittance Services of Chunghwa Post Co., and other businesses and institutions providing banking services.

555) 行政院金融監督管理委員會訂定之「本國銀行設立國外分支機構應注意事項」規定：”國外分行配合當地金融法規與商業習慣辦理之各項銀行業務，如有不符中華台北金融法令規定者，應事先報主管機關核准。”

555) The FSC's Directions Concerning the Establishment of Foreign Branches by Domestic Banks provides as follows: "Any offshore branch conducts a business according to the local financial regulations and business practices but does not comply with the financial regulations of Chinese Taipei. It shall be first reported to the competent authority for approval."

556) 「證券暨期貨市場各服務事業建立內部控制制度處理準則」第 6 條第 1 項規定證券暨期貨市場各服務事業應考量「本事業」(解釋上應包括分公司)及「子公司」整體之營運活動，建立有效之內部控制制度。

556) Article 6, Paragraph 1 of the Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets provides that a service enterprise must consider the overall operational activities of its "head office" (interpreted to include branch offices) and subsidiaries to establish effective internal control systems.

557) 依據「保險業設立國外分支機構審核及管理要點」規定，要求保險業於國外之分公司或子公司，爲配合國外當地保險法令及商業習慣辦理之各項保險業務，有不符中華台北保險法令規定者，應向主管機關報告。

557) The Directions for Review of Establishment of Overseas Branch Units by Insurance Enterprises require insurance enterprises to file with the competent authority if an overseas subsidiary or branch office intends, in order to accommodate local insurance laws and regulations or business practices, to operate a particular line of insurance but does not comply with the insurance laws and regulations of Chinese Taipei.

558) 銀行局、證期局及保險局確認所監理之金融機構所屬分行及子公司被要求遵循中華台北反洗錢與打擊資助恐怖分子相關法律、規定及政策。「行政院金融監督管理委員會檢查局暫

558) The banking, securities and futures, and insurance bureau confirmed that their respective covered financial entities' foreign branches and subsidiaries observe the AML/CFT measures required under Chinese Taipei laws, regulations, guidelines and internal control and policies. Article 2 of the

行組織規程」第 2 條規定，授權檢查局可對金融控股公司、銀行業、證券業、期貨業、保險業及其海外分支機構辦理檢查，該局更進一步確認檢查範圍包括查核國外分行及其所屬國內金融機構之反洗錢與打擊資助恐怖分子之要求。該局曾對包括位在美國、英國、香港、日本、新加坡及其他國家之國外分行進行現地檢查（但位在巴拿馬之國外分行除外）。

Provisional Organic Regulations of the Financial Examination Bureau of the Financial Supervisory Commission, Executive Yuan authorizes the Financial Examination Bureau to carry out financial examinations on financial holding companies, banking enterprises, securities enterprises, futures enterprises, insurance enterprises, and their overseas branch units. The examination bureau further confirmed that their examination scope includes checking compliance of AML/CFT requirements of foreign branches and covered domestic financial institutions. The examination bureau conducted onsite inspections of foreign branches in the United States of America, the United Kingdom, Hong Kong, Japan, Singapore and other countries wherever there is a presence of a foreign branch except Panama.

559) 進而，外國金融監理與檢查機關亦曾對於位在中華台北境內之分行進行檢查，而證期局及台灣證券交易所亦曾對證券及期貨業之國外分行進行類似之遵循檢查。

559) Furthermore, supervisory and examination authorities of foreign jurisdictions have also conducted inspection visits of a foreign financial institution operating a branch in Chinese Taipei. The securities and futures bureau and Taiwan Securities Exchange Commission also have undertaken similar compliance examinations of foreign branches of securities and futures sectors.

560) 在與銀行業、保險業、證券業及期貨業等私人金融企業討論後，確認所屬國外分行亦被要求採行國內總公司對於反洗錢與打擊資助恐怖分子之內部程序、政策與控制，並且要接受總行之稽查。

560) Discussions with the private sector financial institutions in the banking, insurance, securities and futures sectors also confirmed that their foreign branches are required to adopt the head office AML/CFT internal procedures, policies, and control and they are also subject to scrutiny and audit by the head office.

建議與評論（RECOMMENDATIONS AND COMMENTS）

561) 對金融機構維持反洗錢內部控制與系統之要求埋置於相關法律之中，並有管理作爲加以支持。總之金融機構要有內控之義務是相當明確且無重大缺點。

561) The requirement to maintain AML internal controls and systems by financial institutions in Chinese Taipei is embedded in the laws and is well supported by regulatory initiatives. Overall the obligations on financial institutions to have internal controls are comprehensive and do not have major shortcomings.

562) 證券業應該清楚被要求建立獨立自主之稽查功能並涵蓋有關反洗錢與打擊資助恐怖分子事務，另中華台北有關機關強調銀行防制洗錢注意事項範本所提「行員」（tellers）是指所有「所有職員」（all staff members），而非僅限於臨櫃人員。

562) The securities sector should be clearly required to establish an independent audit function that addresses AML/CFT functions. It should be noted though that Chinese Taipei authorities have advised that correct reference to "tellers" in the AML checklist for the banking sector is "all staff members" and is not limited to tellers.

563) 法務部調查局、金融行業管理與監理機關及自律組織多年來從事大規模的警示提升與教育訓練，所以在金融機構內已深植反洗錢與打擊資助恐怖分子文化，評鑑亦發現大部分金融機構對於反洗錢與打擊資助恐怖分子有相當高程度的了解，主要是決策管理階層有心確保反洗錢與打擊資助恐怖分子之遵循及對所屬員工的內部訓練。

563) MJIB, financial sector regulatory and supervisory authorities, and relevant SROs have over the years undertaken extensive awareness and educational programs and Chinese Taipei now has a good AML/CFT culture within the covered financial institutions. Assessment findings also strongly evidenced a high level of understanding of AML/CFT requirements for most of the financial institutions primarily as a result of commitment from executive management level to ensure AML/CFT compliance and internal training programs for their employees.

564) 保險業及證券業應：

- 明確要求金融機構特別注意位於其他未能或未充分遵循 FATF 建議之國家的分行及子公司。

564) Insurance and securities sectors should:

- explicitly require financial institutions to pay particular attention to their branches and subsidiaries in countries which do not or insufficiently apply the FATF

- 課以金融機構所屬分行及子公司於母國與所在國對「反洗錢與打擊資助恐怖分子」最低要求有所不同時，在所在國法規允許範圍內應選擇較高標準遵循。

recommendations and

- impose obligation on financial institutions that where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries are required to apply the higher standard, to the extent that local laws and regulations permit.

3.8.3 建議第15&22項遵循評等(COMPLIANCE WITH RECOMMENDATIONS 15 & 22)

	評 等	評 等 理 由 摘 述
建議第15項	LC	● 本項要求在證券業防制洗錢注意事項範本中之規定與獨立稽核功能之要求有所不足。 ● 金融機構在相關規定及防制洗錢注意事項範本中都未被明確要求可以讓反洗錢遵循主管可以及時取得客戶資訊及交易紀錄。
R.15	LC	● The requirements imposed under the AML checklist for the securities sector falls short of meeting the requirement on independent audit function. ● Financial institutions are not specifically required under the regulations, guidelines and checklist to allow the AML compliance officer timely access to customer and transaction records.
建議第22項	LC	● 保險業及證券業未明確要求該行業金融機構特別留意位於其他未能或未充分遵循FATF建議之國家的分行及子公司。 ● 金融機構無正式義務對所屬分行及子公司於母國與所在國對「反洗錢與打擊資助恐怖分子」最低要求有所不同時，在所在國法規允許範圍內應選擇較高標準遵循。
R.22	LC	● Insurance and securities sectors do not explicitly require financial institutions to pay particular attention to their branches and subsidiaries in countries which do not or insufficiently apply the FATF

		Recommendations. ● No formal obligation on financial institutions that where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries are required to apply the higher standard, to the extent that local laws and regulations permit.

3.9 空殼銀行 - 建議第18項 （SHELL BANKS-R.18）

3.9.1 說明與分析 （DESCRIPTION AND ANALYSIS）

565) 在中華台北法規中，對於空殼銀行之設立與營運並無特別禁止，亦未特別禁止與空殼銀行之通匯業務往來關係。

565) There is no specific prohibition of either the establishment or operation of shell banks in the laws and regulations in Chinese Taipei. The laws and regulations also do not specifically prohibit banks in Chinese Taipei to deal with correspondent banking relationships with shell banks.

567) 然而，銀行法第 52 條規定，銀行爲法人，其組織以股份有限公司爲限。進一步規定銀行股票應公開發行。

567) However, Article 52 of the Banking Act provides that "a bank is a juristic person and, shall only be organized in the form of a company limited by shares." It further provides that "the stock of a bank shall be publicly issued."

568) 銀行法第53條要求在中華台北設立銀行者，應載明左列各款，報請中央主管機關許可：

a) 銀行之種類、名稱及其公司組織之種類。
b) 資本總額。
c) 營業計畫。
d) 本行及分支機構所在地。
e) 發起人姓名、籍貫、住居所、履歷及認股金額。

568) Article 53 of the Banking Act further requires that in order to establish a bank in Chinese Taipei applicants must submit a number of key information as follows to the competent authorities for approval:

a) type of bank, name and type of company organization;
b) total capital;
c) business plan;
d) locations of head office and branch offices; and
e) names, native places, home addresses and curriculum vitae of each promoter and the amount of shares subscribed by each promoter.

569) 依據銀行法第 55 條規定，銀行開始營業時，應將中央主管機關所發營業執照記載之事項，於本行及分支機構所在地公告之。

569) To commence business operations, a bank at its head office and branch offices, is required under Article 55 of the Banking Act to publicly announce the particulars of its business license as issued by the central competent authority.

570) 依據銀行法第 57 條規定，銀行增設分支機構時，應開具分支機構營業計劃及所在地，申請中央主管機關許可，並核發營業執照。遷移或裁撤時，亦應申請中央主管機關核准。銀行設置、遷移或裁撤非營業用辦公場所或營業場所外自動化服務設備，應事先向中央主管機關申請。

570) Pursuant to Article 57 of the Banking Act if a bank wishes to establish a branch office, it is required to apply to the central competent authority for approval and for a business license for such branch office by submitting a business plan and specifying the proposed location of such branch office. If a bank wishes to relocate or close a branch office, such bank should apply to the central competent authority for approval. A bank wishing to establish, relocate, or close a non-business operation office or a automated service facility outside a place its business is also required to apply in advance to the central competent authority

571) 銀行法第 56 條規定：中央主管機關核發營業執照後，如發現原申請事項有虛僞情事者，應即撤銷其許可。

571) Article 56 of the Banking Act provides that "after a business license has been issued to a bank, the central competent authority must revoke the bank's permit if the particulars in the original application are discovered to have been materially untrue."

572) 銀行防制洗錢注意事項範本第 3 點第 10 項要求應採取政策與程序，以處理跨國通匯往來銀行業務及其他類似關係，至少包括：

a) 蒐集足夠之可得公開資訊，以充分了解該通匯往來銀行之業務性質，並評斷其商譽及管理品質，包括是否遵循洗錢或資助恐怖分子之調查或規範。

572) Paragraph 10 of the AML checklist issued by BAROC requires banks to adopt certain policies and procedures in relation to cross-border correspondent banking and other similar relationships. At a minimum the policies and procedures should include the following measures:

a) gather sufficient publicly available information about a respondent institution to understand fully the nature of the respondent's business and to determine the reputation of the

b) 評鑑該通匯往來銀行對「反洗錢與打擊資助恐怖分子」具備相當之控管政策及執行效力。

c) 金融機構在與其它銀行建立通匯往來關係前，應先取得內部業務主管層級人員核准後始得辦理。

d) 以文件證明各自對「反洗錢與打擊資助恐怖分子」之責任作爲。

institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;

b) assess whether the respondent institution's AML/CFT control policy is adequate and effective;

c) obtain approval from senior management officers prior to establishing new correspondent relationships; and

d) document the respective AML/CFT responsibilities of each institution.

573) 當通匯往來銀行業務涉及過渡帳戶(payable-through accounts)時，須確認所通匯往來之銀行確實已執行客戶審查措施，必要時並能提供客戶確認相關資料。

573) Where a correspondent relationship involves payable-through accounts, financial institutions should ensure that the respondent institution has duly performed CDD measures and is able to provide information related to customer identification when necessary.

3.9.2 建議與評論 （RECOMMENDATIONS AND COMMENTS）

574) 雖然在中華台北境內無法規特別直接禁止。空殼銀行之設立與營運，及與空殼銀行或在國外被空殼銀行利用之帳戶之通匯業務往來關係，這類活動在銀行業務相關法律中都被間接禁止。

574) Although there is no specific direct prohibition in Chinese Taipei's laws and regulations on the establishment and operation of shell banks, permission to enter into correspondent banking relationships with shell banks, and use in foreign country of accounts by shell banks, such activities are indirectly not permitted under the banking laws.

575) 中華台北有關機關應確保境內設立銀行時，禁止：(1)建立或維持與任何空殼銀行之通匯業務關係；並(2)充當任何允許帳戶被空殼銀行利用之外國銀行的代理（通匯）銀行。

575) Chinese Taipei authorities should ensure that banks established in Chinese Taipei are prohibited from: (1) establishing or maintaining a correspondent banking relationship with any shell bank; and (2) acting as a correspondent bank for any foreign bank that permits its accounts to be

used by shell banks.

3.9.3 建議第18項遵循評等（COMPLIANCE WITH RECOMMENDATION 18）

	評 等	評 等 理 由 摘 述
建議第18項	PC	● 法律未特別禁止空殼銀行之設立，然而銀行法之許可要求及政策，間接排除空殼銀行在中華台北境內之許可。 ● 中華台北未禁止與任何空殼銀行建立通匯業務關係，或充當任何允許帳戶被空殼銀行利用之外國銀行的代理（通匯）銀行。
R.18	PC	● Laws do not explicitly prohibit establishment of shell banks, however, the licensing requirements and policies under the Banking Act indirectly preclude the licensing of a shell bank in Chinese Taipei. ● Chinese Taipei does not have a prohibition against its banks establishing correspondent banking relationships with shell banks, or serving as a correspondent bank for any foreign institution that permits its accounts to be used by shell banks.

規範、監理、導引、監控和制裁（Regulation, supervision, monitoring and sanctions）

3.10 監理與監督系統--有關機關與自律組織之角色、功能、責任與權力 (包括制裁)-建議第17,23,25,29,30&32項(THE SUPERVISORY AND OVERSIGHT SYSTEM – COMPETENT AUTHORITIES AND SRO'S ROLE, FUNCTIONS, DUTIES AND POWERS (INCLUDING SANCTIONS)-R.17, 23,25,29,30 &32)

3.10.1 說明與分析 （DESCRIPTION AND ANALYSIS）

規範與監理（Regulation & Supervision）

建議第23項（Recommendation 23）

576) 行政院金融監督管理委員會為中華台北境內之唯一金融監理機關，負責銀行業、證券業、期貨業及保險業所屬金融機構及相關業務之監督、管理及其法令之擬訂。

576) The FSC as a single financial regulator in Chinese Taipei is the competent authority in charge of laws and regulations governing the financial institutions and financial businesses for the banking, securities, futures, and insurance industries.

577) 依據行政院金融監督管理

577) Pursuant to Article 2 of the FSC Organic Act,

委員會組織法第 2 條規定，金管會主管金融市場及金融服務業之發展、監督、管理及檢查業務。前項所稱金融市場包括銀行市場、票券市場、證券市場、期貨及金融衍生商品市場、保險市場及其清算系統等；所稱金融服務業包括金融控股公司、金融重建基金、中央存款保險公司、銀行業、證券業、期貨業、保險業、電子金融交易業及其他金融服務業。

the FSC is in charge of the development, supervision, administration, and examination of the financial markets and financial service industry. The above-mentioned financial markets comprise the banking market, bills market, securities market, futures and derivatives market, insurance market, and clearance system; the financial service industry includes financial holding companies, the Financial Restructuring Fund, Central Deposit Insurance Corporation, the banking industry, securities industry, futures industry, insurance industry, electronic financial transactions, and other financial service industries.

578) 中華台北反洗錢與打擊資助恐怖分子法規所規範之金融機構包括銀行、銀行、信託投資公司、信用合作社、農會信用部、漁會信用部、票券金融公司、信用卡公司、辦理儲金匯兌之郵政機構、信託公司、證券商、證券投資信託事業、證券金融事業、證券投資顧問事業、證券集中保管事業、期貨商、保險公司及銀樓業。保險經紀及代理業並未涵蓋在洗錢防制法規範之金融機構範圍。洗錢防制法第 6 條要求所有金融機構執行反洗錢有關之內部控制程序。有關機關被要求對金融機構之反洗錢與打擊資助恐怖分子遵循，透過管理與監理系統推動，與這些內部控制規則有

578) The financial institutions to which the AML/CFT law and regulations apply in Chinese Taipei are banks, investment and trust companies, cooperatives, the credit departments of farmers' associations, the credit departments of fishermen's associations, bills financing enterprises, credit card companies, postal institutions that handle deposits and remittances, trust companies, securities firms, securities investment trust enterprises, securities financing enterprises, securities investment consulting enterprises, securities central depository companies, futures firm, insurance companies and jewellery dealers. Insurance brokers and agents are excluded from AML/CFT coverage under the MLCA. Article 6 of the MLCA requires all financial institutions to implement AML-related internal control procedures. It is against these internal control rules that the competent authorities are required to subject their regulatory and supervisory systems for

違。(?)

financial institutions' AML/CFT compliance.

579) 金管會執行金融檢查以確保所有洗錢防制法規範之金融機構都能有效地執行反洗錢與打擊資助恐怖分子要求。

579) The FSC carries out cross-sector financial examinations to ensure that all financial institutions covered under its scope are effectively implementing the AML/CFT requirements.

580) 銀行局依據行政院金融監督管理委員會組織法第 26 條設立，賦予監督與管理銀行市場、票券市場及銀行事業及擬訂、計劃、執行與下列事項有關之政策、法律與規定：

a) 金融控股公司之監督及管理。
b) 本國銀行之監督及管理。
c) 外國銀行分行與代表人辦事處之監督及管理。
d) 國際金融業務分行之監督及管理。
e) 票券商與票券集保公司之監督及管理。
f) 信用合作社之監督及管理。
g) 金融資產服務公司之認可及管理。
h) 信用卡業務與機構之監督及管理。
i) 信託業與信託投資公司之監督及管理。
j) 金融資產與不動產證券化業務之監督及管理。
k) 十一、經營銀行間徵信資料處理交換服務事業之監督及管理。
l) 十二、存款保險事業之監督及管理。

580) The Banking Bureau set up in accordance with the Article 26 of the Organic Act of FSC, Executive Yuan, is entrusted with the responsibility for monitoring and regulating the banking market, bills market, and banking enterprises, and for formulating, planning, and implementing policies, laws, and regulations connected therewith as follows:

a) supervision and regulation of financial holding companies;
b) supervision and regulation of domestic banks;
c) supervision and regulation of local branches and representative offices of foreign banks;
d) supervision and regulation of offshore banking units;
e) supervision and regulation of bills finance companies and bills depository companies;
f) supervision and regulation of credit cooperatives;
g) approval and regulation of financial asset service companies;
h) supervision and regulation of credit card business and institutions;
i) supervision and regulation of trust business and investment trust companies;
j) supervision and regulation of financial asset and real estate securitization business;
k) supervision and regulation of service enterprises engaging in interbank credit information processing and exchange;

m) 十三、與第一款至第十款相關之財團法人、同業公會之監督及管理。
n) 十四、會同交通部對郵政儲金匯兌業務之監督及管理。
o) 十五、外匯行政之監督及管理。
p) 十六、第一款至第十一款所列機構相關法規之制(訂) 定、修正或廢止之研擬。
q) 十七、與本局業務有關金融機構檢查報告之處理及必要之追蹤、考核。
r) 十八、與本局業務有關之消費者保護工作。
s) 十九、其他與前列各款有關之機構與業務之監督及管理。

l) supervision and regulation of deposit insurance enterprises;
m) supervision and regulation of foundations and associations related to entities described in items a to j above;
n) joint supervision and regulation of postal savings and remittance business with the Ministry of Transportation and Communications;
o) supervision and regulation of foreign exchange administration;
p) studying and proposing the formulation, revision, and revocation of laws and regulations relating to entities described in items a to k above;
q) handling and conducting necessary follow-up and review of financial examination reports of financial institutions under the Bureau's jurisdiction;
r) consumer protection work relating to the business of the Bureau; and
s) supervision and regulation of other institutions and businesses relating to the foregoing provisions.

581) 以2006年10月爲準，銀行局監管下列種類與數量之金融機構：

金融機構名稱	總行	分行
國內銀行	43	3,276
國外銀行	33	65
信合社	28	289
農會信用部	253	817
漁會信用部	25	40
信託投資公司	2	20
票券金融公司	14	43
郵政儲匯局	1	1,320

581) As at October 2006, the scope of the Banking Bureau extended to the following types and number of entities:

Financial Institutions	Head Offices	Branch Units
Domestic Banks	43	3,276
Foreign Banks	33	65
Credit Cooperatives	28	289
Credit Dept of Farmer's Associations	253	817
Credit Dept of Fishermen's Associations	25	40
Trust and Investment Companies	2	20
Bills Finance Companies	14	43

Postal Savings System 1 1,320

582) 證券期貨局依據行政院金融監督管理委員會組織法第 27 條設立，賦予監督與管理證券市場、期貨市場與證券期貨事業及擬訂、計劃、執行與下列事項有關之政策、法律與規定：

a) 證券募集與發行之審核、監督及管理。
b) 證券上市之審核與買賣之監督及管理。
c) 期貨交易契約之審核與買賣之監督及管理。
d) 選擇權契約之審核與買賣之監督及管理。
e) 證券商營業處所買賣有價證券之審核與買賣之監督及管理。
f) 證券投資信託事業、證券融資事業、證券投資顧問事業、證券集中保管事業及其他證券與期貨服務事業之審核、監督及管理。
g) 證券商與期貨商之審核、監督及管理。
h) 證券業、期貨業同業公會與相關財團法人之監督及管理。
i) 證券交易、期貨交易及興櫃證券交易市場之審核、監督及管理。
j) 證券商、期貨商負責人及營業員及證券交易與期貨交易之監督及管理。
k) 公開發行公司之監督、管理及財務、業務之查核。
l) 融資及融券之管理及協

582) The Securities and Futures Bureau set up in accordance with the Article 27 of the Organic Act of FSC, Executive Yuan, is entrusted with the responsibilities for monitoring and regulating securities and futures markets as well as securities and futures enterprises, and for formulating, planning, and implementing policies, laws, and regulations connected therewith as follows:

a) approval, regulation and supervision of securities placement and issuance;
b) approval, regulation and supervision of securities listing;
c) approval, regulation and supervision of futures contracts;
d) approval, regulation and supervision of options contracts;
e) approval, regulation and supervision of securities trading over the counters of securities firms;
f) approval, regulation and supervision of securities investment trust enterprises, securities financing enterprises, securities investment consulting enterprises, securities centralized depository enterprises, and other securities and futures service enterprises;
g) approval, regulation and supervision of securities firms and futures commission merchants;
h) direction and supervision of securities dealers associations and futures associations;
i) approval, regulation and supervision of the establishment of the securities exchange, futures exchange, and OTC securities markets;
j) regulation and supervision of responsible persons and associated persons of securities

調。

m) 證券、期貨之分析與電腦作業。

n) 證券、期貨法規之研究、發展與評估。

o) 證券、期貨法規之研擬及公布執行。

p) 會計師辦理公開發行公司財務報告查核簽證之監督及管理。

q) 其他有關證券業與期貨業之監督及管理。

firms, futures commission merchants, the securities exchange, and the futures exchange;

k) regulations of public-held companies and supervision of their finance and operations;

l) regulation and coordination of margin purchases and short sales;

m) analysis and computer operations of securities and futures;

n) research, development, and evaluation of the regulation of securities and futures;

o) drafting and of promulgation of securities and futures regulations;

p) administration and supervision of the audits of public-held companies' financial reports carried out by certified public accountants; and

q) other matters related to administration of securities and futures.

583) 依據證期局之統計數字，證券商、證券投資信託事業、證券金融資事業、證券投資顧問事業、證券集保事業及期貨商在2006年12月之數量如下：

金融機構	數量
證券商	156
證券投資信託事業	42
證券投資顧問事業	171
證券集保事業	1
證券金融資事業	4
兼營全權委託投資業務之事業	21
境外基金總代理人（含證券投資信託事業、證券投資顧問事業、證券經濟商）	32
期貨商	67

583) The number of financial institutions subject to the supervision and administration of the Securities and Futures Bureau, including securities firms, securities investment trust enterprises, Securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, and futures commission merchants, as at December 2006 are as follows:

Financial Institutions	Number
Securities firms	156
Securities investment trust enterprises	42
Securities investment consulting enterprises	171
Centralized securities depository enterprise	1
Securities finance enterprises	4
Discretionary investment business concurrently conducted by other professional enterprises	21
General agents of offshore funds (including securities investment trust enterprises, securities investment consulting	

584) 金融檢查局依據行政院金融監督管理委員會組織法第 29 條設立，賦予監督與檢查金融機構及擬訂、計劃及執行上述功能有關之政策與規定。以 2006 年 8 月爲準，金融檢查局對金融機構檢查之統計資料如下：

金融機構類型	數量
金融控股公司	14
國內銀行	45
中華郵政公司	1
投資信託公司	2
外國銀行之分行	33
信用合作社	28
農會信用部	253
漁業信用部	25
人壽及產物保險公司	50
票券金融公司	14
證券及期貨公司	26
證券金融資公司	4
資訊中心	6
金融資訊服務公司	1
證券投資信託事業	45
再保公司	2
合計	549

585) 保險局依據行政院金融監督管理委員會組織法第 28 條設立，賦予監督與管理保險市場與保險事業及擬

enterprises, and securities brokers) 32

Futures commission merchants 67

584) The Financial Examination Bureau set up in accordance with the Article 29 of the Organic Act of FSC, Executive Yuan, is entrusted with the responsibilities of financial institution supervision and examination as well as the drafting, planning and implementing of the polices and regulations with regard to the above functions. As at August 2006 the scope of the FEB extends to the following types and number of entities:

Scope of Financial Examination August 2006
Financial Examination Bureau

Type of Financial Institutions	Numbers
(1) Financial Holding Companies	14
(2) Domestic Banks	45
(3) Chunghwa Post Co. Ltd.	1
(4) Investment and Trust Company	2
(5) Branches of Foreign Banks	33
(6) Credit Cooperative Association	28
(7) Credit Department of Farmers' Associations	253
(8) Credit Department of Fishermen's Associations	25
(9) Life & Property Insurance Companies	50
(10) Bills Finance Companies	14
(11) Securities and Futures Companies	26
(12) Securities Finance Companies	4
(13) Information Centers	6
(14) Financial Information Service Co.	1
(15) Securities Investment Trust Enterprises	45
(16) Reinsurance Companies	2
Total	549

585) The Insurance Bureau set up in accordance with the Article 28 of the Organic Act of FSC, Executive Yuan, is entrusted with the responsibilities for monitoring and regulating

訂、計劃、執行與下列事項有關之政策、法律與規定：

a) 保險業風險資本額之監理、簽證精算人員及精算人之監理員、準備金、商品定價之監理及保險業清償能力之監理。

b) 保險業內部控制和內部稽核制度、定期報告財務報表、檢查報告。

c) 保險業資金運用之監理、保險業增、減資之監理及保險業退場機制之監理。

d) 審查下列財產保險商品：火災保險、海上保險、陸空保險、責任保險、保證保險、汽車保險、其他財產保險及輸出保險。新種財產保險商品之推動及管理、財產保險商品審查制度及相關法規之研擬及修訂、.配合相關機關政策之需要，推動研發財產保險商品、核定財產保險商品之示範條款及財產保險商品相關法令解釋。

e) 審查下列人身保險商品：人壽保險、健康保險、傷害保險、年金保險、投資型保險、新種人身保險商品之推動及管理、人身保險商品審查制度及相關法規之研擬及修訂、配合相關機關政策之需要，推動研發人身保險商品、核定人身保險商品之示範條款、人身保險商品相關法令解釋。

f) 申訴調處及消費者保護、保險教育宣導、保險犯罪防制及洗錢防制。

insurance markets and insurance enterprises, and for formulating, planning, and implementing policies, laws, and regulations connected therewith as follows:

a) supervision on RBC of Insurers, Supervision on Appointed Actuary (AA) and Actuary, Supervision on Reserving & Pricing, Supervision on Solvency of Insurers;

b) internal Control & Audit System of Insurers, Financial Reporting, Report on Examination of Insurers;

c) supervision on insurers' investments, Supervision on insurers' capital, Regulatory action against Troubled Insurers;

d) reviewing non-life insurance products: Fire Insurance, Marine Insurance, Land and Air Insurance, Liability Insurance, Bonding Insurance, Automobile Insurance, Other Non-life Insurance, Export Insurance, Promoting and managing new types of non-life insurance products, Reforming non-life insurance product review system and revising relative regulations, Promoting and developing new non-life insurance products to meet policy goals of governments, Promulgating model clauses of non-life insurance contracts, Issuing and explaining the relative notes about non-life insurance products;

e) reviewing life insurance products: Life Insurance, Health Insurance, Personal Accident Insurance, Annuity Insurance, Investment-Linked Insurance, Promoting and managing new types of life insurance products, Reforming life insurance product review system and revising relative regulations, Promoting and developing new life insurance products to meet policy goals

g) 產險公司監理及再保險業務、費率自由化。
h) 壽險公司監理、保險法等相關法令修訂、公司治理及資訊公開。
i) 保險代理人、經紀人、公證人監理、再保險經紀業務及電子商務。
j) 強制汽車責任保險、勞工退休年金保險配合規劃、住宅地震基本保險及國際業務。

of governments, Promulgating model clauses of life insurance contracts, Issuing and explaining the relative notes about life insurance products;
f) complaints and disputes mediation & Consumer protection, Insurance education propaganda, Insurance fraud prevention & Anti-money laundering;
g) supervision on non-life insurance companies & Reinsurance business, Liberalization of non-life insurance premium structure;
h) supervision on life insurance companies, Amendment of Insurance Law and relative regulations, Corporate governance & Information disclosure;
i) supervision on insurance agents, brokers and surveyors, Reinsurance brokering business & E-commerce; and
j) compulsory Automobile Liability Insurance, Collaboration in making the new Labor Pension Act, Residential Earthquake Insurance, and International Affairs.

586) 基於反洗錢與打擊資助恐怖分子之目的所涵蓋之保險業，目前洗錢防制法第 5 條僅列入保險公司。依據有關機關之確認，雖然金管會保險局對於保險代理業及經紀業有相當監理，但是目前仍然免除於有關反洗錢與打擊資助恐怖分子之要求。

586) Regarding the coverage of the insurance industry for AML/CFT purposes, only insurance companies are covered as provided under Article 5 of the MLCA. As confirmed by the authorities, although the scope of FSC's Insurance Bureau includes the general prudential supervision of insurance agents and brokers, they are widely exempted from the current AML/CFT requirements.

587) 除了依據洗錢防制法相關條款執行有關反洗錢與打擊資助恐怖分子之規定外，金融機構亦被要求爲有效達成防制洗錢之目標，應指派曾參加洗錢防

587) In addition to implementing AML/CFT rules in accordance with the applicable provisions of the MLCA, financial institutions are also required, in order to effectively achieve the goal of preventing money laundering, to appoint a vice president (or another person

制法訓練課程之副總經理(或相當職位人員)擔任專責人員，以協調監督防制洗錢注意事項之執行。

of equivalent or higher rank) who has previously participated in AML training, to oversee the effective implementation of the institution's money laundering prevention guidelines and procedures.

監理機關之架構與資源-建議第30項（Structure and resources of the supervisory authority R.30）

588) 金融監督管理委員會之組織架構有4個局(銀行局、證期局、保險局及檢查局)，4個處(綜合規劃處、國際業務處、法律事務處及資訊管理處）及4個室（秘書室、人事室、會計室及政風室）。

588) The organization structure of FSC has 4 bureaus (Monetary Affairs, Securities and Futures, Insurance, and Examination Bureau), 4 departments (Planning, International Affairs, Legal Affairs, and Information Management Department), and 4 offices (Secretariat, Personnel, Accounting, and Anti-Corruption Office).

589) 金融監督管理委員會以專業、公正及獨立方式制定政策及執行工作。另外除了編列年度預算以支付員工薪資及行政費用外，其組織法亦規定設立金融監督管理基金以支持金融監理活動所需經費，確保金管會作爲金融市場及金融服務事業管理機關之正常發展，並保證在監督與檢查執行之獨立性。

589) The FSC appears to carry out its policy making and enforcement work in a professional, fair, and independent manner. In addition to providing for an annual budget to pay for staff salaries and administrative expenses, the Organic Act also provides for the establishment of a Financial Supervisory Fund to bolster the funding of financial supervisory activities, ensure the FSC's development as a regulator of financial markets and financial service enterprises, and guarantee its independence in the performance of monitoring and examination.

590 金管會述2005年年底之職員數爲792員，其中707員配置於4個局。

590) The total staffing resources of the FSC as at the end of 2005 was 792 staff of whom 707 staff were allocated for the 4 FSC bureaus.

591) 銀行局職員超過90%都是大學及研究所以上學歷，分別在局內6個組工作，包括研究發展與法律事務、國內銀行業務、社區銀行業務、非銀行業務、

591) More than 90% of staff at the Banking Bureau are university graduates and postgraduates who work for the six divisions within the Banking Bureau, that is, R&D and legal affairs, domestic banking, community banking, non-banking and specialized

特定銀行業務、國際銀行業務及金控公司監理等。進入銀行局服務之前，必須通過公務員資格考試，並接受銀行局提供之金融管理專業、信託業務信託關係、現地金融檢查技巧、電腦軟體運用及外國語言等特別訓練。職員亦有機會送往國外進修或參訪外國監理機關以進一步加強金融監理技能。

banking and international banking and financial holding companies supervision. Prospective staff are required complete civil service examinations before they could join the Banking Bureau. The Banking Bureau provides specialized training on financial regulatory expertise, fiduciary relations of trust business, on-site examination skills, computer software and foreign language proficiency. Staff are also sent to study abroad or visit foreign regulatory authorities to further enhance their supervisory capabilities.

592) 迄 2006 年年底，金融檢查局計有 296 位職員，其中 200 位實際從事金融檢查業務，職員都經過良好訓練，以從事金融機構反洗錢與打擊資助恐怖分子業務檢查。

592) As at the end of 2006 the FEB had a total of 296 staff members of whom about 200 are staff involved in conducting actual examination functions. Examination staffs are generally well trained to conduct AML/CFT examinations of financial institutions.

593) 檢查局下分 8 個組，以從事管轄金融機構之異地監督與檢查。

593) The FEB is structured into eight functional divisions to conduct offsite monitoring and examinations of covered entities.

594) 證期局下分爲 8 組，分別爲證券發行有關業務、證券商有關業務、證券市場管理有關業務、證券服務事業有關業務、證券期貨市場調查研究及教育宣導有關業務、會計師管理有關業務、期貨市場有關業務、證券期貨市場國際化有關業務。

594) The SFB is also structured into eight functional divisions, namely, Corporate finance, Securities firms administration, Securities market administration, Securities service industries, Securities and futures research and education, Accounting administration, Futures, International affairs.

595) 保險局下分 4 組，分別爲保險業清償能力組、保險商品發展組、保險市場服務及紀律組、政策服務組。

595) The Insurance Bureau is structured into four divisions, namely, prudential requirements, insurance product regulation, market protection & consumer protection, and policy insurance.

596) 由於組織法賦予之職掌任務，金管會員工被要求保有高專業水準，公務員服務法第 4 條規定，公務員有絕對保守政府機關機密之義務，「行政院金融監督管理委員會檢查金融機構業務要點」第 12 點規定，檢查人員對於檢查事項、日程及受檢機構業務情形，應負保密之義務，不得對外洩漏。

596) By virtue of statutory functional responsibilities assigned to it under the Organic Act, staff of FSC are required to maintain high professional standards at all times. Article 4 of the Civil Servant Service Act provides that civil servants are obligated to safeguard the confidentiality of information. Furthermore, Point 12 of the Directions for the Examination of Financial Institutions by the Financial Supervisory Commission, Executive Yuan provides as follows: “Examination personnel shall bear an obligation to maintain the confidentiality of matters under examination, examination schedules, and the operational status of examined institutions, and may not leak such information. “

597) 此外，金融監督管理委員會業已制定「行政院金融監督管理委員會金融檢查人員行爲規範」，除規範檢查人員不得要求或收受不正利益、接受招待餽贈、接受關說請託外，並規定應主動迴避檢查有利害關係之案件。

597) In addition, the FSC has formulated the "Code of Conduct for Financial Examination Personnel of the Financial Supervisory Commission, Executive Yuan." In addition to barring examiners from demanding or receiving improper gratuities, accepting entertainment or gifts, or granting lobbying requests or favours, the Code of Conduct also requires that examiners voluntarily exclude themselves from cases in which they have an interest.

598) 金融檢查局人力資源，特別是參與一般例行及特別檢查之職員，需要檢討配賦足夠人力資源，以因應相當大規模之金融機構檢查。

598) The human resource capacity of the FEB, in particular, staff involved in the routine and special examinations, needs to be reviewed to determine adequacy of staffing resources in line with a substantially large size of the financial institutions that are captured under its mandate.

599) 在前不久，當前金管會檢查局局長李進成涉及內線交易及貪污弊案而在 2006

599) In the recent past, questions were reportedly raised on FSC’s capability to supervise Chinese Taipei's financial system when the

年 6 月被判決有罪（目前正在上訴中），導致有報導質疑金管會對於中華台北金融系統監理之能力。

FEB's former director-general Mr Lee Chin-cheng was involved in an insider-trading scandal and corruption and was later convicted in June 2006 (pending appeal).

建議第29項（Recommendation 29）

監理權力與遵循-準則c.29.1 (Supervisory powers and compliance - c.29.1)

600) 銀行法第 45 條規定，中央主管機關得隨時派員，或委託適當機關，或令地方主管機關派員，檢查銀行或其他關係人之業務、財務及其他有關事項，或令銀行或其他關係人於限期內據實提報財務報告、財產目錄或其他有關資料及報告。另依同法第 129 條之 1，有下列情形之一者，處新臺幣 200 萬元以上 1,000 萬元以下罰鍰：

a) 拒絕檢查或拒絕開啓金庫或其他庫房者。

b) 隱匿或毀損有關業務或財務狀況之帳冊文件者。

c) 對檢查人員詢問無正當理由不爲答復或答復不實者。

d) 逾期提報財務報告、財產目錄或其他有關資料及報告，或提報不實、不全或未於規定期限內繳納查核費用者。

600) Article 45 of the Banking Act provides as follows: "The central competent authority may, at any time, appoint a designee, entrust an appropriate institution or direct a local competent authority to appoint a designee to examine the business, financial affairs and other relevant affairs of a bank or related parties. It may also direct a bank or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination." In addition, Article 129-1 of the Banking Act provides for an administrative fine of not less than NT$2 million and not more than NT$10 million for a bank that commits any of the following acts:

a) refuses to be investigated or refuses to open the vault or other storage facilities;

b) conceals or damages books and documents related to business or financial conditions;

c) refuses to reply, or responds falsely, to inquiries of the investigator without legitimate reason; and

d) fails to provide financial reports, property inventories, or other related data or reports in a timely, honest, or complete manner, or to pay investigation fees within the specified period(s) of time.

601) 行政院農業委員會依據農業金融法第 7 條第 1 項規

601) According to the regulation of Paragraph 1, Article 7 of the Agricultural Finance Act, the

定，委託行政院金融監督管理委員會，對農業金融機構及其電腦（資訊）共用中心辦理檢查業務，另依農業金融法第 7 條第 2 項及第 3 項之規定，中央主管機關得隨時派員檢查全國農業金庫、信用部或其他關係人之業務、財務及其他有關事項，或令該金庫、信用部或其他關係人於限期內據實提報財務報告、財產目錄或其他有關資料及報告。中央主管機關於必要時，得委託專門職業及技術人員，就前項所定應行檢查事項、報表或資料予以查核，並向中央主管機關據實提出報告，其費用，由該金庫或信用部負擔。另依農業金融法第 48 條規定，有下列情形之一者，處新臺幣 200 萬元以上 1,000 萬元以下罰鍰：

a) 拒絕檢查或拒絕開啓金庫或其他庫房。
b) 隱匿或毀損有關業務或財務狀況之帳冊文件。
c) 對檢查人員詢問無正當理由不爲答復或答復不實。
d) 逾期提報財務報告、財產目錄或其他有關資料及報告，或提報不實、不全或未於規定期限內繳納查核費用。

Council of Agriculture, Executive Yuan may entrust the FSC to conduct on-site examinations of the agricultural financial institutions and the information sharing centers. In addition, according to the regulations of Paragraph 2 and 3, Article 7 of the same Act, the Council, at any time, may dispatch personnel to inspect the operations, finance and other related responsibilities of the Agricultural Bank of Taiwan, the Credit Department of Farmers' and Fishermen's Associations and related parties or order the bank, credit departments or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination. The Council may also authorize professional specialists to inspect the required items, reports or information mentioned in the preceding paragraph and the expenses should be burdened by the bank or credit departments. In addition, Article 48 of the Agricultural Finance Act provides for an administrative fine of not less than NT$2 million and not more than NT$10 million for violating any of the following acts:

a) refuses to be investigated or refuses to open the vault or other storage facilities;
b) conceals or damages books and documents related to business or financial conditions;
c) refuses to reply, or responds falsely, to inquiries of the investigator without legitimate reason; and
d) fails to provide financial reports, property inventories, or other related data or reports in a timely, honest, or complete manner, or to pay investigation fees within the specified period(s) of time.

602) 監理機關依法律之授權，得對證券投資信託事業、經營全權委託業務之證券投資顧問事業、證券金融事業、證券集中保管事業、境外基金總代理人及銷售機構，進行監督並確保該等機構依洗錢防制法規定辦理。

602) Supervisory agencies are authorized by law to monitor securities investment trust enterprises, securities investment consulting enterprises operating discretionary investment services, securities finance enterprises, centralized securities depository enterprises, and the general agents and sub-distributors of offshore funds, to ensure that they run their businesses in compliance with the MLCA.

603) 依據保險法第 148 條規定，主管機關得隨時派員檢查保險業之業務及財務狀況，或令保險業於限期內報告營業狀況，本項檢查主管機關得委託適當機構或專業經驗人員擔任，而所有客戶及交易紀錄與資訊均係檢查範圍。

603) Article 148 of the Insurance Act provides that "the competent authority may, at any time, dispatch officers to inspect the business and financial conditions of an insurance enterprise, or order an insurance enterprise to report, within a prescribed limit of time, the condition of its business," and "the competent authority may engage an appropriate agency or professional expert to conduct the inspection referred to." All customers as well as all transaction records and data fall within the scope of such financial examinations.

604) 保險法第 168 條之 1 規定，主管機關得隨時派員，或委託適當機關或專業經驗人員，檢查保險業務及財務或令保險業於限期內報告營業狀況時，保險業之負責人或職員有下列情形之一，有下列情形之一者，處新臺幣 180 萬元以上 900 萬元以下罰鍰：

a) 拒絕檢查或拒絕開啓金庫或其他庫房者。
b) 隱匿或毀損有關業務或財務狀況之帳冊文件者。
c) 無故對檢查人員之詢問不

604) Article 168-1 of the Insurance Act provides: The competent authority may at any time dispatch an officer or commission an appropriate institution or expert to inspect the business and financial conditions of an insurance enterprise, or order an insurance enterprise to report the status of its business within a specific time limit. A responsible person or an employee of the insurance enterprise who commits any of the following acts shall be assessed an administrative fine of not less than NT$1.8 million and but not more than NT$9 million:

a) refuses to be investigated or refuses to open the vault or other storage facilities;

爲答復或答復不實者。

d) 逾期提報財務報告、財產目錄或其他有關資料及報告，或提報不實、不全或未於規定期限內繳納查核費用者。

b) conceals or damages books and documents related to business or financial conditions;

c) refuses to reply, or responds falsely, to inquiries of the investigator without legitimate reason; and

d) fails to provide financial reports, property inventories, or other related data or reports in a timely, honest, or complete manner, or to pay investigation fees within the specified period(s) of time.

605) 未依洗錢防制法第 7 條及第 8 條規定，確認客戶身分、留存交易紀錄憑證、及向指定之機構申報者，處新臺幣 20 萬元以上 100 萬元以下罰鍰。同法第 11 條第 1、2 項則定有刑事責任之規定。

605) Any financial institution that fails to confirm a customer's identity, keep transaction records on file, or file with the designated authority in accordance with Articles 7 and 8 of the MLCA, is subject to an administrative fine of not less than NT$200,000 and not more than NT$1 million. Furthermore, Paragraphs 1 and 2, Article 11 of the same Act provide for criminal liability.

檢視與檢查-準則c.29.2 (Inspections/Examinations - c.29.2)

606) 銀行法第 45 條規定如下：「依銀行法第 45 條規定，中央主管機關得隨時派員，或委託適當機關，或令地方主管機關派員，檢查銀行或其他關係人之業務、財務及其他有關事項，或令銀行或其他關係人於限期內據實提報財務報告、財產目錄或其他有關資料及報告。」

606) Article 45 of the Banking Act provides as follows: "The central competent authority may, at any time, appoint a designee, entrust an appropriate institution or direct a local competent authority to appoint a designee to examine the business, financial affairs and other relevant affairs of a bank or related parties. It may also direct a bank or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination."

607) 依「行政院金融監督管理委員會檢查局暫行組織規程」第 2 條授權，檢查局可對管轄之金融機構及其海外分支機構辦理檢查。

607) Article 2 of the Provisional Organic Regulations of the Financial Examination Bureau of the Financial Supervisory Commission, Executive Yuan authorizes the Financial Examination Bureau (FEB) to carry

out financial examinations of certain financial institutions and their overseas branch units.

608) 檢查局負責對金融控股公司、銀行業、保險業、票券金融公司、證券金融公司及證券投資信託公司之金融檢查，證券交易所、期貨交易所及證券櫃檯買賣中心負責證券業、期貨業及上市公司之例行性檢查。然而檢查局亦負責金控公司從事證券業務之子公司的金融檢查，以及台灣證券交易所／櫃檯買賣中心列名證券商之例行性金融檢查。

608) The FEB is responsible for the examination of financial holding companies, banking industry, insurance industry, bill finance industry, securities finance companies, and securities investment trust companies. The Stock Exchange, Futures Exchange, and GreTai Securities Market are in charge of the routine examination of securities, futures industries, and public companies. However, the FEB is in charge of the examination of subsidiaries under a financial holding company that engage in securities business and the FEB is also in charge of the routine examination of TSEC/GTSM listed securities firms.

609) 行政院金融監督管理委員會檢查局受農委會金融局委託，對農業金融機構進行金融檢查。

609) The FEB also acts on behalf of the Bureau of Agricultural Finance of the Council of Agriculture, Executive Yuan to examine agricultural financial institutions.

610) 「行政院金融監督管理委員會檢查金融機構業務要點（依據行政院金融監督管理委員會組織法第二條第一項及第二十九條規定發布）」第 4、5 點規定，授權金管會直接派員或會同有關機構派員辦理實地檢查，其方式包括：

a) 實地檢查：金管會直接派員或會同有關機構派員辦理檢查。
b) 一般檢查：對財務、業務及整體營運情形作以風險爲重心之檢查。
c) 專案檢查：對特定業務項目作檢查。

610) Points 4 and 5 of the Directions for the Examination of Financial Institutions by the Financial Supervisory Commission, Executive Yuan (which were issued pursuant to authorization under Paragraph 2, Article 2 and Article 29 of the FSC Organic Act) empower the FSC, acting either on its own or in consultation with other institutions, to appoint personnel to carry out on-site financial examinations. The methods for conducting financial examinations are:

a) on-site examinations: the FSC assigns its personnel or accompanies with other agencies' personnel to conduct examinations;
b) regular examinations: conducting risk-based examinations on finance, business and

d) 表報稽核：對各金融機構報送之相關報表或報告予以審核。

e) 業務座談：洽請金融機構負責人或主辦業務人員，就特定事項提出報告及意見。

611) 實地檢查金融機構之一般檢查頻率如下：

a) 總機構：得視營運狀況調整檢查頻率，但至少二年檢查一次。

b) 分支機構：依對總機構最近一次之檢查結果及其他分析資料，辦理抽樣檢查。

612) 金管會對證券業、期貨業及其他金融服務業依其業務狀況，於必要時辦理檢查。

613) 接受其他機關委託檢查之檢查頻率，依委託業務要點辦理。

614) 檢查人員得於檢查期間通知受檢機構編製有關報表，並提供有關憑證、書類、帳冊備檢或詳爲說明，受檢機構應據實編製提供，必要時檢查人員得影印之。受檢機構提供之資料，檢查人員得請受檢

overall operations;

c) targeted examinations: conducting examinations on designated business;

d) off-site monitoring: reviewing relevant statements or reports submitted by financial institutions; and

e) business interview: inviting the responsible persons or the chief operating personnel of financial institutions to provide reports and express opinions on specific matters.

611) The general frequency for on-site examinations of financial institutions is as follows:

a) Head offices: conducting examination on head Offices of financial institutions at least once every two (2) years, but adjusting the examination frequency according to their business performances; and

b) Branch offices: conducting sampling examinations on branch offices according to the most recent examination reports of their head office and other analytic materials.

612) The FSC may, as necessary, conduct examinations of securities enterprises, futures enterprises and other financial service enterprises depending on their operational conditions.

613) The frequency of examinations entrusted by other agencies is provided for in the relevant regulations governing entrusted affairs.

614) When conducting examinations, examiners may require examinee institutions to produce relevant reports and provide related documents and account books, or give detailed explanations. The institutions should provide the documents based on their real conditions. Examiners may as necessary copy the documents and require in-charge

機構相關人員簽名。

personnel of institutions to sign off on the related documents.

615) 受檢機構編製或提供不實財務、業務資訊，或受檢機構拒絕、推諉或延遲提供真實資訊，其責任應由受檢機構或其管理階層負責；檢查人員並得視情況爲緊急或重大事項處理。

615) If examinee institutions produce or provide significant fake financial or operational information, or refuse, quibble or delay to provide real information, the institutions and managements should take relevant responsibilities. Under such circumstances, examiners may consider the case as an emergency or a material event.

616) 檢查人員對於檢查事項、日程及受檢機構業務情形，應負保密之義務，不得對外洩漏。但領隊檢查人員得於檢查期間邀集有關人員，就檢查事項充分溝通。

616) Examiners are required keep the examined items, the examination schedule and the operations of examinee institutions confidential. However, the examiner-in-charge may have a meeting with relevant personnel about the examined items.

617) 金融監督管理委員會檢查局在辦理金融檢查過程中，發現被檢查金融機構有未確實確認身分，受理被其他銀行通報金融聯合徵信中心列爲警示戶之開戶，或客戶交易涉有疑似洗錢情事，未依洗錢防制法向法務部調查局通報者，均已提列檢查意見。

617) If the FSC Financial Examination Bureau discovers during a financial examination that the examinee has failed to confirm a customer's identity, that it has opened an account for a party that has previously been reported to the Joint Credit Information Center with a possible fraud account, or that it has failed to report a customer's possible money laundering transaction to the MLPC as required by the MLCA, the Bureau will include such matters in its examination opinion.

618) 依農業金融法第 7 條第 2 項及第 3 項之規定，中央主管機關得隨時派員檢查全國農業金庫、信用部或其他關係人之業務、財務及其他有關事項，或令該金庫、信用部或其他關係人於限期內據實提報財務報告、財產目錄或其他有

618) According to the regulations of Paragraph 2 and 3, Article 7 of the Agricultural Finance Act, the Council, at any time, may dispatch personnel to inspect the operations, finance and other related responsibilities of the Agricultural Bank of Taiwan, the Credit Department of Farmers' and Fishermen's Associations and related parties or order the bank, credit departments or related parties to

關資料及報告。中央主管機關於必要時，得委託專門職業及技術人員，就前項所定應行檢查事項、報表或資料予以查核，並向中央主管機關據實提出報告，其費用，由該金庫或信用部負擔。再依「行政院農業委員會委託行政院金融監督管理委員會檢查農業金融機構及電腦（資訊）共用中心業務要點」第2點及第4點規定，行政院金融監督管理委員會受託檢查農業金融機構及共用中心業務，係由檢查局負責辦理，檢查頻率如上所述。

prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination. The Council may also authorize professional specialists to inspect the required items, reports or information mentioned in the preceding paragraph and the expenses should be burdened by the bank or credit departments. Furthermore, according to Items 2 and 4 of the Guidelines for Examining the Agricultural Financial Institutions and Information Sharing Centers by FSC Entrusted by COA, the FEB will be responsible for conducting the examination in the frequency already described above.

619) 檢查局於2006年成立「機動檢查組」，以確保金融機構健全管理、維護金融穩定、有效調查金融違法案件，建立一個公平及有紀律的金融環境。

619) The FEB also established a "Mobile Inspections Team" in 2006 to ensure the soundness management of financial institutions, maintain the financial stability, effectively investigate financial illegalities, and set up an impartial and disciplined financial environment.

620) 該機動檢查組成員包括檢查局具備會計師資格或具備銀行業務、證券、保險、票券金融專長之人員組成，並協調調查局、高檢署查黑中心、台灣證券交易所、櫃檯買賣中心及司法警察機關等配合辦理。

620) The team members include FEB personnel who are qualified as certified public accountants or who are specialized in banking, securities, insurance and bills finance, and coordinate with staff members from the MJIB, the Investigation Supervision Unit for Financial Crimes of the High Court Prosecutor's Office, Taiwan Stock Exchange Corporation (TSEC), Gre Tai Securities Market (GTSM), and judicial police authorities.

本表為檢查局對金融機構實地檢查統計表（如右）

Table below shows onsite examination of financial institutions conducted by the FSC:

	2005		2006	
	Number of Onsite Examinations	Number of Targeted AML Examinations	Number of Onsite Examinations	Number of Targeted AML Examinations
Domestic Banks	134	94	124	69
Local Branches of Foreign Banks	18	18	20	20
Credit Cooperative Associations	34	17	20	16
Trust and Investment Companies	7	7	6	7
Bills Finance Companies	9	9	11	11
Postal Savings System of Chunghwa Post Co	5	5	5	5

621) 檢查局於2006年第1季即完成99家金融機構總行及16家分支機構之一般性金融檢查，並對14家金融機構總行進行非計劃性之臨時金融檢查。另外，檢查局與經濟部、證期局及其他政府機關進行67次稽核作業。

621) In the first quarter of 2006 only, the FEB completed regularly scheduled financial examinations on 99 financial institution head offices and 16 branch units, as well as unscheduled financial examinations on 14 financial institution head offices. In addition, the FEB collaborated with the MOEA, FSC Securities and Futures Bureau, and other government agencies on 67 audits.

622) 金管會經農業金融局授權及請求對農漁會信用部進行金融檢查，檢查報告會遞送農金局要求所轄金融機構採取改善作爲或予以制裁。

622) The FSC conducts examination of credit departments of farmers' & fishermen's association when authorized and requested by the Bureau of Agriculture Finance. This arrangement is merely mutual between the authorities and a report of examination is forwarded to the BOAF for taking remedial measures or imposing sanctions on this sector.

623) 實地檢查發現之報告將由檢查局作爲紀錄保存，一些檢查局在檢查金融機構對於反洗錢與打擊資助恐怖分子之發現如下：

a) 檢查發現有關違反法令規定問題

i) 未訂定或修正防制洗錢注意事項。

ii) 訂定之防制洗錢注意事項未報請事業主管機關備查（違反洗錢防制法第6條）。

iii) 稽核手冊未修正以符合相

623) The on-site examination findings reports are comprehensive and well documented by FEB. Some of the types of examination findings by the FEB when examining the AML/CFT measures of financial institutions, are as follows:

a) Examination findings on laws and regulations

i) such company has not established (amended) guidelines for anti-money laundering operations;

ii) the head office (branch) has established guidelines for anti-money laundering operations, but failed to submit the

關法令規定，或重要事項未納入內部稽核或自行稽核之檢查項目。

b) 檢查發現有關教育訓練問題

i) 未每年定期舉辦反洗錢訓練課程或研討會，或來要求所屬員工參與此類課程或研討會。

ii) 未指定一位副總經理或同等級職位並接受過反洗錢訓練課程之主管擔任專責人員，以協調監督防制洗錢注意事項之執行。

iii) 未建立完整檔案以追蹤員工是否接受反洗錢教育訓練，並且未安排相關部門員工接受教育訓練（違反洗錢防制法第6條）。

c) 檢查發現有關恐怖分子名單問題

i) 未建立有關機關函發之恐怖分子名單檔案或對於匯入、匯出國境款項之客戶未進行查詢或留存紀錄（違反2001年10月2日台財融6字第 0906000070 號函規定）。

ii) 建立恐怖分子或團體之檔案後，未能透過電腦自動連結加以辨識，以致必須使用人工比對，有時容易造成誤失。

iii) 雖然建立了恐怖分子及團體之檔案，有關辨識紀錄並未留存，甚至對於匯出款項，遇到最終受益人是恐怖分子，電腦系統亦無法自動辨識並鎖住該筆交易。

iv) 對於資金匯入款項來自

guidelines to the competent authority for recordation. (A violation of Article 6 of MLCA);

iii) the auditing manual is not amended to become consistent with relevant laws and regulations, or important matters are not incorporated into the examination items for internal auditing or self-auditing.

b) Examination findings on training programs

i) failure to hold periodical training courses or seminars on anti-money laundering operations each year or failure to have their staff members participate in such courses or seminars;

ii) failure to designate a vice president or its equivalent position who has taken the training courses on anti-money laundering operations to act as the responsible person for coordinating and supervising the implementation of guidelines for anti-money laundering operations;

iii) failure to establish complete files to track the employees who have taken training programs for anti-money laundering operations, and failure to make the schedule and to compile the contents of the training programs for employees of the respective Division. (A violation of Article 6 of MLCA).

c) Examination findings on list of terrorists

i) failure to establish files for the list of terrorists or terrorist groups sent by letter by the competent authority, and failure to make inquiries or keep the records for examination when a customer makes inward remittances from offshore and outward remittances. (A violation of the letter, Ref. No.: Tai-Cai-Rong-(6)-Zi- 0906000070, dated 2 October 2001);

FATF 所列不合作國家名單並在 5 個營業日內即行提出或匯出之交易，未建立內控程序。（例如無行政管理規範讓職員可以審視交易是否與客戶身分收入相當或與其業務本質有關，並保留審視紀錄）（違反洗錢防制法第 8 條）

d) 檢查發現有關客戶開戶問題

i) 在處理開戶作業時，未能辨識客戶相關文件、身分證、簽名、印章以確認身分。

ii) 在處理個人帳戶開戶時，未能在帳戶開設文件中填入住址、國籍或職業。

iii) 在處理法人帳戶時，未能對於最終持有或控制帳戶之人留存紀錄。

iv) 對於公司代理人進行之金融交易，未能留存交易人基本交易資訊（例如姓名、姓名、出生日期及身分證件）（違反洗錢防制法第 7 條及財政部台財融 1 字第 0928011641 號函令）。

e) 檢查發現有關大額通貨交易問題

i) 所有大額通貨交易資訊以人工建立，容易造成誤失，並且發現有客戶未填寫臨櫃交易申報單。

ii) 同一帳戶在同一營業日交易累計現金存或提達新台幣 1 百萬元以上者，未能確認該交易與客戶身分、收入是否顯不相當，及該交易是否與客戶營業性質有關。（違反金管銀 1 字第 0940022159 號函

ii) while having established files for the list of terrorists or terrorist groups, computer systems with instant automatic-linked verification have not been developed and, as a result, it would entail manual verification and may easily cause omission;

iii) although files on the list of terrorists or terrorist groups have been established, the records for verification have not been kept. Moreover, when conducting outward remittance, if the ultimate beneficiary is a terrorist, the computer cannot automatically verify and lock the transaction;

iv) there are no internal control procedures regarding funds remitted from non cooperative countries listed by the FATF, or withdrawal or transfers made within five business days. (For example, no form of administrative statement is available to the clerk in charge to review whether the transaction is commensurable to the identity and income of the customer or is relevant to the customer's business nature, and to keep such review record.) (A violation of Article 8 of MLCA).

d) Examination findings on account opening

i) failure to verify the relevant materials of the customer, ID card, signature and seal to ascertain customer's identity when dealing with the opening of an account;

ii) failure to fill in the residential address, nationality, or occupation in the account opening documents when dealing with the opening of an individual's account;

iii) failure to keep records of the ultimate holders or controlling persons when dealing with the opening of a corporate account;

iv) failure to keep the basic transaction

令）。

iii) 同一帳戶在同一營業日交易累計現金存或提達新台幣 1 百萬元以上者，雖然交易當事人相關資訊已依規定予以紀錄，但未能鍵入電腦系統，亦未進行分析是否疑似洗錢並進行申報。（未遵循洗錢防制法第 8 條規定）

iv) 當單筆現金之收、付或換鈔交易達新台幣 1 百萬元以上者，櫃員將交易當事人之姓名、身分證字號等相關資訊鍵入電腦大額現金交易系統，並在交易憑證背面註記，但是電腦系統無輸入地址欄位，造成輸入資訊的不完整。

f) 檢查發現有關匯款資訊問題

i) 匯出申請單上未包括匯款人身分證字號欄位。

ii) 接受匯款時，銀行未能遵循認識客戶原則，並接受客戶口頭要求即允許大額匯款交易，且未能向調查局申報。

iii) 當客戶從事境外匯入或匯出款項時，未能對該交易進行查詢並留存交易紀錄以便檢查。（違反財政部 2001 年 10 月 22 日台財融 6 字 0906000070 號函令）

g) 檢查發現有關中華台北內在國外分行問題

i) 總公司及其稽核部門未能及時對香港分行有關認識客戶及反洗錢作業程序之檢討並採取改正作爲（例如，香港金融管理局於 2004 年發布

information conducted by the company's agent. (For example, name, date of birth, identity documents) (A violation of Article 7 of the Money Laundering Control Act and administrative order, Ref. No.: Tai-Cai-Rong-(1)-0928011641, issued by the Ministry of Finance on Examination findings on account opening).

e) Examination findings on large amount transactions

i) all information of large amount transactions is established manually, which easily causes omissions, and customers are found to have failed to fill out the Declaration of At-the-Counter Transactions;

ii) for cash deposited or withdrawn, respectively, from the same account with an accumulated transaction amount of NT$1 million or more on the same business day, it has failed to ascertain whether the transaction and the client's identity and income are obviously not commensurable, and whether the transaction is relevant to the customer's business. (A violation of the administrative order issued by the Commission on November 4, 2005, Ref. No.: Jin-Guan-Yin-(1)-Zi-0940022159);

iii) for cash deposited or withdrawn, respectively, from the same account with an accumulated transaction amount of NT$1 million or more on the same business day, although the relevant information of the parties to the transaction has been registered pursuant to relevant regulations, such information is not completely keyed-in to the computer, and no analysis has been made on the suspected money laundering and no declaration has been filed.

之防制洗錢活動指引)。稽核部門未能將這些列爲實地稽核之重要檢查項目。

ii) 在反洗錢作業之風險歸類重點中，分行將存款客戶區分爲公司、個人及投資交易不同類別，並設定三個不同風險等級，採取不同監督標準。然而，其他如企業、居民、空頭公司及與高知名度政治人物有關之帳戶未納入考量以區分其風險，應依香港金融管理局發布之防制洗錢活動指引對於同意客戶交易活動補充規定辦理。

iii) 審核客戶開設帳戶未附審核清單，甚至沒有職員及被授權人員之簽章，亦未含括住址資料，與香港金融管理局之防制洗錢指引不符。

iv) 該分行未能質疑並辨認客戶在開設帳戶時無正當職業及無香港公司企業推薦情形下之動機、真實背景及資金來源，亦未質疑客戶大額匯款及不同匯款人與其身分不相當之情形，甚至未確認或報告客戶故意隱藏匯款實際受益人之動機。

v) 該分行未能確認或報告帳戶資金進出被懷疑涉及洗錢情形。

vi) 依據香港金融管理局之防制洗錢指引，法律遵循主管必須對每日之交易對帳報告進行審核，包括匯入、匯出交易、信用狀交易及頻繁交易，並查核交易與洗錢及恐

(Noncompliance with Article 8 of the Money Laundering Control Act);

iv) when the amount of a single transaction of cash received, paid or converted from or into New Taiwan Dollars exceeds NT$1 million, the cashier has keyed in the name, ID card number, etc. of the parties to the transaction into the computer system of Entry of Customers' Information of Large Amount Currency Transaction, and attached the same to the reverse side of the voucher of such transaction. However, a column for keying in the addresses of the parties to the transaction is not made available in the computer entry system, which leads to the incompleteness of the entry information.

f) Examination findings on remittance information

i) the application for outward remittance does not include a column for "remitter's ID card number";

ii) when accepting remittance, the bank fails to comply with the principle of know your customer, and allows the large-amount remittance solely on the basis of the oral statement of the customer, and fails to report such transaction to the Bureau of Investigation, Ministry of Justice;

iii) when the customer conducts offshore inward transactions or outward remittances, the bank fails to make inquiries and keep the transaction records for inspection. (A violation of the administrative order issued by the Ministry of Finance on October 22, 2001, Ref. No.: Tai-Cai-Rong-(6)-Zi-0906000070).

g) Examination findings on offshore branches operating in Chinese Taipei

i) the head office and its auditing office fail to timely review and take corrective actions

怖分子之關聯。該受金檢之分行未設計頻繁交易之報告，增加法律遵循主管之審核與確認之困難度。

against its Hong Kong branch respecting operation procedures for know-your-customer and anti-money laundering. (For example, the new provisions of Guidelines on Prevention of Money Laundering promulgated by HKMA in 2004.) The auditing office fails to list them as significant items to be audited in an on-site inspection;

ii) in the Key Points Governing Risk Categorization of Anti-Money Laundering Operations, the branch categorizes the depositing customers into company, individual, and investment transactions, sets three different risk levels for the accounts thereof, and adopts different supervision standards for each transaction of different level. However, other characteristics such as industry, permanent residence, shelf company, and connections with politically-related persons have not been taken into consideration so as to distinguish the risk level. Better risk categorization measures should be framed pursuant to the policy on customer admission set forth in the Supplement to the Guidelines on Prevention of Money Laundering Activities of HKMA;

iii) the schedule of review is not attached when reviewing the account opening of customers. Moreover, neither is the schedule signed or chopped by clerks and authorized personnel, nor is the residence information included, which is inconsistent with the Guidelines on Prevention of Money Laundering Activities of HKMA;

iv) the branch fails to question and verify the motive, actual background and source of funds when a client, without a decent

occupation and the recommendation of a domestic business unit, goes directly to Hong Kong for account opening. In addition, it fails to question the inconsistency between the client's identity and large-amount remittance and different remitters. Moreover, it fails to verify or report the motive of the client in intentionally concealing the actual beneficiary of the remittance;

v) the branch fails to verify or report the account into or out of which the funds of suspected money laundering flow;

vi) according to the Guidelines on Prevention of Money Laundering of HKMA, the legal compliance officer must review each transaction in the daily transaction statement, including inward and outward remittances transactions, L/C transactions, and frequent transactions, and check the connection between the transactions, terrorists and money laundering. The branch under examination does not have a statement designed for frequent transactions, which increases the difficulty of the legal compliance officer's review and verification.

624) 金融檢查局對於金融機構反洗錢與打擊資助恐怖分子之實地檢查所發現缺點，會採取後續追蹤作爲。

624) The FEB has adopted follow-up measures in relation to on-site examination findings as a result of examining the AML/CFT measures of financial institutions.

625) 依照個別金融機構在執行反洗錢作業缺失之嚴重程度，金融機構被指引提出改善建議，金融檢查局亦強制金融機構遵循這些建議，並將這些建議納入金融檢查項目清單之中。

625) Depending upon the severity of the failure and non-compliance by individual financial institutions to implement their anti-money laundering operations, financial institutions are directed to prepare recommendations for improvement. The FEB compels financial institutions to comply with such recommendations and include such

recommendations in the default examination list of the FEB.

626) 金融檢查局告知評鑑團，該局對金融機構海外分行進行實地金融檢查時，會照會諮詢該分行地主國之金融監理機關，同樣，當外國銀行之母國金融監理機關對於位在中華台北境內分行進行實地金融檢查時，會先諮詢該局，並由該局協調安排。

626) The Evaluation Team was advised by the FEB that on-site examination of financial institutions overseas branch units by the FEB is conducted in some visits in consultation with the host country supervisors. Similarly, when the home country supervisor conducts on-site examination of foreign branches operating in Chinese Taipei, the FEB is also consulted and the visit is also coordinated by the FEB.

交易紀錄之產生-評鑑準則c.29.3(Production of Records - c.29.3)

627) 行政院金融監督管理委員會組織法第 5 條規定，該會及所屬機關辦理金融檢查，於必要時，得(1)要求金融機構及其關係人與公開發行公司提示有關帳簿、文件及電子資料檔等資料，或(2)通知被檢查者到達指定辦公處所備詢。同條更進一步規定：對涉有金融犯罪嫌疑之案件，該會及所屬機關得敘明事由，報請檢察官許可，向該管法院聲請核發搜索票後，會同司法警察，進入疑爲藏置帳簿、文件、電子資料檔等資料或證物之處所，實施搜索；搜索時非上述人員不得參與。經搜索獲得有關資料或證物，統由參加搜索人員，會同攜回本會及所屬機關，依法處理。

627) Article 5 of the FSC Organic Act provides as follows: "In carrying out a financial examination, the FSC and its subordinate agencies may, as necessary: (1) require a financial institution, a related party thereof, or a public company to produce relevant account books, documents, electronic files, and other such materials; or (2) notify an examinee to appear at a designated office to answer questioning." Article 5 further provides: "In a case involving suspected financial crime, the FSC and any subordinate agency thereof may present the facts of the case to a prosecutor in seeking permission from the latter to file a motion in the court of jurisdiction for issuance of a search warrant. Once the search warrant has been issued, the FSC or its subordinate agency may, accompanied by judicial police authorities, enter and search the suspected hiding place of the relevant account books, documents, electronic files, and other such materials or evidence. No one other than the parties mentioned above may take part in the

search. The personnel who conduct a search shall transport all relevant materials and evidence obtained during the search to the FSC or a subordinate agency thereof, where it shall be handled in accordance with the law."

628) 此外，行政院金融監督管理委員會檢查金融機構業務要點第 10 點規定：檢查人員得於檢查期間通知受檢機構編製有關報表，並提供有關憑證、書類、帳冊備檢或詳爲說明，受檢機構應據實編製提供，必要時檢查人員得影印之。受檢機構提供之資料，檢查人員得請受檢機構相關人員簽名。

628) In addition, Point 10 of the Directions for the Examination of Financial Institutions by the Financial Supervisory Commission, Executive Yuan provides as follows: “While an examination is ongoing, an examiner may notify the examined institution to prepare relevant statements and furnish pertinent vouchers, documents, and account books so the examiner can inspect them or request detailed explanations, and the examined institution shall prepare and furnish such items truthfully. An examiner may make photocopies of them as necessary. An examiner may request relevant personnel of an examined institution to sign records furnished by the examinee.”

629) 有關金融機構未能提供所有相關金融交易紀錄以供金融檢查，中華台北有下列處罰規定：

a) 行政院金融監督管理委員會組織法第 5 條規定如下：本會及所屬機關對妨礙、規避或拒絕第一項檢查、拒不提示有關帳簿、文件及電子資料檔等資料或無正當理由而拒不到達備詢者，除其他法律另有規定外，處新臺幣五萬元以上二十五萬元以下罰鍰，並得按次連續處罰至接受檢查、到場備詢或提

629) With respect to a financial institution that fails to furnish all material records, Chinese Taipei has the following penal provisions:

a) Article 5 of the FSC Organic Act provides as follows: "Where an examinee obstructs, avoids, or refuses to allow an examination of the type set forth under paragraph 1, refuses to furnish relevant account books, documents, electronic files, or other such materials, or refuses without legitimate reason to appear for questioning, the FSC or a subordinate agency is empowered, unless another law provides to the contrary, to impose an administrative fine of not less than fifty thousand and not more than two-hundred fifty thousand New Taiwan

出有關帳簿、文件及電子資料檔等資料爲止。

Dollars, and may impose consecutive penalties until the examinee cooperates with the examination, appears for questioning, or furnishes the relevant account books, documents, electronic files, or other such materials."

630) 此外，相關處罰規定亦在銀行法第 129-1 條、證券交易法第 178 條及保險法第 168-1 條有所規定。

630) In addition, related penal provisions are also set out in Article 129-1 of the Banking Act, Article 178 of the Securities and Exchange Act, and Article 168-1 of the Insurance Act.

631) 依「行政院農業委員會委託行政院金融監督管理委員會檢查農業金融機構及電腦（資訊）共用中心業務要點」第 5 點第 2 項及第 3 項規定，農業金融機構及共用中心人員，應配合檢查人員要求，據實提供各項業務、財務帳冊簿籍、傳票、報表、電腦媒體等資料接受檢查，不得藉故推諉、拖延或隱藏。農會、漁會其他部門涉及信用部業務時，亦同。

631) According to the Paragraph 2 and 3, Item 5 of the Guidelines for Examining the Agricultural Financial Institutions and Information Sharing Centres by FSC Entrusted by COA, the staff of the agricultural financial institutions and information sharing centres should honestly provide related paper documents and computer media records for the business examination and should not be allowed to make any excuse to delay or conceal. It is also applicable to other departments of the Farmers' and Fishermen's Associations when involving the business with the credit departments.

632) 受檢單位不據實提供各項業務、財務帳冊簿籍、傳票、報表、電腦媒體等資料接受檢查，或不配合檢查人員查核時，由金管會檢具事證函送農委會依法處置。另依農業金融法第 48 條規定，有下列情形之一者，處新臺幣 200 萬元以上 1,000 萬元以下罰鍰：

a) 拒絕檢查或拒絕開啓金庫或其他庫房。

b) 隱匿或毀損有關業務或財務狀況之帳冊文件。

632) If an examinee refuses to furnish relevant account books, documents, electronic files, or other such materials for business examination, or refuses without legitimate reason to appear for questioning, the FSC shall pass the situation with evidence to the COA for further handling. Furthermore, the Article 48 of Agricultural Finance Act provides for an administrative fine of not less than NT$2 million and not more than NT$10 million for violating any of the following acts:

a) refuses to be investigated or refuses to open the vault or other storage facilities;

b) conceals or damages books and documents

c) 對檢查人員詢問無正當理由不爲答復或答復不實。

d) 逾期提報財務報告、財產目錄或其他有關資料及報告，或提報不實、不全或未於規定期限內繳納查核費用。

c) refuses to reply, or responds falsely, to inquiries of the investigator without legitimate reason; and

d) fails to provide financial reports, property inventories, or other related data or reports in a timely, honest, or complete manner, or to pay investigation fees within the specified period(s) of time.

633) 爲金融監理目的所需強迫產生或取得金融交易資訊之權力並需法院命令，有關機關確定尚無金融機構拒絕金融檢查或拒絕提供交易紀錄予檢查機關。

633) The power to compel production of or to obtain access for supervisory purposes does not require court order. The authorities have confirmed that no financial institution has ever neither refused an examination nor refused to produce records to the examination authorities.

634) 有關準則c.29.4對於金融機構之執法與制裁權力，請參考下面建議第17項。

634) Please also refer to write-up under R.17 regarding the requirements under c.29.4 on adequacy of powers of enforcement and sanction against financial institutions.

建議第17項(Recommendation 17)

635) 「洗錢防制法」第7條第3項及第8條第4項有行政罰鍰之規定，同法第11條第1、2項有刑事責任之規定。

635) Paragraph 3, Article 7 and Paragraph 4, Article 8 of the MLCA provide for administrative fines, and Paragraphs 1 and 2, Article 11 of the same Act provide for criminal liability.

636) 銀行公會依據洗錢防制法訂定之防制洗錢注意事項範本於1997年3月26日公布，並報請財政部備查。依據銀行法第45-1條及銀行內部稽核控制系統執行規則之規定，銀行被要求將該範本依據安全與健全銀行業務原則，納入內部控制政策與程序之中。依據該範本第2、3點

636) The Checklist of Money Laundering Prevention Guidelines and Procedures for Banks issued by the Bankers Association under the authorization of Article 6 of the MLCA was promulgated in 26 March 1997 upon approval of the Ministry of Finance. Under Article 45-1 of the "Banking Act" and "Enforcement Regulations for Bank Internal Audit Control System Banks", banks are required to incorporate the said Checklist into their internal control policy and

規定，銀行被要求對客戶進行審查並保存相關交易紀錄，違反者將被視同違反銀行法第 45-1 條規定，將依該法第 129 條第 7 項被處以新台幣 20 萬元以上，1 百萬元以下罰鍰。

procedures based on the principles of safe and sound banking practices. Pursuant to Points 2 and 3 of the said Checklist, banks are required to conduct customer due diligence and maintain related transaction records. Violators of the said Points are regarded as violations of Article 45-1 of the Banking Act, and shall be punished by an administrative fine of not less than NT$2,000,000 and not more NT$10,000,000 under Article 129, Subparagraph 7 of the Banking Act.

637) 依據銀行法第 45-1 條規定，銀行應建立內部控制及稽核制度；其目的、原則、政策、作業程序、內部稽核人員應具備之資格條件、委託會計師辦理內部控制查核之範圍及其他應遵行事項之辦法，由主管機關定之。

637) Under Article 45-1 of the Banking Act a bank is required to establish an internal control system and audit system; regulations governing the objectives, principles, policies, operating procedures, qualifications and conditions for internal auditors, scope of internal control audits that a certified public accountant shall be engaged to undertake, and other matters requiring compliance.

638) 銀行對資產品質之評估、損失準備之提列、逾期放款催收款之清理及呆帳之轉銷，應建立內部處理制度及程序。

638) A bank is required to establish an internal processing system and procedures with respect to the evaluation of asset quality, the creation of loan loss provision, the clearing of and writing off of non-performing and non-accrual loans.

639) 銀行作業委託他人處理者，其對委託事項範圍、客戶權益保障、風險管理及內部控制原則，應訂定內部作業制度及程序；其辦法，由主管機關定之。

639) Where any bank operations are entrusted to another person to handle, the bank is required to adopt an internal operation system and procedures covering the scope of the matters entrusted, protection of customer rights and interests, risk management, and internal control principles. Applicable regulations with respect of the above are prescribed by the Competent Authority.

640) 再者，依據銀行法第 129

640) Furthermore, under Article 129 of the

條，有下列情事之一者，處新臺幣 200 萬元以上 1,000 萬元以下罰鍰：

a) 違反第 21 條、第 22 條或第 57 條或違反第 47 條之 2 準用第 4 條、第 123 條準用第 21 條、第 22 條或第 57 條規定者。

b) 違反第 25 條第 1 項規定發行股票者。

c) 違反第 28 條第 1 項至第 3 項或違反第 123 條準用第 28 條第 1 項至第 3 項規定者。

d) 違反主管機關依第 33 條之 3 或第 36 條或依第 47 條之 2、第 123 條準用第 33 條之 3 或第 36 條規定所爲之限制者。

e) 違反主管機關依第 43 條或依第 123 條準用第 43 條規定所爲之通知，未於限期內調整者。

f) 違反主管機關依第 44 條所爲之限制者。

g) 未依第 45 條之 1 或未依第 47 條之 2 準用第 45 條之 1 或第 123 條準用第 45 條之 1 規定建立內部制度或未確實執行者。

h) 未依第 108 條第 2 項或未依第 123 條準用第 108 條第 2 項規定報核者。

i) 違反第 110 條第 4 項或違反第 123 條準用第 110 條第 4 項規定，未提足特別準備金者。

j) 違反第 115 條第 1 項或違

Banking Act, the commission of any of the following acts would be punished by an administrative fine of not less than Two Million New Taiwan Dollars (NT$2,000,000) and not more than Ten Million New Taiwan Dollars(NT$10,000,000):

a) violations of Article 21, Article 22 or Article 57 or violations of Article 47-2 applying Article 4, Article 123 applying Article 21, Article 22 or Article 57 of this Act;

b) issuing share certificates in violation of Article 25 of this Act;

c) violations of Article 28, Paragraph 1 through Paragraph 3 or violation of Article 123 applying Article 28, Paragraph 1 through Paragraph 3;

d) violations of restrictions imposed by the Competent Authority under Article 33-3 or Article 36 or Article 47-2 or Article 123 applying Article 33-3 or Article 36 of this Act;

e) violations of a prescription on the minimum ratios prescribed by the Competent Authority in accordance with Article 43 or Article 123 applying Article 43 of this Act by failing to make the adjustment required thereby within the period of time prescribed therein;

f) violations of the restrictions prescribed by the Competent Authority in accordance with Article 44 of this Act;

g) failure to establish or diligently conduct an internal system in accordance with Article 45-1 or Article 47-2 applying Article 45-1 or Article 123 applying Article 45-1;

h) failure to apply for approval in accordance with Article 108, Paragraph 2, or in violation of Article 123 applying Article 108, Paragraph 2, of this Act;

i) violation of Article 110, Paragraph 4, or

反第 123 條準用第 115 條第 1 項募集共同信託基金者。

violation of Article 123 applying Article 110, Paragraph 4, of this Act by failing to appropriate a special reserve; or

j) violation of Article 115, Paragraph 1, or violation of Article 123 applying Article 115, Paragraph 1, of this Act in publicly offering common trust funds.

641) 銀行法第 61-1 條第 1 項規定：銀行違反法令、章程或有礙健全經營之虞時，主管機關除得予以糾正、命其限期改善外，並得視情節之輕重，為下列處分：

a) 撤銷法定會議之決議。

b) 停止銀行部分業務。

c) 命令銀行解除經理人或職員之職務。

d) 解除董事、監察人職務或停止其於一定期間內執行職務。

e) 其他必要之處置。

941) Paragraph 1, Article 61-1 of the Banking Act provides: If there is a possibility that a bank has violated laws and regulations or its articles of incorporation, or disturbed the sound operation [of the financial system], the competent authority, in addition to issuing an official reprimand and ordering corrective action within a prescribed time period, may also take any of the following actions, as the circumstances merit:

a) revoke the resolutions of board or shareholders meetings;

b) suspend part of the bank's business;

c) order the bank to discharge managers or staff members;

d) dismiss directors or supervisors from their positions or suspend them from execution of the duties of those positions for a specified period; and

e) take any other necessary action.

642) 監理機關依法律之授權，得對證券投資信託事業、經營全權委託業務之證券投資顧問事業、證券金融事業、證券集中保管事業、境外基金總代理人及其銷售機構違反洗錢防制法規定予以適當之制裁。

642) When an investment trust enterprise, securities investment consulting enterprise operating discretionary investment services, securities finance enterprise, centralized securities depository enterprise, or a general agent or sub-distributor of an offshore fund violates the MLCA, supervisory agencies are authorized by law to impose appropriate sanctions.

643) 依據保險法第 149 條規定，保險業違反法令、章

643) Article 149 of the Insurance Act provides: If an insurance enterprise violates laws or

程或有礙健全經營之虞時，主管機關除得予以糾正或命其限期改善外，並得視情況爲下列處分：

a) 限制其營業或新契約額。

b) 命其增資。

regulations or is suspected of improper management, the competent authority may first issue an official reprimand or order it to take corrective action within a specified period of time, and may, depending on the circumstances, take the following disciplinary actions:

a) restrict the scope of its business or the amount of its new contracts; and

b) order the insurance enterprise to increase its capital.

644) 保險業不遵行前項處分，主管機關應依情節，分別爲下列處分：

a) 撤銷法定會議之決議。

b) 命其解除經理人或職員之職務。

c) 解除董（理）事、監察人（監事）職務或停止其於一定期間內執行職務。

d) 其他必要之處置。

(資訊來源：金管會、中央銀行、農業金融局)

644) If an insurance enterprise does not comply with the disciplinary actions of the preceding paragraph, the competent authority shall take the following disciplinary actions as circumstances merit:

a) revoke the resolutions of board or shareholders meetings;

b) order removal of its managers or employees from their positions;

c) dismiss its directors or supervisor(s), or suspend them from their duties for a certain period of time; and

d) take any other necessary action. (Information source: FSC, CBC, BOAF)

645) 過去 7 年有關機關對於金融機構及特定專業人士違反洗錢防制法規定處以行政制裁之統計資料如下：

02 年 5 月 一家銀行違反洗錢防制法第 7 條被處新台幣 60 萬元罰鍰。

02 年 7 月 一家銀行違反洗錢防制法第 7 條被處新台幣 40 萬元罰鍰。

05 年 7 月 一家銀樓違反洗錢防制法第 7 條第 8 條被處新台幣 40 萬元及

645) The statistics provided by authorities on the number of administrative sanctions applied to financial institutions for violating the provisions of MLCA for the past 7 years for the financial institutions as well as DNFBP sectors are as follows:

May 2002 A bank was been fined NT$600,000 for Article 7 of MLCA.

June 2002 A bank was been fined NT$400,000 for violating Paragraph 1 of Article 7 of MLCA.

July 2005 A precious metals and stones distributor (Jewellery shop) was fined

	100萬元罰鍰。	NT$400,000 and NT$1,000,000 for violating the regulation of Paragraph 1, Article 7 and Paragraph 1, Article 8 of MLCA.
07年2月	中華郵政違反洗錢防制法第 7 條被處新台幣20萬元罰鍰。	Feb 2007 Taiwan Post Co. was fined NT$200,000 for violating Article 7 of MLCA.
07年5月	一家保險公司違反大額通貨交易申報規定被處新台幣20萬元罰鍰。	May 2007 An insurance company was fined NT$200,000 for violating CTR obligation.

防止罪犯控制金融機構之作爲-建議第23項（Measures to prevent criminals controlling a financial institution - R23)

646) 銀行負責人應具備資格條件準則規定多項不特充任銀行負責人之條件。	646) The Regulations Governing Qualification Requirements for Responsible Persons of Banks provide a very wide range of cases which would preclude a person from serving as a responsible person of a bank.
647) 證券投資信託及顧問法暨相關子法中，訂定得擔任證券投資信託事業及證券投資顧問事業負責人之積極與消極資格要件。例如：證券投資信託及顧問法第 68 條規定，證券投資顧問事業之發起人（自然人或法人代表人或其指定代表行使職務）、負責人及業務人員，不得於一定期限內有相關違法及犯罪紀錄，其已充任負責人或業務人員者，解任之，不得充任董事、監察人或經理人者，應由主管機關函請公司登記主管機關撤銷或廢止其登記。	647) The Securities Investment Trust and Consulting Act and various secondary regulations set out both positive and negative qualification requirements for anyone who would serve as a responsible person at a securities investment trust or consulting enterprise. Article 68 of the Securities Investment Trust and Consulting Act, for example, bars anyone who has violated a relevant law or committed a relevant crime within a certain period of time from acting as a promoter (regardless whether exercising such duties as a natural person, or as the representative or designated representative of a juristic person), responsible person, or associated person of a securities investment consulting enterprise; and where such a person is already serving as a responsible person or associated person, he or she shall be dismissed, and may not serve as a director,

supervisor, or manager, and the competent authority shall request the competent authority for corporate registration by letter to void or revoke the registration of such person.

648) 任何人罪犯服刑期滿尚未逾一定期間者，諸多法律明定其不得充任期貨交易所、期貨結算機構或期貨業之發起人、董事、監察人、經理人或業務員之規範。這些法律包括期貨交易法第 28 條第 1 項第 1、5 款、第 44 條準用第 28 條、第 55 條準用第 28 條，期貨商設置標準第 4 條第 1 項第 1、5 款，期貨經理事業設置標準第 6 條第 1 項第 1、5 款，期貨顧問事業管理規則第 19 條第 1 項第 1、5 款等。

648) Anyone who has completed a criminal sentence within the past certain period of time is prohibited under a number of laws from acting as a promoter, director, supervisor, manager, or associated person of futures exchange, futures clearing house, or futures enterprise. These include the Futures Trading Act (Subparagraphs 1 and 5, Paragraph 1, Article 28; Article 44 as applied mutatis mutandis under Article 28; and Article 55 as applied mutatis mutandis under Article 28), the Standards Governing the Establishment of Futures Commission Merchants (Subparagraphs 1 and 5, Paragraph 1, Article 4), the Standards Governing the Establishment of Managed Futures Enterprises (Subparagraphs 1 and 5, Paragraph 1, Article 6), and the Regulations Governing Futures Advisory Enterprises (Subparagraphs 1 and 5, Paragraph 1, Article 19).

649) 保險業負責人應具備條件資格準則規定許多不得充任保險業負責人之事由。

649) The Regulations Governing Required Qualifications for Responsible Persons of Insurance Enterprises provide a very wide range of criteria which would preclude serving as a responsible person of an insurance enterprise.

650) 如前所敘，金融機構之董事及高級管理人員依「適任」準則進行評估，對於有一位金融機構主管在 2006 年拒絕回答檢察署簽發之傳喚，金管會作爲金融管理機

650) As mentioned above, the directors and senior management officials of financial institutions are evaluated on the basis of “fit and proper” criteria. In relation to an executive of a financial institution who refused to answer to summons issued by

關，即對該金融機構重新審核是否「適任」該職位。而相關機關亦有對所監理之金融機構發布特別「適任」指引，例如財政部於 2001 年即發布一個對於持有股份超過百分之 15，擁有投票權股東之「適任」條件與報告要求，另財政部亦依據退票及拒絕往來戶之規定，納入金融機構發起人及負責人適格檢測條件。

the prosecutions office in 2006, the FSC as the financial regulator conducted a special review to establish whether that person was "fit and proper" for the job. The authorities have issued specific fit and proper instructions for financial institutions for example in 2001 the MOF issued a fit and proper test and reporting requirements for shareholders holding more than 15% outstanding shares with voting rights. The MOF also promulgated a proper test for the promoter and responsible persons of financial institutions in accordance with the rules change on payment rejection and blacklist for non-payment of checks.

金錢／價值移轉服務或金錢／價值兌換服務(Money or value transfer service, or a money or currency changing service)

651) 中華台北有外匯管制並具備一個複雜的系統以管理外幣收兌處及其業務。

651) Chinese Taipei has foreign exchange controls and has a complex system of regulating the foreign currency exchange bureaus and business.

652) 在中華台北境內受到金管會監管，可以提供外匯業務之金融機構如下：

652) The financial institutions regulated by the FSC that provide foreign exchange business in Chinese Taipei are as follows:

金融機構種類	數量	分行數
國內銀行	39	3,049
外國銀行		63
信合社	19	215
農漁會信用部	26	16
中華郵政公司		111
外幣兌換處	253	

Type of Financial Instruction	Number of Institutions	Number of Branches
Domestic Banks	39	3,049
Foreign Banks		63
Credit Corporation	19	215
The Credit Departments of farmers and Fishermens' association	26	16
Chunghua Post Co., Ltd.		111
Foreign currency Exchange Bureaus	253	

653) 金錢／價值移轉服務及外匯業務在中華台北主要必須遵循管理外匯條例之管制。

653) Money/value transfer services and foreign exchange business in Chinese Taipei is subject to control principally by the Foreign Exchange Control Act.

654) 銀行法第 29 條禁止非銀行提供國內或國外匯款服

654) Article 29 of the Banking Act bars non-banks from providing domestic or foreign

務，違反規定者，由主管機關或目的事業主管機關會同司法警察機關取締，並移送法辦；如屬法人組織，其負責人對有關債務，應負連帶清償責任。

remittance services. It also requires the competent authority to act in concert with the judicial police authorities to take enforcement actions against violators and to refer cases for prosecution; and if the organization concerned is a juristic person, the responsible person shall be jointly and severally liable for repayment of the relevant obligations.

655) 對於外匯業務反洗錢與打擊資助恐怖分子涵蓋在金管會一般管理、監理及金融檢查範圍。

655) The financial examination of foreign exchange business on AML/CFT is covered under the general scope and mandate of regulation, supervision and examination conducted by the FSC.

656) 在中華台北境內非銀行團體提供金錢與價值移轉服務之評鑑發現，在本報告 3.11 節中有所評述。

656) There is also a presence of other non-banks entities that provide money or value transfer service in Chinese Taipei and evaluation findings are provided under section 3.11 of this report.

657) 外幣兌換處之設立與管理是依據外幣收兌處設置及管理辦法辦理，而該辦理是依據中央銀行法第 35 條第 2 項規定訂定。

657) The establishment and administration of foreign currency exchange bureaus is regulated by the Regulations Governing the Establishment and Administration of Foreign Currency Exchange Bureaus that is prescribed pursuant to Paragraph 2, Article 35 of the Central Bank of the Republic of China Act.

658) 中央銀行委託臺灣銀行辦理外幣收兌處設置之核准、廢止核准及必要時之業務查核等管理事項。前項業務查核，中央銀行得自行或會同臺灣銀行辦理之。

658) The CBC has entrusted Bank of Taiwan to handle administrative affairs concerning the approval of the establishment of foreign currency exchange bureaus, cancellation of such approval and performance of operational audits when necessary. The above operational audits may be performed by the CBC solely or jointly with the Bank of Taiwan.

659) 下列行業得在中華台北境內設立並經營外幣收兌處：

659) The following outlets may establish and operate a foreign currency exchange

a) 觀光旅館；
b) 旅行社；
c) 百貨公司；
d) 手工藝品業；
e) 金銀及珠寶業（俗稱銀樓業）；
f) 便利商店；
g) 國家風景區管理處；
h) 旅遊中心；
i) 火車站；
j) 寺廟；
k) 博物館。

bureau in Chinese Taipei:
a) Hotels;
b) travel agencies;
c) department stores;
d) handicraft shops;
e) gold, silver and jewellery stores (generally called jewellery stores);
f) convenience stores;
g) administrative offices of national scenic areas;
h) sightseeing service centers;
i) railway stations;
j) temples; and
k) museums.

660) 下表顯示中華台北境內各種不同外幣收兌處之外幣收兌交易數量統計：

外幣收兌處種類	年交易總值（美金仟元）		
	2004	2005	2006
觀光旅館	30884	32149	30995
藝品業	6097	9627	8545
百貨公司	4775	5155	4408
旅行社	234	290	3
銀樓業			138
免稅商店	852	633	719
合計	42844	47855	44810

660) The table below shows the volume of foreign currency transactions conducted by various categories of foreign currency exchange bureaus in Chinese Taipei.

Type of Foreign Currency Exchange Bureau	Value of Annual Transactions (US$)		
	2004	2005	2006
Hotel	30,883,998	32,149,006	30,995,288
Handicraft	6,096,725	9,626,600	8,544,887
Department Store	4,775,183	5,154,872	4,407,651
Travel Agency	233,726	289,815	2,599
Jewellery Store	0	0	138,227
Other Duty Free	852,352	632,852	719,135
TOTAL	42,843,988	47,855,150	44,809,793

661) 上述行業要建立外幣收兌處，被要求透過台灣銀行向中央銀行申請核准，外幣收兌處許可證由台灣銀行發給。

661) The above outlets intending to establish foreign exchange bureau by are required to apply to the CBC through Bank of Taiwan for approval. The license of a foreign currency exchange bureau is issued by Bank of Taiwan.

662) 從事國外來臺旅客服務之機構團體或位處偏遠地區之旅館、商店等業者亦得申請設置外幣收兌處。

662) Institutions and associations providing services to foreign ravelers or hotels and stores located in remote areas may also make application for licensing and registration.

663) 除觀光旅館外，各外幣收兌處應於門外明顯處所懸掛中英文統一識別標示。

663) Other than the tourist hotels, each foreign currency exchange bureau is required to hang combined Chinese and English

identification signs at easily visible locations outside the door.

664) 該外幣收兌處設置及管理辦法第2條限制外幣收兌處僅能從事對持有外國護照之外國旅客及來臺觀光之華僑辦理外幣現鈔或外幣旅行支票兌換新臺幣之業者。進而依據同辦法第3條規定，外幣收兌處辦理外幣收兌業務，每筆收兌金額以等值美金一萬美元爲限。

564) Article 2 of the regulations restricts a foreign currency exchange bureau to deal in exchanges foreign currency cash or traveler's checks for local currency with only foreign travelers holding passports of foreign countries and overseas Chinese coming to Chinese Taipei for tourism. Furthermore, pursuant to Article 3 the amount of each transaction handled by a foreign currency exchange bureau must not exceed ten thousand US Dollars (US$ 10,000) or its equivalent.

665) 該辦法第 6-1 條甫於 2007 年 1 月 25 日修正，將反洗錢與打擊資助恐怖分子要求納入金錢兌換行業。該法條規定外幣收兌處辦理外幣收兌業務，應確認客戶身分及留存交易紀錄憑證；對疑似洗錢之交易，應向法務部調查局洗錢防制中心申報。

665) Article 6-1 of the above regulations was only very recently amended on 25 January 2007 to bring the money changing services sector within the scope of AML/CFT requirements. It states that when handling the foreign currency exchange business, foreign currency exchange bureau is required to ascertain the identify of the customer and keep the transaction record as evidence, and report any financial transactions suspected of money laundering to Money Laundering Prevention Center, Investigation Bureau, Ministry of Justice.

666) 外幣收兌處之反洗錢與打擊資助恐怖分子要求才從 2007 年 1 月開始施行，其真正執行情形與成效尚無法建立。

666) The actual implementation and its effectiveness could not be established as the AML/CFT requirements for the foreign currency exchange bureaus came into force only recently in January 2007.

667) 外幣收兌處有下列情事之一者，臺灣銀行得予撤銷或廢止核准：

a)違反本辦法或其他有關規定，情節重大者。

b)連續兩季無收兌業務或連

667) Bank of Taiwan may revoke or cancel the license of a foreign currency exchange bureau in any of the following situations:

a) the foreign currency exchange bureau is in serious violation of these Regulations or other relevant regulations;

續四季收兌總額未達等值美金五千元者。

c)有停業、解散或破產情事者。

d)經核准辦理收兌業務後，發現原申請文件有虛偽情事，情節重大者。

b) the foreign currency exchange bureau has not conducted any foreign currency exchange transactions for two successive quarters or the total amount of transactions has not amounted to five thousand US Dollars or its equivalent for four successive quarters;

c) the foreign currency exchange bureau suspends its business, is dissolved, or becomes bankrupt; and

d) after a foreign currency exchange business is approved, the documents in the original application are found to be materially false.

對於其他類型金融機構之監管(Oversight for other FIs)

668) 依據銀行法第 52 條規定，依本法或其他法律設立之銀行或金融機構，其設立標準，由主管機關定之。

668) Under Article 52 of the Banking Act, the requirements for the establishment of banks or other financial institutions to be established in accordance with the Banking Act or other laws shall be as prescribed by the central competent authority.

669) 洗錢防制法第 5 條所定義之金融機構，包括：銀行、信託投資公司、信用合作社、農會信用部、漁會信用部、票券金融公司、辦理儲金匯兌之郵政機構、信用卡公司、保險公司、證券商、證券投資信託事業、證券金融事業、證券投資顧問事業、證券集中保管事業、期貨商、信託業。上揭行業都有自行行業管理規定，並遵循有關反洗錢與打擊資助恐怖分子之規定與監管。

669) Article 5 of the MLCA defines the term "financial institution" to include banks, trust investment companies, credit cooperatives, farmers' association credit departments, fishermen's association credit departments, bills finance companies, postal organizations that operate saving and remittance services, bills finance companies, credit card companies, insurance company, securities firms, securities investment trust enterprises, securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, futures commission merchants, and trust enterprises. Each of the above is governed by its own set of regulations, and

is subject to regulation and oversight regarding its AML/CFT measures.

670) 金融監督管理委員會研擬中之「金融服務法草案」，允許該會得對各金融服務業施以差異化管理之條文，該條文並授權該會訂定該差異化管理之相關規範。

670) The Financial Services Act currently being drafted by the FSC contains provisions that will allow the FSC to exercise differential regulatory treatment with respect to financial service enterprises. The provisions also authorize the FSC to adopt regulations dealing with differential regulatory treatment.

671) 洗錢防制法及其第 7 條、第 8 條授權規定事項對於在中華台北境內反洗錢與打擊資助恐怖分子管理與監理系統之功能與責任有所規範，然而，洗錢防制法並未指定任何特定機關負責確保洗錢防制法之遵循。

671) The MLCA and the accompanying regulations on Article 7 and 8 designate the functions and responsibilities for AML/CFT regulatory and supervisory system in Chinese Taipei to the competent authority. However, the MLCA does not designate any particular authority as the authority responsible for ensuring compliance with the Act.

672) 行政院金融監督管理委員會組織法規定該會主管金融市場及金融服務業之發展、監督、管理及檢查業務。行政院農業委員會農業金融局負責農業金融機關之監理、政策性農貸之研擬及推動。

672) The Organic Act governing the establishment of the FSC provides that the FSC is the competent authority for development, monitoring, regulation, and examination of financial markets and financial service enterprises. The BOAF is responsible for supervising agricultural financial institutions, planning and promoting agricultural loan in policy aid.

673) 如前所敘，檢查局是金管會 4 個局之一，負責金融監理與檢查，以及擬訂、計劃與執行這些功能之政策與規範。

673) As mentioned earlier, the FEB is one of the four bureaus under the FSC, and is entrusted with the responsibilities of financial institution supervision and examination as well as the drafting, planning and executing of the polices and regulations with regard to these functions.

674) 檢檢局已訂定金融檢查手冊並遵照執行，內容涵蓋金融檢查對於反洗錢相關事

674) The FEB has developed and implemented a financial examination manual or handbook to include key points and procedures for

務之重點與程序。該手冊依不同金融行業而有所差異，包括國內銀行、外國銀行、保險事業、證券商、票券金融公司、農漁會會計部及信用合作社等。

financial examinations regarding money laundering matters. The examination manual is sector specific and includes the domestic banks, foreign banks, insurance enterprises, securities firms, bills finance companies, credit departments of farmers and fishermen's associations, credit cooperatives.

謹慎的金融監理及反洗錢與打擊資助恐怖分子監理(Prudential Supervision and AML/CFT Supervision)

675) 金融監督管理委員會是中華台北唯一的金融監理機關，監管銀行業、證券及保險業。由於金管會監督這些行業，以確保金融機關及金融市場穩定的廣大職責，該會持續努力將中華台北的金融系統與國際系統更加緊密結合。因此，謹慎的監理系統結合反洗錢與打擊資助恐怖分子目標之執行與遵循作爲，該會採行巴賽爾銀行監理委員會、國際證券業監理組織及國際保險業監理協會爲策進金融系統健全與穩定之原則與指引。

675) Chinese Taipei's single financial supervisory authority the FSC has the oversight of the banking, securities and insurance industries. With this broad mandate the FSC monitors these industries to ensure the stability of financial institutions and financial markets. In doing so, the FSC is engaged in an ongoing effort to bring Chinese Taipei's financial system more closely in line with the international system. Accordingly, the prudential supervisory system incorporates measures for implementing and complying with the AML/CFT objectives. The FSC has adopted the Core Principles and guidance issued by the Basel Committee, IOSCO and IAIS for benchmarking financial system soundness and stability.

金融機構之許可及反洗錢與打擊資助恐怖分子之監督(Licensing of Financial institutions and oversight for AML/CFT purposes)

676) 銀行法第52條規定，依本法或其他法律設立之銀行或金融機構，其設立標準，由主管機關定之。保險法第137條對於建立保險事業亦定出4項要求。

676) Under Article 52 of the Banking Act, the requirements for establishment of banks or other financial institutions to be established in accordance with the Banking Act or other laws is prescribed by the central competent authority. And Article 137 of the Insurance Act also sets forth requirements regarding

the criteria for establishing an insurance enterprise.

677) 農業金融法第 3 條及第 28 條規定爲農會信用部、漁會信用部之管理規範及全國農業金庫申請設立與許可之規範。

677) Article 3 and Article 28 of the Agricultural Finance Act, the Regulation Governing Business of the Credit Department of Farmers' and Fishermen's Associations and the Regulations Governing the Establishment and Approvals of the Agricultural Bank of Taiwan respectively provide regulations for the establishment of agricultural financial institutions.

678) 如前所敘，銀行局、證期局及保險局負責所轄金融機構之許可及監理，包括對反洗錢與打擊資助恐怖分子之監管。

678) As described earlier, the banking, securities, and insurance bureaus are responsible for the licensing of their respective financial institutions and their supervisory oversight including oversight for AML/CFT purposes.

679) 金管會保存相當充足且透明之管理監督統計資料，包括該會對金融機構之裁罰紀錄。評鑑團亦發現金管會對於反洗錢與打擊資助恐怖分子之金融檢查數量統計相當充分。

679) The FSC maintains adequate and transparent statistics of regulatory and supervisory outputs including adequate records of sanctions imposed by the FSC. The Evaluation Team also found the statistics on the number of AML/CFT inspections conducted by the FSC to be adequate.

指引(Guidelines)

680) 洗錢防制法第 6 條要求金融機構建立自己的防制洗錢注意事項並報請中央主管機關備查。

680) Article 6 of the MLCA requires a covered financial institution to establish its own money laundering guidelines and procedures and then submit those guidelines and procedures to the competent authority for review.

681) 如本報告第 3.8 節所敘，訂定防制洗錢注意事項之責任由金融機構及所屬自律組織(公會)共同負擔，自律

681) As mentioned in part 3.8 of this report the responsibility to develop money laundering prevention guidelines and procedures is shared between the financial institution and

組織由相關機關，特別是監理機關及調查局，接收相關指引及指示，並依據洗錢防制法第 6 條之要求辦理。自律組織在訂定防制洗錢注意事項範本時，應先透過內部程序尋求會員同意，再送給會員內化爲自己內部防制洗錢程序。中華台北境內之金融機構通常會全盤接收變成內部文件，此一方式對小規模之金融機構類型更爲普通。

their respective SRO. The SRO would receive guidance and directive from the competent authorities, namely the supervisory authority or the MJIB. As required under Article 6, the SRO would seek approval of the internal control procedures for money laundering prevention and submit to its members to accordingly incorporate these in their own internal procedures. It is a common practice in Chinese Taipei that financial institutions would adopt the entire procedures as their internal document. This approach is more common in the smaller categories of financial institutions.

682) 下列金融行業及特定專門職業有訂定反洗錢與打擊資助恐怖分子指引：

a) 銀行防制洗錢注意事項

b) 證券商防制洗錢注意事項

c) 人壽保險業防制洗錢注意事項

d) 產物保險防制洗錢注意事項

e) 銀樓業防制洗錢注意事項

f) 洗錢防制法第 7 條授權規定事項

g) 洗錢防制法第 8 條授權規定事項

h) 銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法

i) 金融機構辦理國內匯款作業確認客戶身分原則

682) The following AML/CFT guidelines have been issued for the financial institutions and the DNFBP sectors:

a) Money Laundering Prevention Guidelines and Procedures for Banking Industry;

b) Money Laundering Prevention Guidelines and Procedures for Securities Firms;

c) Money Laundering Prevention Guidelines and Procedures for life Insurance Industry;

d) Money Laundering Prevention Guidelines and Procedures for Non-life Insurance Industry;

e) Money Laundering Prevention Guidelines and Procedures for Precious metals and stones distributors;

f) Regulations Regarding Article 7 of the Money Laundering Control Act;

g) Regulations Regarding Article 8 of the Money Laundering Control Act;

h) Regulations Governing Bank Handling of

Accounts with Suspicious or Unusual Transactions;

i) Directions for Confirming Customer Identity in Domestic Remittance Operations of Financial Institutions.

683) 如本報告其他部分所提，相關金融行業監理機關及自律組織在處理反洗錢與打擊資助恐怖分子指引上採取非常支持性之作爲，自律組織一方面和所屬會員密切合作發展指引，另一方面和有關機關協商，以確保所訂指引具備合宜之授權，同時亦提供管道讓這些指引可以分送給所有會員並確保遵循。

683) As mentioned elsewhere in the report, the relevant financial sector supervisory authorities and the relevant SROs take a wider supportive approach when dealing with guidelines. The SROs on one hand work closely with their members when initially developing the guidelines and on the other hand liaise with the regulatory authorities to ensure that the guidelines are properly authorized. The SROs again provide conduit for distributing these guidelines to the members and also ensure its compliance.

684) 中華台北各有關機關建立並執行反洗錢與打擊資助恐怖分子之法規與指引方式有些複雜，法務部是中華台北執行洗錢防制法之中央權責機關。

684) Chinese Taipei has a somewhat complex system of involving various authorities and agencies in establishing and implementing AML/CFT regulations and guidelines. The MOJ is the central competent authority in Chinese Taipei for implementing the MLCA.

685) 金管會訂定指引予銀行、證券商、保險公司及其他金融機構，並協助金融機構遵循洗錢防制法。

685) The FSC provides guidance to banks, securities firms, insurers, and other financial institutions and helps them properly abide by the MLCA.

686) 金管會於 2004 年成立之後，中央銀行不再監理或管理任何個別金融機構對於反洗錢與打擊資助恐怖分子之遵循。

686) After the establishment of FSC in 2004, the CBC no longer supervises or regulates any individual financial institutions regarding AML/CFT.

687) 經濟部爲銀樓業之監理機關，負責該行業防制洗錢與打擊資助恐怖分子之政策

687) The Ministry of Economic Affairs (MOEA) is the competent authority for the precious metals and stones distributors and in charge

規劃、執行策略及監督執行成效。該部已爲銀樓業者訂定防制洗錢注意事項範本。

of the strategic planning, implementation and monitoring the effectiveness on AML/CFT. The MOEA has established a Checklist of Money Laundering Prevention Guidelines and Procedures for the businesses dealing in jewellery.

688) 農委會農金局負責農業金融機構之監理及政策性農業專案貸款之規劃推動，但並未直接規範這些金融機構之反洗錢與打擊資助恐怖分子作爲。

688) The BOAF is responsible for supervising agricultural finance institutions, planning and promoting agricultural loan in policy aid. BOAF however does not directly regulate AML/CFT measures for these institutions.

689) 銀行公會是首要的金融行業自律組織，截至2005年底止，會員機構合計有64家。依「洗錢防制法」第6條規定，銀行公會訂有「銀行防制洗錢注意事項範本」，供會員機構據以訂定其內部之防制洗錢注意事項。

689) The Bankers Association is the primary financial sector SRO body and has 64 member institutions as of the end of 2005. As required under Article 6 of the MLCA, the Bankers Association has issued a “Checklist of Money Laundering Prevention Guidelines and Procedures for Banks”, which member institutions are to use as a basis for formulating their internal AML rules.

690) 有關機關告知信用合作社聯合社及農訓協會亦間接發布防制洗錢注意事項範本並爲會員舉辦訓練研討會。

690) The authorities have advised that the Credit Cooperative Union and the Agriculture Training Association also indirectly issue money laundering prevention guidelines and procedures, i.e. the checklist and hold training seminars for their members.

691) 證券投資信託暨顧問商業同業公會已爲證券投資信託事業及證券投資顧問事業訂定「證券投資信託事業證券投資顧問事業防制洗錢注意事項範本」。

691) The SITCA has adopted a Checklist of Money Laundering Prevention Guidelines and Procedures for Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises.

692) 信託業商業同業公會已爲信託業者訂定「信託業防制洗錢注意事項」範本。鑒於

692) The Trust Association has adopted a Checklist of Money Laundering Prevention Guidelines and Procedures for Trust

目前信託業都由銀行兼營。爲利業者遵循，該範本主要係參考銀行公會訂定之「銀行防制洗錢注意事項」範本。

Enterprises. Since all trust enterprises in Chinese Taipei are concurrently operated by banks, the Trust Association formulated its checklist with reference to the Checklist of Money Laundering Prevention Guidelines and Procedures for Banks.

693) 證券商商業同業公會已爲證券商訂定防制洗錢注意事項範本。

693) The Taiwan Securities Association has adopted a “Checklist of Money Laundering Prevention Guidelines and Procedures for Securities Firms”.

694) 中華民國期貨業商業同業公會已爲期貨商訂定防制洗錢注意事項範本，提供會員機構訂定內部相關規範參考。

694) The CNFA has adopted a Checklist of Money Laundering Prevention Guidelines and Procedures for Futures Commission Merchants, which CNFA members are to use as a basis for formulating their internal AML rules.

695) 人壽保險商業同業公會已爲人壽保險公司訂定「人壽保險業洗錢防制注意事項範本」，產業保險商業同業公會已爲產業保險公司訂定「保險業洗錢防制注意事項範本」。如前所敘，保險代理業及經紀業目前仍然免除有關反洗錢與打擊資助恐怖分子之要求。金管會保險局表示主要原因是因爲目前市場實際操作，仍然在保險公司控制之下，保險公司有責任查核其本身之反洗錢與打擊資助恐怖分子程序爲保險代理人及經紀人所遵循。

695) The Life Insurance Association has issued a Checklist of Money Laundering Prevention Guidelines and Procedures for Life Insurance Companies. The Non-life Insurance Association has issued a Checklist of Money Laundering Prevention Guidelines and Procedures for Non-Life Insurance Companies. As mentioned earlier, insurance agents and brokers are exempted from the current AML/CFT requirements. The FSC’s Insurance Bureau has confirmed that the reason for excluding the brokers and agents is mainly due to the current market practice in Chinese Taipei where they work under the control of the insurance companies and it would be the responsibility of insurance companies to check if proper AML/CFT procedures are followed by the insurance brokers and agents.

696) 律師公會、會計師公會、地政士公會、不動產仲介經紀業尚未進行有關發布相關管理指引之諮詢，主要是因爲這些行業尚未納入洗錢防制法之規範。

696) The National Bar Association, the Certified Public Accountants Association, the Associations of Land Administration Agent and the Associations of Real Estate Broking Agencies have not yet undertaken consultation on the issuance of regulatory guidelines primarily because these sectors are currently not covered under the MLCA.

697) 2006年1月洗錢防制中心分送新版反洗錢與打擊資助恐怖分子指引"申報疑似洗錢交易Q&A"予所有金融機構。

697) In January 2006 the MLPC disseminated to financial institutions the revised AML/CFT guidance on "Q&A of Reporting Suspicious Transaction".

3.10.2 建議與評論 (3.10.2 RECOMMENDATIONS AND COMMENTS)

698) 建議有關機關應：

a) 修正洗錢防制法相關條款以釐清監理機關使用制裁權力之能力以加強對於反洗錢與打擊資助恐怖分子標準之遵循。

b) 釐清對於外匯、電匯及金錢與有價物品移轉服務業之監理責任。

c) 有關機關對違反反洗錢與打擊資助恐怖分子反洗錢與打擊資助恐怖分子應予更廣泛之制裁。

698) It is recommended that the authorities should:

a) amend the provisions of the MLCA to clarify the supervisory authorities' ability to use their sanctioning powers to enforce compliance with AML/CFT standards;

b) clarify AML/CFT supervisory responsibilities over the foreign exchange and wire transfer and MVT service providers; and

c) impose a wider range of sanctions by authorities for AML/CFT violations.

699) 洗錢防制法及相關指引對於反洗錢與打擊資助恐怖分子要求之範圍應擴及保險代理人及經紀人。

699) The scope of AML/CFT requirements in the MLCA and the guidelines should be expanded to include insurance agents and brokers.

700) 中華台北在執行建議第25項所採取之作爲，依據洗錢防制法建立相關指引之規

700) The approach taken by Chinese Taipei to deal with implementing R25 on establishing guidelines under the MLCA is not clear. In

定並不明確。事實上，洗錢防制法將相關機關應建立指引之責任轉給金融機構負擔，據信由於這種方式造成金融機構對於確保所訂之指引能夠符合有關機關要求之負擔太重，而有關機關僅被要求備查這些指引，不過金管會已積極參與訂定銀行業、證券業及保險業之防制洗錢注意事項範本。

fact, the MLCA shifts the obligation to issue guidelines from the relevant competent authorities to the financial institutions themselves. It is believed that as a result of this approach the financial institutions are unduly burdened to ensure that the guidelines are developed in a manner that meets requirements expected by the competent authorities. The competent authorities are required to merely "review" the guidelines and procedures. The FSC however has been more proactively involved in the issuance of such guidance to the banking, securities and insurance sectors.

701) 有關機關應考量較簡化方式，直接依據洗錢防制法訂定相關指引。

701) Authorities should consider streamlining the approach to establishing guidelines under the MLCA.

702) 金管會檢查局之人力資源，特別是從事一般例行及特別檢查之職員，有必要檢討以補充足夠人力因應龐大數量的金融機構檢查。

702) The human resource capacity of the FEB, in particular, staff involved in the routine and special examinations, needs to be reviewed to determine adequacy of staffing resources in line with a substantially large size of the financial institutions that are captured under its mandate.

703) 有關機關應檢討外幣收兌處之洗錢及資助恐怖分子風險。

703) Authorities should review ML & FT risk posed by outlets that provide foreign currency exchange services.

704) 有關機關最近始將反洗錢與打擊資助恐怖分子之要求擴及貨幣兌換行業並應注意其執行成效。

704) The authorities have only recently extended the AML/CFT requirements to the money changing services sector and special attention to this sector should be given to establish its effectiveness.

705) 有關機關應重新檢討中央銀行與台灣銀行在同意外幣兌換處設立、撤銷及營業

705) Authorities should re-examine the sharing of statutory responsibilities between the CBC and the Bank of Taiwan concerning the

稽查之法律責任分攤。

approval of the establishment of foreign currency exchange bureaus, cancellation of such approval and performance of operational audits.

3.10.3 建議第17, 23, 25, 29, 30 及 32項之遵循評等 (3.10.3 COMPLIANCE WITH RECOMMENDATIONS 17, 23, 25, 29, 30 & 32)

	評等	評等理由摘述
建議第17項	LC	● 金融監督管理委員會對許多未遵循反洗錢與打擊資助恐怖分子之銀行業者的處罰方式與內容有所不足。 ● 有關機關對於金融機構違反規定之大量警示並未進行足夠之檢討並施以合宜制裁。
R.17	LC	● The type and nature of sanctions actually imposed to date by the FSC are inadequate in view of the many AML/CFT on-compliance findings for the banking sector. ● The authorities have not adequately reviewed the appropriateness of sanctions in light of the large number of warnings issued to financials institutions for AML/CFT non-compliance.
建議第23項	LC	● 保險代理業及經紀業目前被免除反洗錢與打擊資助恐怖分子之要求。 ● 有關機關剛對貨幣兌換服務業課以反洗錢與打擊資助恐怖分子之要求，其執行成效尚無法建立。
R.23	LC	● Insurance agents and brokers are exempted from the current AML/CFT requirements. ● The authorities have only recently extended the AML/CFT requirements to the money changing services sector and its effectiveness could not be established.
建議第25項	PC	● 洗錢防制法對於建立指引之方式並未清楚規定，且將建立指引之義務轉嫁金融機構，有關機關僅被要求備查這些指引及程序。 ● 指引內容未詳列符合各行業之特殊需求。
R.25	PC	● The approach taken to establishing guidelines under the MLCA is not clear and shifts the obligation to issue guidelines to financial

		institutions. The competent authorities are required to merely "review" the guidelines and procedures. ● Guidelines are not detailed to adequately capture requirements specific to each industry.
建議第29項	LC	● 外幣兌換行業納入反洗錢與打擊資助恐怖分子規範，在2007年1月才開始施行，實際執行情形及成效尚無法建立。 ● 外幣兌換行業監理架構不明。
R.29	LC	● The actual implementation and its effectiveness could not be established as the AML/CFT requirements for the foreign currency exchange sector came into force only recently in January 2007. ● Supervisory framework for the foreign exchange sector is unclear.
建議第30項	LC	● 金管會檢查局之人力資源，特別是從事一般例行及特別檢查之職員與需要因應龐大數量的金融機構檢查確有不足。
R.30	LC	● The adequacy of staffing resources of the FEB involved in the routine and special examinations is lacking when compared with the large size of the financial sectors captured under its mandate.
建議第32項	LC	● 有關機關尚無針對特定非金融事業體及專業人士進行有效檢討以確認洗錢及資助恐怖分子之風險。 ● 第32項遵循評等要綜合本報告其他部分。
R.32	LC	● Authorities have yet to undertake a comprehensive review to ascertain the extent to which the DNFBP entities may pose money laundering and terrorist financing risks. ● The compliance rating in this box is an aggregate rating of R.32 across the various parts of the report.

3.11 金錢或有價物品移轉服務-特別建議第VI項(MONEY OR VALUE TRANSFER SERVICES-SR.VI)

3.11.1 說明與分析 (DESCRIPTION AND ANALYSIS)

706) 只有銀行可以提供國內或國外匯款服務，依據銀行法第 3 條規定銀行之營業範圍，銀行得處理國內及國外匯款業務。

706) Only banks are authorized to provide domestic or foreign remittances service. As provided under Article 3 on the scope of business of banks under the Banking Act, a bank may handle domestic and foreign remittances business.

707) 除了銀行業之匯款業務外，顯然中華台北存在相當大的非正式匯款行業。有許多因素支撐非正式匯款行業的規模，包括低成本的非銀行匯款及在中華台北境內的外勞利用銀行匯款管道之外的替代性匯款服務。合計目前大約有 10 萬菲律賓人及 30 萬越南人在中華台北境內，而來自泰國及印尼的外勞亦在持續增加當中，外國學生及生意人，包括來自印度受聘在此地工作之高科技專業人員，亦占中華台北金錢移轉相當顯著之比例。

707) It is apparent that Chinese Taipei has a significant informal remittance sector in addition to the banking remittance sector. Factors supporting the size of the informal remittance sector include the limit on widespread low cost non-bank remittance and the significant populations of overseas foreign workers in Chinese Taipei who may take up alternative remittance services outside of the available banking remittance channels. It is estimated that there are presently over 100,000 Filipinos and around 300,000 Vietnamese in Chinese Taipei, while the number of foreign laborers from Thailand and Indonesia is gradually rising. Foreign students and businesspeople, including high-tech professionals from India employed in Chinese Taipei's high-tech industries, also account for a significant portion of money transfers in Chinese Taipei.

708) 對於一些未被授權之國內或國外匯款案例，金管會在警察的協助下採取矯正行動，並將違反法令者移送法院處理。銀行法第 29 條規定，違法者如屬法人組織，其負責人對有關債務，應負連帶清償責任。執行違法調查時，得依法

708) In cases of unauthorised domestic or foreign remittance, the FSC is authorized to take remedial action with the assistance of the police and refer any violations to the court for action. Article 29 also states that if the organization concerned is a juristic person, the responsible person shall be jointly and severally liable for repayment of the relevant obligations. When investigating the

搜索扣押被取締者之會計帳簿及文件，並得拆除其標誌等設施或爲其他必要之處置。

violations, “a suspected party's accounting books and documents may be searched and detained in accordance with the law, facilities including signs may be torn down and/or other necessary actions may be taken.”

709) 銀行法第 125 條規定：違反第二十九條第一項規定者，處三年以上十年以下有期徒刑，得併科新臺幣一千萬元以上二億元以下罰金。其犯罪所得達新臺幣一億元以上者，處七年以上有期徒刑，得併科新臺幣二千五百萬元以上五億元以下罰金。

709) Article 125 of the Banking Act states that “those who violate Article 29, Paragraph 1, of this Act shall be punished by imprisonment for not less than three (3) years and not more than ten (10) years, and may be fined a criminal fine of not less than Ten Million New Taiwan Dollars (NT$10,000,000) and not more than Two Hundred Million New Taiwan Dollars (NT$200,000,000). Those who thereby obtain criminal income of One Hundred Million New Taiwan Dollars (NT$100,000,000) or more shall be punished by imprisonment for more than seven (7) years, and may also be fined a criminal fine of not less than Twenty Five Million New Taiwan Dollars (NT$25,000,000) and not more than Five Hundred Million New Taiwan Dollars (NT$500,000,000).”

710) 銀行法第29條禁止非銀行提供國內或國外匯款服務，違反規定者，依該法第 125 條之規定處罰。另言之，除了銀行之外，沒有任何金錢或有價物品移轉服務業者被允許在中華台北境內提供客戶匯款服務。

710) Article 29 of the Banking Act bars non-banks from providing domestic or foreign remittance services. Those in violation of the said Article shall be punished pursuant to Article 125 of the Banking Act. In other words, there are no money or value transfer service (MVT) operators other than banks allowed to provide remittance services to customers in Chinese Taipei.

711) 爲了更有效率或及具成本效益之方式提供匯款服務，中華台北境內銀行被允許與國外匯款服務業者

711) In order to render remittance services in a more efficient or cost-effective way, banks in Chinese Taipei are allowed to establish agency relationships with foreign remittance

建立代理關係。

service providers.

712) 金錢或有價物品移轉服務業者被要求向經濟部申請許可，在2005年8月，經濟部同意許可西聯公司以"電子服務業者"身分營業，但被限制必須透過銀行提供匯款服務。

712) Money or value transfer service providers are required to obtain a licence from the MOEA. In August 2005, the MOEA granted a licence to Western Union to operate as an "electronic service provider". Western Union is limited to operating through existing banks when providing remittance services.

713) 有關機關告知西聯公司在中華台北境內只是一個推銷單位，無實際業務運作亦無分行，亦無提供顧客匯款服務，所以並不在金管會對金融機構監理之範圍。

713) The authorities have also advised that Western Union in Chinese Taipei is only a marketing unit and as a financial institution, has no business operation and branches in Chinese Taipei. As Western Union in Chinese Taipei does not provide remittance services to customers, they consider that it does not fall within the purview of financial institutions supervised and inspected by the FSC.

714) 就銀行透過西聯公司提供匯款服務之反洗錢作爲而論，銀行被要求遵循銀行業辦理外匯業務管理辦法、防制洗錢注意事項及所有相關之反洗錢法令。

714) In terms of the AML measures for remittances by banks using the Western Union services, banks are required to still adhere to the "Guidance for Banking Enterprises to Operate Foreign Exchange Business", "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" and all related AML laws and regulations.

715) 2007年1月有4家銀行共172家分行在中華台北境內提供西聯公司匯款服務，該4家銀行所處理之匯款有百分之11是透過在中華台北有證照之西聯"推銷單位"處理。

715) As at January 2007 four banks provide Western Union service from a total of 172 branches throughout Chinese Taipei. 11% of all remittance by the preceding four banks is undertaken through the licensed Western Union 'marketing unit'.

716) 中華台北有關機關進一步澄清違反銀行法第29條之

716) The Chinese Taipei authorities provided further clarification after the on-site visit

執法行動及對金錢或有價物品移轉服務業之監控。有關機關亦密切合作以偵查及調查地下通匯。

regarding enforcement of Article 29 of the Banking Act for the regulation and monitoring of the money or value transfer service providers. The competent authorities have worked closely to detect and investigate underground banking remittance.

717) 依據中華台北對於地下通匯之起訴案件統計，執法具有相當成效：

a) 2005 年有 25 件，涉案金額新台幣 67 億元。

b) 2006 年有 30 件，131 位涉嫌人，涉案金額新台幣 779 億元。

717) The enforcement appears to be effective based on a number of prosecutions undertaken by Chinese Taipei as follows:

a) 25 cases in 2005 involving NTD$6.7 billion; and

b) 30 cases in 2006 involving 131 suspects and an amount of NTD$77.9 billion.

718) 經濟部指出西聯公司預估在中華台北境內之個人，不包括企業匯款，國外匯款服務之年需求達美金 560 億元。

718) MOEA indicates that "Western Union estimates that there is an annual demand of up to USD 56 billion for foreign currency remittances by individuals, not including business remittances", in Chinese Taipei.

3.11.2 建議與評論 (RECOMMENDATIONS AND COMMENTS)

719) 在銀行業管道之外，無任何匯款服務業者被允許經營匯款服務，對於金錢或有價物品移轉服務業者僅有向經濟部申請許可或登記之要求。有關機關無法提供其他金錢或有價物品移轉服務業存在之資訊。除了銀行法第 29 條禁止非銀行業提供國內外匯款之規定外，中華台北無任何特別法律或規定可以管理金錢或有價物品移轉服務業者。

719) No remittance providers are licensed to operate outside of the banking channels. There is only a general requirement for money or value transfer services to be licensed or registered with the MOEA. The authorities could not provide information on the existence of other money or value transfer service providers. Apart from Article 29 of the Banking Act that bars non-banks from providing domestic or foreign remittance services, Chinese Taipei does not have any specific laws or regulations governing the money or value transfer service providers.

720) 有關管理、管理及監理金

720) The licensing, regulation and supervision of

錢或有價物品移轉服務業者，應被清楚定義於洗錢防制法及金融管理政策之中。

money value transfer service providers should be clearly defined in the MLCA and in regulatory policies.

721) 大量未受規範之匯款管道存在並明顯受到非本國人之利用，應該持續在架構及策略上之強化，以增加透過正式管道匯款服務之比例。

721) Large scale unregulated remittance channels exist and are used predominantly by non-nationals, with a continuing need for structures or strategies to support increased uptake of remittance through formal channels.

722) 有關機關應深入研究非正式匯款業務在中華台北之存在現況，並考慮額外措施以增加匯款可以從非正式管道移轉到受規範之正常管道。這樣的檢討也許可以從政府、私部門角度，甚至與非正式匯款業者之聯繫作爲獲得相關資訊。而主事者亦可以從其他國家之經驗及國際組織如防制洗錢金融行動工作組織、亞太防制洗錢組織、世界銀行等所發布之相關態樣與最佳實踐作爲等文獻，建立一個較佳匯款服務之反洗錢與打擊資助恐怖分子規範。

722) The authorities should undertake further study of the nature of informal remittance business carried out from Chinese Taipei and consider additional measures to build incentives that encourage a shift of remittance from informal to regulated channels. Such a review may seek to consider information from government and the private sectors and may include an outreach programme to the informal remittance sector. The reviewers may wish to have regard to the experiences of other countries and typologies and best practices identified by international bodies including FATF, APG and World Bank for supporting better regulation of remittance for AML/CFT.

3.11.3 特別建議第IV項之遵循評等(COMPLIANCE WITH SPECIAL RECOMMENDATION VI)

	評等	評等理由摘述
特別建議第VI項	LC	● 除了銀行法第29條限制非銀行不得提供國內或國外匯款服務外，沒有任何特別法令規範銀行業以外之金錢及有價物品移轉服務業者。 ● 銀行業以外無任何匯款業者被核准營業，儘管有未受規範之匯款管道存在，有必要在架構及策略

		上持續增加對利用正常匯款管道之支持作爲。 ● 金管會對於金錢及有價物品移轉服務提供者之規範、監理與遵循架構，應反應在政策架構之中。 ● 銀行法第29條之執法行動是相當有效率，但是地下通匯之弱點仍然存在並需要持續評估。
SR.VI	LC	● Apart from Article 29 of the Banking Act that bars non-banks from providing domestic or foreign remittance services, Chinese Taipei does not have any specific laws or regulations governing the money or value transfer service providers that operate outside of banking channels. ● No remittance providers are licensed to operate outside of the banking sector, despite the existence of unregulated remittance channels exist, with a continuing need for structures or strategies to support increased uptake of remittance through formal channels; ● The regulation, supervision and compliance framework for money or value transfer service providers that is undertaken by the FSC should be reflected in their policy framework. ● The enforcement of Article 29 of the Banking Act is effective however, underground banking vulnerabilities remain and need to be continuously assessed.

4 預防性措施-「特定非金融事業體與專業人士」(PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS)

723) 中華台北對於特定非金融事業體與專業人士之反洗錢與打擊資助恐怖分子之預防性作爲及於信託業及銀樓業，而賭場之設立與經營爲法律所明文禁止。

723 Chinese Taipei's scope of coverage of AML/CFT preventative measures for the DNFBP sector extends to trust businesses and dealers in jewellery while the establishment and operation of casinos are prohibited by law.

724) 信託業務在中華台北境內是由銀行經營，有關反洗錢與打擊資助恐怖分子管理體制大致類同銀行之架構。因此，如果在本報告第 3 部分對金融機構之說明與分析中已提及，本節部分說明與分析會排除信託業。

724) Trust business in Chinese Taipei is conducted by banks and the AML/CFT regulatory regime for trust business is largely similar to the regulatory framework for banks. Therefore, the description and analysis under some parts of this section may exclude the trust business as these are covered under the general scope of description and analysis for financial institutions under other parts of section 3 of this report.

725) 信託及公司服務提供者係指透過會計師或律師協助設立公司及信託之人，此行業一般而言未受到反洗錢與打擊資助恐怖分子之規範。

725) Trust and company services providers, that is, persons that assist in the setting up of companies and trusts is provided by a certified public accountant or a lawyer and this sector is generally largely unregulated for AML/CFT purposes.

726) 銀樓業是在 2003 年 10 月被納入洗錢防制法規範，洗錢防制法課以金融機構反洗錢與打擊資助恐怖分子之義務及於銀樓業者，有關客戶審查及紀錄保存，如同洗錢防制法第 7 條授權規定，適用於現金交易達新台幣 1 百萬元(美金約 3 萬 1 千元)以上者。此一金額與 FATF 爲貴金

726) The jewellery sector was brought under the ambit of MLCA in October 2003. The AML/CFT obligations that are imposed under the MLCA on "financial institutions" are equally applied to the jewellery sector. The scope of CDD and record-keeping as provided under regulations regarding Article 7 of the MLCA is applied for cash transactions above NT$1,000,000 or US$31,000. This amount falls short of the US/€ 15,000 threshold set under the FATF

屬及寶石業者所訂美金／歐元 1 萬 5 千元之門檻高出甚多。

standards for dealers in precious metals and stones.

727) 經濟部是銀樓業對於反洗錢與打擊資助恐怖分子之監理機關，並已爲銀樓業者訂定「防制洗錢注意事項」。

727) The MOEA is the relevant AML/CFT supervisor for the jewellery sector and the ministry has issued a “Checklist of Money Laundering Prevention Guidelines and Procedures” for the businesses dealing in jewellery.

728) 律師、公證人、不動產經紀商及會計師目前尚未涵蓋在中華台北反洗錢與打擊資助恐怖分子預防性作爲之規範行業。

728) Lawyers, notaries, real estate agents and accountants are not presently covered under the specific scope of AML/CFT preventative measures in Chinese Taipei.

4.1 客戶審查和紀錄保存-建議第12項並涵蓋第5至10項之適用 (CUSTOMER DUE DILIGENCE AND RECORD-KEEPING - R.12, applying R.5 to 10)

4.1.1 說明與分析 (DESCRIPTION AND ANALYSIS)

銀樓業者(Jewellery Shops)

729) 在中華台北境內有3725家銀樓業者在營業，其中有554家以公司型態存在，其他非公司型態之事業體。開設銀樓並不需要許可，但是根據商業團體法，任何銀樓依據商業登記法設立或合併者，都必須加入銀樓公會。目前有 3 個銀樓公會：台北市銀樓公會、高雄市銀樓公會及台灣省銀樓公會，目前共有3583家銀樓加入公會。

729) There are 3,725 jewellery shops operating in Chinese Taipei. 554 of them are corporations, and the rest are non-incorporated business entities. Opening of a jewellery shop does not require a license, but according to Article 12 of the Commercial Group Act, any jewellery shop, regardless of whether it is incorporated or established in accordance with the Commercial Registration Act, must join the relevant business association of jewellery shops. There are currently three business associations of jewellery shops: The Taipei Business Association of Jewellery Shops, the Kaoshung Business Association of Jewellery Shops, and the United Association of Jewellery Shops Association for Taiwan Province. The three associations combined

have a total of 3,583 jewellery shops as their members.

730) 各銀樓公會已依洗錢防制法第 6 條規定，訂定防制洗錢注意事項，然而除此之外，公會在反洗錢與打擊資助恐怖分子之功能，大都僅限於教育所屬會員及充當政府與會員間之協調角色。

730) The business associations established the Money Laundering Prevention Guidelines and Procedures for Precious Metals and Stone Distributors in accordance with Article 6 of the Money Laundering Control Act. However, other than the establishment of the Guidelines, the business associations' functions in the realm of AML/CFT are mostly limited to education of their members and liaison between the government authorities and members.

731) 依據洗錢防制法，第 7 條授權規定事項及銀樓業防制洗錢注意事項定有銀樓業之客戶審查要求。銀樓業者對於單筆現金交易達新台幣 1 百萬元以上者，必須要求客戶提供身分證明文件及留存身分紀錄。

731) Under Article 7 of the MLCA, the Regulations Regarding Article 7 of the MLCA, and the Money Laundering Prevention Guidelines and Procedures for Precious Metals and Stone Distributors set out CDD requirements for jewellery shops. A jewellery shop must require the customer to provide identification document and keep a record of the ID information when the amount of a single currency transaction is over NT$1 million.

732) 前面所揭規定及注意事項具體說明銀樓業者進行客戶審查時之身分證明文件種類爲：國人爲身分證或護照、法人爲公司登記證及法人代表人之身分證。

732) The aforementioned Regulation and the Guidelines specify the types of ID documents that a jewellery shop must check to conduct CDD: the National ID Card or Passport if the customer is a natural person; and the legal registration certificate and the ID document of the representative if the customer is a legal person.

733) 銀樓業防制洗錢注意事項要求銀樓業者對於交易由代理人進行者，應確認該代理人身分並予紀錄。

733) The Guidelines require jewellery shops to verify the identity of the agent and keep the identity record when a transaction is conducted by an agent.

734) 任何銀樓業者對於現金交

734) Any jewellery shop that fails to verify

易達新台幣 1 百萬元以上而未能確認客戶身分者，將被處以新台幣 20 萬元至 100 萬元罰鍰。

customer identity for a cash transaction exceeding NT$1 million is subject to a fine between NT$200,000 to NT$1 million.

735) 洗錢防制法第 8 條及其授權規定事項，以及防制洗錢注意事項要求銀樓業者對於疑似洗錢或資助恐怖分子之交易，應確認客戶身分。該注意事項並列出可疑交易表徵，舉例如下：

a) 客戶突有不尋常之大額交易買賣貴金屬或寶石者。

b) 客戶連續以略低於新台幣一百萬元之現金交易者。

c) 其他明顯不正常之交易行爲。

735) Article 8 of the MLCA, the Regulations Regarding Article 8 of the MLCA, and the Guidelines require a jewellery shop to verify customer identity when money laundering or terrorist financing is suspected. The Guidelines sets out examples of indicators of suspicious activities. The examples include the following:

a) the customer has sudden and unusually large transactions in precious metals or stones;

b) the customer makes several cash transactions divided into several consecutive transactions of slightly less than CTR reporting threshold;

c) other abnormal transactions activities.

736) 該注意事項亦要求銀樓業者於交易完成後發現下列情形者，應透過電話或親自拜訪方式確認客戶身分：

a) 發現並無該客戶存在。

b) 客戶否認與本公司店號交易。

c) 其他有相當之證據或事實，確信該客戶名稱係被人所冒用之。

736) The Guidelines also require jewellery shops to verify customer identity via phone or by visit when any of the following is discovered after a transaction is completed:

a) the customer does not exist;

b) the customer denies having made the transaction;

c) obvious evidence showing that the customer used a fake name.

737) 銀樓業者對於疑似洗錢交易未能確認客戶身分並向洗錢防制中心申報者，將被處以新台幣 20 萬元至

737) Any jewellery shop that fails to verify customer identity or to file a report to the MLPC on any suspicious transaction is subject to a fine between NT$200,000 to

100 萬元之罰鍰。

NT$1 million.

738) 沒有法律或指引要求銀樓業者辨識利益擁有人身分。

738) There is no legislation or guideline that requires a jewellery shop to identify the beneficial owner.

739) 並無任何法律／指引要求銀樓業者對於高風險客戶採取加強性客戶審查作爲，防制洗錢注意事項對所有客戶都採行一致之客戶審查作爲。

739) Neither is there any legislation/guideline that requires a jewellery shop to apply enhanced due diligence measures for high risk customers/transactions. The customer due diligence measures set out in the Money Laundering Prevention Guidelines and Procedures apply uniform measures to all customers.

740) 中華台北無法律或指引要求銀樓業者對於高知名度政治人物及非面對面交易之處理作爲。

740) Chinese Taipei has no legislation or guideline for jewellery shops that addresses requirements to address politically exposed persons or non-face-to-face transactions.

741) 銀樓業防制洗錢注意事項範本要求銀樓業者對於客戶突有不尋常之大額交易及其他明顯不正常之交易行爲應特別注意。

741) The Model Money Laundering Prevention Guidelines and Procedures for Precious Metals and Stone Distributors require jewellery shops to pay special attention to customers that conduct sudden large amount of transactions and other obviously abnormal transactional activities.

742) 對於現金交易達新台幣 1 百萬元以上者，銀樓業者未能確認客戶身分並向調查局申報者，將被處以新台幣 20 萬元至 1 百萬元罰鍰。（洗錢防制法第第 7 條第 3 項）

742) For cash transactions exceeding NT$1 million, jewellery shops who fail to verify customer identity and report to the Ministry of Justice Investigation Bureau as required are subject to a find of between NT$200,000 to NT$1 million (Article 7 Paragraph 3 of the MLCA).

743) 對於疑似洗錢交易，銀樓業者未能確認客戶身分並向調查局申報者，將被處以新台幣 20 萬元至 1 百萬元罰鍰。（洗錢防制法第第

743) For suspicious money laundering transactions, jewellery shops who fail to verify customer identity and report to the Ministry of Justice Investigation Bureau are subject to a fine of between NT$200,000 to NT$1 million (Article 8 Paragraph 4 of the

8 條第 4 項）

744) 洗錢防制法第 7 條對於紀錄留存之廣泛規定，銀樓業者被要求對於交易達新台幣 100 萬元以上者，留存交易及客戶身分紀錄 5 年。洗錢防制法第 8 條亦要求銀樓業者對於疑似洗錢交易留存交易及客戶身分紀錄。

745) 依據洗錢防制法第 7 條授權規定事項第 1 點第 2 項第 1 款對於交易紀錄保存方式與期限之規定，銀樓業者被要求保存紀錄如姓名、帳戶號碼及交易金額等。

746) 評鑑團在 3.5 節中對於洗錢防制法要求金融機構保存紀錄之關切點，亦適用於銀樓業。

747) 目前並無反洗錢法律課以律師、公證人、不動產經紀人、會計師或信託及公司服務提供業者之紀錄留存義務。

748) 洗錢防制法並未要求銀樓業者監控所有交易，只是在銀樓業防制洗錢注意事項中規定一些作爲。

749) 銀樓業防制洗錢注意事項

MLCA).

744) Article 7 of the MLCA provides the broad requirements for record-keeping where the jewellery sector is required to keep transaction and customer identification records for five years for only cash transactions exceeding NT$1,000,000. Article 8 of the MLCA also requires dealers in jewellery business to keep transaction and customer identification records for suspicious transactions.

745) Regarding the method and time period of safe-keeping transaction records as provided under Regulation Article 7.1.2.i, dealers in jewellery business are required to keep the records such as name, account number and amount in relation to a transaction;

746) The same concerns relating to the record-keeping requirements for “financial institutions” under the MLCA, as described in Section 3.5 above, are also applicable to jewellery sector.

747) There are currently no AML record-keeping obligations imposed on lawyers, notaries, real estate agents, accountants or trust and company services providers and businesses.

748) The MLCA does not require dealers in jewellery business to undertake any monitoring of transactions. However, the Checklist of Money Laundering Prevention Guidelines and Procedures for the businesses dealing in jewellery provides some measures on this requirement.

749) The measures provided in the checklist under

規定，對於下列之疑似洗錢交易應特別注意：

a)客戶突有不尋常之大額交易買賣貴金屬或寶石者。

b)客戶連續以略低於新台幣一百萬元之現金交易者。

c)其他明顯不正常之交易行爲。

"points for attentions of suspected money laundry" states that transactions with the following conditions would be of concern as suspected money laundry operations:

a) customers with sudden large amount transactions;

b) customers with frequent transactions with cash slightly less than one million Taiwanese dollars;

c) other obviously abnormal transactional activities.

750) 銀樓業防制洗錢注意事項對於交易之監控作爲低於建議第11項之必要準則，因爲未要求銀樓業者檢查交易之背景與目的。

750) The measures on monitoring of transactions for the dealers in jewellery business as provided under the AML checklist fall short of the essential criteria under R.11 as they do not require jewellers to examine the background and purpose of such transactions.

751) 目前並無反洗錢法律課以律師、公證人、不動產經紀人、會計師或信託及公司服務提供業者之交易監控義務。

751) There are currently no specific AML transaction monitoring obligations imposed on lawyers, notaries, real estate agents, accountants or trust and company services providers and businesses.

752) 洗錢防制法第7條第3項及第8條第4項規定行政罰鍰，另同法第11條第1、2項規定刑事責任。

752) Paragraph 3, Article 7 and Paragraph 4, Article 8 of the MLCA provide for administrative fines, and Paragraphs 1 and 2, Article 11 of the same Act provide for criminal liability.

753) 銀樓業者違反客戶審查、紀錄保存及大額通貨交易申報條款者，將被處以新台幣20萬元至1百萬元罰鍰。

753) A business dealing in jewellery which violates the CDD, record-keeping and CTR reporting provisions is liable be punished by a fine between $200,000 NT to $1 million NT.

754) 銀樓業者違反可疑交易申報規定，將被處以新台幣

754) A business dealing in jewellery which violates the STR reporting provisions is liable be

20 萬元至 1 百萬元罰鍰。然而洗錢防制法規定，如果銀樓業者如能證明其所屬從業人員無故意或過失者，不罰。

fined between 200,000 NT and 1 million NT. However, the MLCA states that if the jeweler is able to prove that the cause of such violation is not attributable to the intentional act or negligent act of its employee(s), no fine will be imposed.

755) 銀樓著者之從業人員（不具公務員身分）洩漏或交付關於申報疑似洗錢交易或洗錢犯罪嫌疑之文書、圖畫、消息或物品者，處二年以下有期徒刑、拘役或新臺幣五十萬元以下罰金。

755) Any employee of a businesses dealing in jewellery [without a government official position] who reveals, discloses or hands over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, is liable to be sentenced to imprisonment of not more than two years, detention, or fined not more than 500,000 NT.

756) 經濟部已對一家銀樓業者因違反洗錢防制法第 7 條，未申報一件現金交易超過 1 百萬元，被處以新台幣 40 萬元罰鍰。另外一家銀樓業者因未申報一件涉及新台幣 2 千萬元之疑似洗錢交易報告，被處以新台幣 1 百萬元。

756) The MOEA has fined a jewellery shop NT$400,000 under Article 7 of the MLCA for failure to report a cash transaction above NT$1 million. Another jewellery shop was fined NT$1 million for failure to report suspicious transaction report that involved some NT$20 million.

757) 下列是得對其他行業之一般制裁。

757) The following are general sanctions that may be imposed on the remaining sectors.

不動產業(Real estate sector)

758) 依地政士法第 26 條規定，爲維護不動產交易安全，保障人民財產權益，地政士受託辦理各項業務，不得有不正當行爲或違反業務上應盡之義務。地政士違反前項規定，致

758) According to the regulation issued under Article 26 of the Land Administration Agent Act, for securing real estate transactions and safeguarding the property rights of people, land administration agents should not have any improper behaviour to violate the Act when accepting trust from clients to engage

委託人或其他利害關係人受有損害時，應負賠償責任。同法第 27 條規定，地政士不得有下列行爲：1) 違反法令執行業務。2) 允諾他人假藉其名義執行業務。3) 以不正當方法招攬業務。4) 爲開業、遷移或業務範圍以外之宣傳性廣告。5) 要求、期約或收受規定外之任何酬金。6) 明知爲不實之權利書狀、印鑑證明或其他證明文件而向登記機關申辦登記。另外，同法第 28 條規定，地政士執行業務所爲之登記案件，主管機關或轄區登記機關認爲有必要時，得查詢或取閱地政士之有關文件，地政士不得規避、妨礙或拒絕。地政士違反地政士法第 27 條、第 28 條規定、違背地政士倫理規範或違反地政士公會章程情節重大者，應予申誡或停止執行業務或除名等處分。

in professional business. If any violation of the Act that has caused interest loss of the clients or third thirties, the agents must compensate the loss. Article 27 of the Act stipulates that the land administration agents are forbidden to 1) to operate a business; 2) permit others to operate a business by using his professional certificate; 3) soliciting business by illegal ways; 4) spreading ads beyond the permitted business scope; 5) intentionally request, arrange or receive remuneration in contravention of the Act; 6) register the ownership of real estate to authorities with fake certificate. In addition, according with Article 28 of the Act, the land administration agents should provide the business operation records to authorities for supervision under request. Any violation of Article 27, 28 of the Act, the ethic code or the terms of reference of the associations, the land administration agents shall be punished by documentary warning, suspending business operation or revoking the professional certificate.

759) 爲落實不動產經紀業及不動產經紀人員對不動產交易當事人及委託標的物之審查義務，不動產經紀業應指派所屬經紀人在不動產說明書及不動產買賣契約書上簽章並應遵守中華民國不動產仲介經紀商業同業公會全國聯合會所訂立之經紀業倫理規範。違

759) In order to effectively perform the obligations of real estate broking businesses and brokers to ascertain their clients' identity and verify the entrusted real estate targets, real estate broking businesses should designate a broker to sign the real estate description and the written contact and comply with the Ethic Rules stipulated by the National Real Estate Broking Agency's Association. Any real estate broking business which violates

反該規定者，依不動產經紀業管理條例規定，應處經紀業新臺幣 6 萬元以上 30 萬元以下之罰鍰，並對不動產經紀人施予申誡處分。

the Act or the Ethic Rules shall be fined between NT$ 60,000 to NT$ 300,000, and the broker will be punished with a written warning.

律師和公證人(Lawyers and Notaries)

760) 雖然依照「律師法」、「律師倫理規範」有自律機制及懲戒程序。但有關反洗錢或防制資助恐怖組織之相關事務上，目前並未針對律師制訂所謂刑事、民事或行政之懲戒責任，以強制要求律師應遵守 FATF 之建議。律師嚴重違反所屬律師公會之「律師倫理規範」條款，將被處以警告、譴責、暫停執業最高不超過 2 年或取消律師資格。公證人在執行公證時，應確認申請人身分及保留公證文件並予以登記之義務，明確規定在公證法及公證文件與登記資料之保存與銷毀規則中，如有違反規定者，監理機關得依違反程度予以書面警告或紀律處罰。

760) Although there is a self-disciplinary mechanism and penalty procedure under the Attorney Regulation Act and the Attorney Ethics Code, there is no criminal, civil or administrative penalty to obligate an attorney to observe the FATF Recommendations on AML/CFT. An attorney who seriously violates attorney code of ethics articles of the Bar Association in which they are members is liable for disciplinary action including a warning, a reprimand, suspension of the right to practice law for a period not exceeding two years or disbarment. The obligations of a notary to verify the applicant's identity and preserve the notarial documents and registers when performing the notarial duties are explicitly stipulated in the Notary Law and the Rule for Preservation and Destruction of the Notarial Documents and Registers. If violated, the supervisory authority may give notice to, warn or take disciplinary against a notary based on the seriousness of the breach.

761) 會計師因故意或過失違反法律事項所需負擔之行政處分及民事責任，規定在會計師法之中。行政處分規定在會計師法第 17、39 及 41 條中，如果會計師有不正當行爲或違反或廢弛

761) CPAs are subject to administrative sanctions and civil liabilities if they commit legal infractions through either intention or neglect as set out in the CPA Act. Administrative sanctions are applied under Articles 17, 39, and 41 of the CPA Act. That is, if a CPA engages in improper conduct, violates or

其業務上應盡之義務，足以影響會計師聲譽或違反條款者，將被處以刑事犯行、行政制裁，利害關係人、業務事件主管機關或會計師公會得列舉事實，並提出證據，報請所在地主管機關，核轉中央主管機關交付懲戒。

neglects his professional duties, is sentenced to punishment for a criminal offense, receives administrative sanction for a legal infraction that is serious enough to affect the CPA's reputation, or otherwise violates any provision of the CPA Act, an interested party, the competent authority for a particular case, or the National CPA Association, may report the pertinent facts and evidence to the local competent authority, and the local authority is required to refer the case to the central competent authority for disciplinary action against the CPA named.

762) 民事責任之制裁適用會計師法第 17、18 條之規定：”會計師不得對於指定或委託事件，有不正當行爲或違反或廢弛其業務上應盡之義務。”及” 會計師有前條情事致指定人、委託人或利害關係人受有損害時，應負賠償責任。”

762) Civil liability sanctions are applied under Articles 17 and 18 of the CPA Act that provide that "a CPA shall not engage in any improper conduct, nor violate or neglect his professional duties in the performance of any assigned or requested service," and that "a CPA shall be liable to compensate his appointing party, client, or any interested party for losses caused by him in violation of the aforementioned provision."

763) 紀律制裁在會計師法及證券交易法中都有規定，會計師法適用於所有會計師，且紀律制裁程序是由公會紀律委員會發動，會計師有下列情事之一者，應付懲戒：

a) 有犯罪行爲，受刑之宣告者。

b) 逃漏或幫助、教唆他人逃漏稅捐，經稅捐稽徵機關處分有案者。

c) 對公司公開發行股票或公司債之財務報表，爲不

763) Disciplinary sanctions are prescribed both in the CPA Act and in the Securities and Exchange Act. The CPA Act is applied to all CPAs and the process of a disciplinary sanction is actioned by resolution of the CPA discipline Committee. It states that a CPA who is in any one of the following situations shall be subject to disciplinary sanction:

a) if he has been sentenced to punishment for a criminal offence;

b) if he has evaded tax payments or assisted or incited other person(s) to evade tax payments for which disciplinary actions have been taken and recorded by the tax authority;

實之簽證者。

d) 違反其他有關法令，受有行政處分，情節重大，足以影響會計師信譽者。

e) 違背會計師公會章程之規定，情節重大者。

f) 其他違反本法規定者。

c) if he has issued a false certification of the financial statements of a company which publicly issues stocks or corporate bonds;

d) if he has seriously violated other regulations and has received an administrative sanction such that the reputation of the CPA profession has been impaired;

e) if he has seriously violated the constitution of the CPA association of which he is a member;

f) if he has violated any provision of this law.

764) 會計師法對會計師之懲戒處分包括：警告；申誡；停止執行業務或除名。

764) Disciplinary sanctions under CPA Act include warning, reprimand, suspension or expulsion from the CPA.

765) 證券交易法對會計師之懲戒處分僅適用於經金管會核准簽證公開發行公司財務報表之會計師，並僅針對其專業服務之部分，會計師之懲戒由金管會發動，證券交易法之處分規定包括警告、停止簽證及撤銷簽證之核准。

765) Disciplinary sanctions under the Securities and Exchange Act apply only to public companies. Disciplinary actions are taken only against the CPAs that have been approved by FSC for auditing and certifying the financial reports of public companies and will target at their professional services about public companies. The process of a disciplinary sanction here is actioned by the resolution of the FSC committee. Disciplinary sanctions under Securities and Exchange Act include warning, suspension revocation of the permission to provide public companies' certification services.

766) 目前並無特別之反洗錢法律制裁及於律師、公證人、不動產經紀人、會計師、信託及公司服務提供業。

766) There are currently no specific AML sanctions that could be imposed on lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses.

4.1.2 建議與評論 (RECOMMENDATIONS AND COMMENTS)

767) 在中華台北境內對銀樓業者低於新台幣 1 百萬元以下交易並沒有客戶審查要求，應降低現金交易進行客戶審查之門檻。

767) Jewellery shops in Chinese Taipei have no CDD requirements for transactions under NT$1 million. Chinese Taipei should lower the threshold that triggers CDD obligation on cash transactions.

768) 有關機關應：

a) 對於銀樓業者目前申報門檻爲新台幣 1 百萬元之適當性應進行詳細評估。

b) 提高未納入洗錢防制法規範之機構對於反洗錢與打擊資助恐怖分子警覺性之義務與要求標準。

c) 在洗錢防制法中訂定律師、公證人、不動產經紀人、會計師、信託及公司服務提供者及事業體在反洗錢與打擊資助恐怖分子上之要求。

d) 依據特定非金融事業體及專業人士之業務本質與規模，發布各別之反洗錢與打擊資助恐怖分子規範。

e) 對於新興特定非金融事業體及專業人士訂定特別之指引。

f) 透過與自律團體及業者代表諮商後，指定合宜之非金融事業體及專業人士監理機關。

768) The authorities should:

a) conduct a detailed assessment of the appropriateness of the current threshold of NT$1,000,000 for dealers in precious metal and stones;

b) raise awareness on AML/CFT standards and obligations for the wider noncovered institutions;

c) provide specific AML/CFT requirements under the MLCA for lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses;

d) issue separate regulations that detail the obligations of DNFBPs to the nature and size of their operations;

e) issue sector-specific comprehensive guidelines to the newer DNFBPs;

f) designate appropriate AML/CFT supervisory authorities for the DNFPB sector are thorough consultations with the SROs and the industry;

769) 有關機關應以重要事件優先處理方式，檢查權責機關之能力與資源，以確保所有非金融事業體及專業

769) The authorities should, as a matter of important priority, examine the capacity and resources of the relevant competent authorities to ensure and enforce full

人士都能夠完全遵循FATF要求。	compliance with the FATF requirements for all categories of the DNFBP sector.

4.1.3 建議第12項之遵循評等 (COMPLIANCE WITH RECOMMENDATION 12)

	評等	評等理由摘述
建議第12項	NC	● 銀樓業是唯一涵蓋在洗錢防制法內之特定非金融事業體及專業人士。 ● 沒有特別法令要求律師、公證人、不動產經紀商、會計師、信託及公司服務業者及相關事業體等之防制洗錢義務。 ● 金融機構，包括銀樓業，有關客戶審查及紀錄保存範圍都是以現金交易交易達新台幣一百萬元爲門檻，比FATF所訂美金或歐元15000元爲高。 ● 銀樓業之防制洗錢義務不符建議第5,6,8-11及17項建議之要求標準，且其他特定非金融事業體及專業人士並未被課以相關義務。 ● 相關機關確保及執行FATF對於特定非金融事業體及專業人士包括銀樓業在內之要求標準的能力值得關切。
R.12	NC	● Dealers in precious metal and stones are the only category of the DNFBP sector covered under MLCA. ● There are currently no specific AML requirements that could be imposed on lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses. ● The scope of CDD and record-keeping for all covered financial institutions including the dealers in precious metals and stones is applied for cash transactions above NT$1,000,000 or US$31,000. This amount falls short of the US/€ 15,000 threshold set under the FATF standards. ● The obligations of dealers in precious metal and stones fall substantially short of the requirements of Recommendations 5, 6, 8- 11, & 17. Due to the exclusion of other categories

		of DNFBPs, these requirements are also not imposed on them. ● There are concerns on capacity of competent authorities to ensure and enforce full compliance with the FATF requirements for all categories of the DNFBP sector, including dealers in precious metal and stones.

4.2 可疑交易申報-建議第16項 (SUSPECT TRANSACTION REPORTING - R.16)

4.2.1 說明與分析 (DESCRIPTION AND ANALYSIS)

建議第13項之適用 (Applying Recommendation 13)

770) 按洗錢防制法第 8 條規定，銀樓業者被要求向調查局申報「防制洗錢注意事項」所列任何有洗錢可疑跡象之交易及任何依內控程序視爲異常之交易。

770) Under Article 8 of the MLCA, jewellery shops are required to report any transaction carrying signs of suspicion of money laundering specified in the Money Laundering Prevention Guidelines and Procedures or any transaction identified as abnormal based on the internal procedure to the Ministry of Justice Investigation Bureau.

771) 依據洗錢防制法第 8 條授權規定事項，交易最終受益人或交易人爲行政院金融監督管理委員會函轉外國政府所提供之恐怖分子或團體者，必須進行申報。

771) Under the Regulations Regarding Article 8 of the MLCA, transactions where the ultimate beneficiary or transaction party is a terrorist or terrorist group as listed by the MOF based on information provided by foreign governments, must be reported.

建議第14項之適用 (Applying Recommendation 14)

772) 洗錢防制法第 8 條規定，申報機關將被免除業務上應保守客戶秘密之義務，如果申報機構可以證明該申報疑似洗錢交易予法務部調查局是出自善意。

772) Article 8 of the MLCA provides that reporting entities will be discharged from their confidentiality obligation to the customer if the institution can provide proof that it was acting in good faith when reporting the suspect financial transaction to the Ministry of Justice Investigation Bureau.

773) 依洗錢防制法第 11 條規定，銀樓業之從業人員洩漏或交付關於申報疑似洗

773) Under Article 11 of the MLCA, any employee of a jewellery shop will be subject to punishment by imprisonment of not more

錢交易或洗錢犯罪嫌疑之文書、圖畫、消息或物品者，處二年以下有期徒刑、拘役或新臺幣五十萬元以下罰金。

than 2 years or a fine of not more than NT$500,000 if he/she discloses or hands over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others.

774) 依洗錢防制法第 6 條規定，銀樓業者被要求建立防制洗錢注意事項並報請目的事業主管機關備查；其內容應包括下列事項：

a) 防制洗錢之作業及內部管制程序。
b) 定期舉辦或參加防制洗錢之在職訓練。
c) 指派專責人員負責協調監督本注意事項之執行。
d) 其他經目的事業主管機關及財政部指定之事項。

774) Under Article 6 of the MLCA, jewellery shops are required to establish their own internal control guidelines and submit those guidelines and procedures to the competent authority for review. The same Article provides that content of such internal control guidelines must at a minimum include the following items:

a) the operation and the internal control procedures for money laundering prevention;
b) the regulatory on-the-job training for money laundering prevention instituted or participated in by the financial institution referred to in this Act;
c) the designation of a responsible person to coordinate and supervise the implementation of the established money laundering prevention guidelines and procedures;
d) other cautionary measures prescribed by the competent authority and the Ministry of Finance.

775) 經濟部發布之銀樓業防制洗錢注意事項，要求銀樓業者建立內部控制指引，包括下列作爲：

a) 交易達新台幣 1 百萬元以上並有可疑涉及洗錢者之交易紀錄要保存 5 年。
b) 員工可疑行爲之監控。

775) The Model Money Laundering Prevention Guidelines and Procedures issued by the Ministry of Economic Affairs require jewellery shops to establish internal control guidelines that include the following measures:

a) retaining of records on transactions of more than NT$1 million that are suspected to be

c) 客戶身分資訊之保密。
d) 定期檢討防制洗錢注意事項並將更新版報請財政部備查。

involved in money laundering for five years;
b) supervision and monitoring of employees for suspicious behaviors;
c) keeping confidential customer identification information;
d) regular review of the guidelines and reporting of revisions to the Ministry of Finance.

特定非金融事業體及專業人士之內控要求(Internal control requirements for DNFBP)

776) 依洗錢防制法第 6 條要求銀樓業者建立防制洗錢注意事項，並必須在執行前報請目的事業主管機關備查。

776) Article 6 of the MLCA requires dealers in jewellery business to establish money laundering prevention guidelines and procedures. Dealers in jewellery business are required to submit the guidelines and procedures to the competent authorities for review as a prerequisite to its implementation.

777) 除了有關機關依據洗錢防制法訂定特別防制作爲外，金融機構被要求將下列項目納入防制洗錢注意事項：
a) 防制洗錢之作業與內控程序。
b) 定期防制洗錢在職訓練。
c) 指派一位負責協調監督防制洗錢注意事項執行之人員。

777) In addition to powers of competent authorities to prescribe additional cautionary measures under the MLCA, financial institutions are required to include the following items in their money laundering prevention guidelines and procedures:
a) the operation and the internal control procedures for money laundering prevention;
b) the regulatory on-the-job training for money laundering prevention;
c) the designation of a responsible person to coordinate and supervise its implementation.

778) 經濟部於諮商各銀樓公會之後，並照會台北市銀樓公會，訂定銀樓業防制洗

778) The MOEA, in consultation with the Associations of Jewellery Shops, also referred to the as Taipei Jewellery

錢注意事項範本，要求銀樓業者執行內控程序以處理防制洗錢問題，包括：

a) 防制洗錢之注意要點。
b) 防制洗錢作業之內控程序。
c) 定期參加防制洗錢教育訓練。

Association, has issued an AML checklist for precious metals and stones distributors. Under this checklist dealers in jewellery business are required to implement internal control and procedures on key AML issues including:

a) points for attentions to anti money laundry operations;
b) internal control procedures of anti money laundry operations; and
c) regular participation of training for anti money laundry operations.

779) 經濟部在 2006 年委託稽查 20 家銀樓業者，並未發現任何違反洗錢防制法第 6 條規定者(有關內控系統之要求)。

779) The MOEA commissioned audit inspections of 20 jewellery shops in 2006 which did not reveal any violations of Articles 6 of the MLCA (which deals with requirements on internal control systems).

780) 目前對於反洗錢內控系統之要求並未及於律師、公證人、不動產經紀人、會計師、信託及公司服務提供者及事業體。

780) There are currently no specific requirements on AML internal control systems that could be imposed on lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses.

781) 在本報告第 3.7 節評述洗錢防制法有關疑似洗錢交易申報義務亦適用於銀樓業者。

781) The suspicious transactions reporting obligations under the MLCA applies to the dealers in precious metal and stones as described in Section 3.7 above.

782) 有關銀樓業者申報疑似洗錢交易報告統計資料，依據經濟部說法，銀樓業者有向法務部申報過 2 件疑似洗錢交易報告，但未被納入洗錢防制中心統計資料之中，評鑑團相信這 2 件應該是大額通貨交易報告而非疑似洗錢交易報

782) The Evaluation Team was provided with conflicting statistics on STRs reported by dealers in precious metal and stones. According to the MOEA the dealers in precious metal and stones have reported 2 STRs to MOJ. However, this figure was not included in the statistics kept by MLPC. The Evaluation Team believes that these reports were CTRs and not STRs.

告，數字才會有衝突。

783) 目前對於申報疑似洗錢交易之要求並未及於律師、公證人、不動產經紀人、會計師、信託及公司服務提供者及事業體。因此有關16.2準則中要求其他類型之特定非金融事業體及專業人士申報疑似洗錢交易之情形並不適用。

783) There are currently no specific requirements on reporting of suspicious transactions that could be imposed on lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses. The conditions on submission of STRs by remaining categories of DNFBP under c.16.2 are therefore not applied.

784) 無論如何，內政部採取一個過渡性作爲，通知所有不動產業者應向歸屬公會（自律組織）申報疑似洗錢交易。

784) However, as an interim measure, the MOI has notified the real estate sector that they should, among other things, report suspicious transactions to their respective SRO.

785) 有關建議第13、14、21（準則16.3）項對於特定非金融事業體及專業人士之適用僅及於銀樓業者，本報告第3.7及3.8節所評述之缺點亦同樣適用於特定非金融事業體及專業人士，特別是對於銀樓業者。

785) The applicability of R.13, 14 & 21 (c. 16.3) for the DNFBP sector only extends to the dealers in precious metal and stones and the same shortcomings noted in Sections 3.7 and 3.8 of the Report are applicable to DNFBPs but more specifically to the dealers in precious metal and stones.

786) 由於排除掉會計師行業，洗錢防制法並未要求稽核人員及其他會計師其他專業活動（準則第16.5項）申報疑似洗錢交易之義務。

786) Due to the exclusion of the accountants sector, the MLCA does not impose on auditors and the other professional activities of accountants (c.16.5), obligations to report suspicious transactions.

787) 關於資金爲前置犯罪資產之可疑申報(準則第16.6項)，洗錢防制法第8條及其授權規定事項之申報義務，通常包括涉及重大犯罪之可疑交易，而其適用

787) Regarding the reporting of suspicion that funds are the proceeds of a predicate offence (c.16.6), the reporting obligation Article 8 and regulations regarding Article 8 of the MLCA generally include suspicion that a transaction relates to the

僅及於銀樓業者。（非及於所有特定非金融事業體及專業人士）

commission of a serious offence and the same is applicable only to the dealers in precious metal and stones.

建議第17項之適用(Applying Recommendation 17)

788) 銀樓業者未依洗錢防制法第 8 條規定，確認客戶學分、申報疑似洗錢交易或留存交易紀錄者，將被處以新臺幣 20 萬元至 1 百萬元罰鍰。

788) Any jewellery shop that fails to verify customer identity, file STR, or keep transaction records as is stipulated in Article 8 of the MLCA is also fined between NT$200,000 and NT$1 million.

789) 銀樓業之從業人員洩漏或交付關於申報疑似洗錢交易或洗錢犯罪嫌疑之文書、圖畫、消息或物品者，處二年以下有期徒刑、拘役或新臺幣五十萬元以下罰金。（洗錢防制法第 11 條第 2 項規定）

789) Any employee of a jewellery shop who discloses or turns over documents, pictures, information or things relating to reported suspicious money laundering transactions or activities shall be subject to an imprisonment of no more than two years, forced labor service or fine of not exceeding NT$500,000 (Article 11 Paragraph 2 of the MLCA)

建議第21項之適用(Applying Recommendation 21)

790) 依據洗錢防制法第 8 條授權規定事項，銀樓業者被要求向法務部調查局申報疑似洗錢交易報告，如果交易款項源自「防制洗錢金融行動工作組織(FATF)」所列舉不合作國家名單等地區匯入，五個營業日內提現或轉帳，且該交易與客戶身分、收入顯不相當或與本身營業性質無關者。

790) Under the Regulations Regarding Article 8 of the MLCA, jewellery shops are required to report to the Ministry of Justice Investigation Bureau if an inward remittance from a jurisdiction listed by FATF as a “Non-cooperative Country or Jurisdiction" is withdrawn or transferred within five business days after receipt and the amount is not consistent with the customer's status or income or is unrelated to the nature of the customer's business.

4.2.2 建議與評論 (RECOMMENDATIONS AND COMMENTS)

791) 有關機關應緊急要求所有其他類型之特定非金融事

791) The authorities should urgently impose obligations to report suspicious

業體及專業人士申報疑似洗錢交易義務。	transactions to all other DNFBP sectors.
792) 有關機關應對銀樓業者加強反洗錢與打擊資助恐怖分子之檢查及教育訓練。	792) Authorities should focus more AML/CFT inspections along with the education efforts for jewellery shops.
793) 有關機關應提供有關偵測異常及可疑交易之教育訓練予特定非金融事業體及專業人士。	793) Authorities should provide training to the DNFBP in detecting unusual and suspicious transactions.
794) 有關機關應考慮爲特定非金融事業體及專業人士辦理洗錢及資助恐怖分子方式、趨勢及態樣之警示提昇活動。	794) The authorities should consider launching a progressive awareness campaign on the methods, trends, and typologies on ML and TF for the DNFBP sectors.
795) 有關機關告知評鑑團，未來有計畫修正會計師法，建議有關機關諮詢會計師行業，如果合宜的話，將反洗錢與打擊資助恐怖分子之義務予以納入。	795) The authorities have advised that there are plans to amend the CPA Act. It is recommended that the authorities engage in consultation with the accountants sector to include AML/CFT obligations in the revised CPA Act as may be appropriate.

4.2.3 建議第16項遵循評等 (COMPLIANCE WITH RECOMMENDATION 16)

	評等	評等理由摘述
建議第16項	NC	● 銀樓業是唯一被要求申報疑似洗錢交易之特定非金融事業體及專業人士，但其成效值得懷疑，因爲迄今無任何申報紀錄。 ● 銀樓業未申報疑似洗錢交易基本原因與較低之客戶審查門檻及其他反洗錢要求有關。 ● 目前對於律師、公證人、不動產經紀商、會計師、信託及公司服務業者及相關事業體並無特別疑似洗錢交易申報義務要求。 ● 一些特定非金融事業體及專業人士在遵循FATF建議作爲時缺乏諮詢、警示及指引之管道。
R.16	NC	● Dealers in precious metal and stones are the only DNFBP sector that is required to report

		suspicious transactions, however, the effectiveness is in doubt due to lack of any STRs being made to date. ● The underlying reason for lack of reporting of STRs by the dealers in precious metal and stones is largely correlated with the lower threshold for CDD and other AML requirements. ● There are currently no specific STR reporting obligations that could be imposed on lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses. ● Concerns were noted from some category of DNFBPs who reported lack of consultation, awareness and guidance on the wider need for implementing and complying with FATF recommendations.

4.3 規範、監理和監控 - 建議第24-25項 (REGULATION SUPERVISION AND MONITORING - R.24-25)

4.3.1 說明與分析 (DESCRIPTION AND ANALYSIS)

建議第24項之適用(Applying Recommendation 24)

796) 經濟部是銀樓業者執行洗錢防制法相關規定之管理機關。

796) The Ministry of Economic Affairs is the regulatory authority in charge of implementation of MLCA with regards to jewellery shops.

797) 經濟部於 2003 年 7 月 23 日發布銀樓業防制洗錢注意事項範本。

797) The Ministry of Economic Affairs issued the Money Laundering Prevention Guidelines and Procedures for Precious Metals and Stones Distributors on 23 July 2003.

798) 在 2006 年，經濟部委託會計師公會對 20 家銀樓業者進行稽核。

798) In 2006, the Ministry of Economic Affairs commissioned CPAs to conduct AML audit on 20 jewellery shops.

799) 對於登記爲公司型態之銀樓業者，任何妨礙、拒絕或規避有關機關之文件查

799) For jewellery shops registered as corporations, any hindrance, refusal or evasion of the documentary examination

核者，將被處新臺幣二萬元以上十萬元以下罰鍰（公司法第 20 條）。任何妨礙、規避提出時，將被處新臺幣二萬元以上十萬元以下罰鍰，連續違反者，並按次連續各處新臺幣四萬元以上二十萬元以下罰鍰（公司法第 22 條）。

by the competent authority shall be subject to a fine of between NT$20,000 to NT$20,000 to NT$100,000 (Article 20 of the Company Act). Any hindrance or evasion of the onsite inspection will be subject to a fine between NT$20,000 to NT$100,000. Repeated violations shall be subject to consecutive fines, with an amount between NT$40,000 to NT$200,000 (Article 22 of the Company Act).

800) 經濟部正與各銀樓公會合作，安排相關教育訓練活動。

800) The Ministry of Economic Affairs is working in collaboration with the Jewellery Shop Associations in organizing relevant education activities.

801) 由於銀樓業是在2003年納入洗錢防制法規範，經濟部已經安排 7 場有關洗錢防制法教育訓練。

801) Since jewellery shops were brought into the scope of the AML/CFT regime in 2003, the Ministry of Economic Affairs has organized 7 educational seminars on MLCA.

規範賭場 (Regulation of Casino Sector)

802) 中華台北並無法律允許賭場在領域內營運，賭場營運之禁止，涵蓋在刑法第 268 條對於「賭博」之規定：「意圖營利，供給賭博場所或聚眾賭博者，處三年以下有期徒刑，得併科三千元以下罰金」。

802) Establishment and operation of casinos in Chinese Taipei are prohibited. The prohibition of casino operation is covered under the broad definition of “gambling” as provided under Article 268 of the Criminal Code as follows: “A person for the purpose of gain furnishes a place to gamble or assembles persons to gamble shall be punished with imprisonment for not more than 3 years; in addition thereto, a fine of not more than 3,000 yuan may be imposed.”

803) 有關網路賭場及網路賭博，依照中華台北刑法，犯罪地點在中華台北境內的犯罪都是可罰的，至於

803) Regarding internet casino and internet gambling, under Chinese Taipei’s criminal code, a crime is punishable where the "site" of the crime is within Chinese

犯罪地點之定義是指犯罪行爲地或犯罪行爲效果產生之地點，亦就是說如果賭場在中華台北境內提供賭博服務，已觸犯刑法，即使網站是在境外其他國家註冊。在 1998 年，就有一件透過網路將位在臨近國家有線電視頻道賭場傳送到國內之賭博案件，成功招引許多來自中華台北之賭客，並籌集賭資數百萬元，因爲賭博地點是在中華台北境內，該網站經營者被依刑法之刑事犯罪起訴。

Taipei's territory. Furthermore, the "site" of crime is defined as the site where the criminal act is conducted or the site where the "effect" of the criminal act takes place. That is to say that if a casino website is providing gambling services in Chinese Taipei, it would be deemed a violation of the criminal code even if the internet website is registered in a country out of Chinese Taipei. In 1998 a case was tested before the court for the gambling offense whereby, via internet, a website site re-transmitted a casino cable television channel located in the another jurisdiction. The site successfully solicited many gamblers from Chinese Taipei and attracted millions of wagers. Because the gambling "site" was located within Chinese Taipei, the persons running the internet website were prosecuted for criminal offence under the criminal code.

特定非金融事業體及專業人士之監督、遵循與規範 (Monitoring, Compliance & regulation of DNFBP Sector)

信託業 (Trust Business)

804) 除了信託業及銀樓業外，大部分之特定非金融事業體及專業人士未納入中華台北反洗錢與打擊資助恐怖分子之架構。

804) With the exception of trust businesses and dealers in jewellery, the DNFBP sector is largely not covered under Chinese Taipei's AML/CFT framework.

805) 中華台北信託業之法律架構是依據信託業法（2000 年 7 月 19 日）及信託法（1996 年 1 月 26 日公布）之規定，信託事業從事信託經營，被要求遵循這二種法律及相關規定。

805) The legal framework for Chinese Taipei's trust business is provided by the Trust Enterprise Act (19 July 2000) and the Trust Act (promulgated on 26 January 1996). Trust enterprises conducting a trust business are required to abide these two laws and related regulations.

806) 目前在中華台北的所有信託業務是由銀行兼營，此行業之反洗錢與打擊資助恐怖分子體制大都類同銀行之規範架構。至 2005 年 12 月 31 日，中華台北有 54 家信託業，包括 43 家由國內銀行經營，11 家由在中華台北境內之外國銀行經營，信託業經營之信託業務包括：

a) 金錢之信託。
b) 有價證券之信託。
c) 家產之信託。
d) 不動產之信託。

806) Currently, all trust business in Chinese Taipei is conducted by banks and the AML/CFT regulatory regime for this sector, in most ways, is similar to the regulatory framework for banks. As of 31 December 2005, Chinese Taipei had 54 trust enterprises, including 43 operated concurrently by domestic banks, and 11 concurrently operated by the Chinese Taipei branches of foreign banks. The types of trust business operated by trust enterprises include:

a) money trusts;
b) securities trusts;
c) chattel trusts; and
d) real estate trusts.

807) 除上所述外，信託事業證券化之規定涵蓋在金融資產證券化條例及不動產證券化條例中，金融資產證券化條例規定中華台北信託事業得透過特別目的信託或特別目公司從事金融資產證券化，特別目的公司在中華台北境內並不存在，而所有金融資產證券化目前是透過特別目的信託以信託人方式進行。迄 2005 年 12 月 31 日，中華台北境內之信託市場爲新台幣 2 兆 8 千 6 百億元，其中 2 兆 8 千 6 百億元 2 兆 4 千 6 百億元是屬於金錢信託。

807) In addition to the above, the securitization activities of trust enterprises are covered under the Financial Asset Securitization Act and the Real Estate Securitization Act. The Financial Asset Securitization Act provides that Chinese Taipei trust enterprises may engage in financial asset securitization by means of either a special purpose trust or a special purpose company. Special purpose companies do not currently exist in Chinese Taipei and all financial asset securitization in is currently carried out by special purpose trusts that act as the trustees. As of 31 December 2005, the size of the trust market in Chinese Taipei was NT$2.86 trillion out of which NT$2.46 trillion was for money trusts.

公司服務提供者(Company Service Providers)

808) 公司法限制公司設立代理

808) The Company Act limits company

人僅限會計師及律師。

formation agents to a certified public accountant or a lawyer.

銀樓業(Dealers in Jewellery Business)

809) 在 2003 年 10 月，法務部修訂洗錢防制法第 5 條，指定銀樓業納入中華台北反洗錢與打擊資助恐怖分子體制下之金融機構。該法除了在防制洗錢指引之提供有所不同外，其他義務並無不同。因此對於某些要求如加強高風險客戶之審查或及時確認客戶身分之嚴格要求，對於特定非金融事業體及專業人士並未予以排除，就像銀樓業亦被要求對於現金交易達 1 百萬元以上者，必須進行客戶審查及其他防制作爲。

809) In October 2003, the MOJ revised Article 5 of the MLCA to designate jewellery shops as covered financial institutions under Chinese Taipei's AML/CFT regime. The Act does not distinguish between financial institutions in terms of obligations except what may be provided in the regulatory guidelines. The Act therefore does not exclude from application of certain requirements such as enhanced due diligence for higher risk customers or the strict requirements on the timing of verification which could have been relaxed for DNFBPs. Like other covered financial institutions, the jewellery sector is also required to undertake CDD and other measures for only cash transactions above NT$1,000,000.

810) 有關於銀樓業之許可體制，經濟部負責一般公司登記，除了公司成立必須加入公會外，對於銀樓業並無特別之許可或規範。經濟部保存公司下列相關資訊：

a) 公司名稱。
b) 所營事業。
c) 股東姓名、住所或居所。
d) 本公司所在地；設有分公司者，其所在地。
e) 代表公司之股東姓名。
f) 執行業務之股東姓名。

810) Regarding the licensing regime of dealers in precious metal and stones, the MOEA is responsible for the general registration of companies in Chinese Taipei. There is no specific licence or regulation of jewellery shops except as mentioned below that once incorporated they are required to become a member of a SRO. The following relevant information is kept by the MOEA for company incorporation purposes:

a) the name of the company;
b) the scope of business to be conducted;
c) the name, domicile or residence of each shareholder;

d) the location of the head office and the branch office(s);

e) the name of the shareholder designated to represent the company; and

f) the name of the shareholder(s) who is (are) designated to conduct the business operations of the company;

811) 任何在中華台北境內註冊之公司，下列資訊公開民眾查詢：

a) 公司名稱。

b) 所營事業。

c) 公司所在地。

d) 執行業務或代表公司之股東。

e) 董事、監察人姓名及持股。

f) 經理人姓名。

g) 資本總額或實收資本額。

h) 公司章程。

811) The following relevant information of any company registered in Chinese Taipei is available to the public:

a) the name of the company;

b) the scope of business of the company;

c) the location of the company;

d) the shareholder(s) executing the business operations or representing the company;

e) the name of directors and supervisors and their respective shareholdings in the company;

f) the name of the manager;

g) the amount of authorized capital stock or of the paid-in capital; and

h) the Articles of Incorporation of the company.

812) 銀樓業者依商業團體法第 12 團之要求必須加入公會，目前有 3 個地區性公會，台灣省銀樓公會於 1945 年創立，有 3735 個會員，經營 12000 個營業所。公會與有關機關合作監理所屬會員遵循反洗錢與打擊資助恐怖分子作爲，提供教育訓練，包括爲會員舉辦洗錢防制研討會，並負責將政府相關資訊轉送

812) Jewellery shops are required to be members of SROs under Article 12 of the Business Entity Act. There are 3 associations at district level. TGA was established in 1945 and has 3,735 members that operate their business from some 12,000 outlets. The associations cooperate with the authorities to supervise their members for compliance with AML/CFT measures. The associations provide education programs including holding AML seminars for its members.

所屬會員。公會代表自1998年開始，參加過許多財政部、經濟部及調查局所召開之會議，對防制洗錢之要求有相當之警覺。根據銀樓公會之說明，幾乎百分之99之會員了解防制洗錢之義務及其重要性，有百分之10的銀樓因提供多種營業項目，並未加入公會成爲會員。

The association is also responsible to deliver government information to members. The association is generally well aware of AML requirements as it has participated in several meetings organized by MOF, MOEA, and BOI since 1998. According TGA, almost 99% of its members are aware of the AML obligations and realize its importance. 10% of the jewellery shops are not members as these shops provide mixed business.

813) 在2003年3月，經濟部被指定爲銀樓業執行洗錢防制法相關要求之主管機關，該部負責銀樓業在中華台北境內之註冊登記。公會保有會員相關資訊，包括銀樓大小、資本架構、員工數量等，並提供經濟部。

813) In March 2003, the MOEA was designated as the competent authority for the implementation of MLCA for jewellery shops. The MOEA is responsible for keeping a register of all jewellery shops in Chinese Taipei. The SRO maintains comprehensive records of its members including the size of the shop, its capital structure and size, number of employees, and this information is then provided to MOEA.

814) 2003年7月，經濟部發布銀樓業防制洗錢注意事項範本，之後辦理7場防制洗錢教育訓練。

814) In July 2003, the MOEA issued a Checklist of Money Laundering Prevention Guidelines and Procedures for the businesses dealing in jewellery. Since 2003, the MOEA has rganized 7 sessions on MLCA educational activities.

815) 洗錢防制法懲罰規定及於所有所稱之金融機構，包括銀樓業者。對於建議第17項特定非金融事業體及專業人士之評鑑，僅及於銀樓業者，其他類型之特定非金融事業體及專業人士尚未被納入洗錢防制法之規範。

815) The penalties provided under the MLCA and regulations are applicable to all "financial institutions" covered by the MLCA Act, including businesses dealing in jewellery. The assessment on applying R.17 to the DNFBP sector is limited to the businesses dealing in jewellery as the remaining category of DNFBPs are excluded from penalty provisions of the

MLCA.

816) 公會不負責監督並確保銀樓業者對於反洗錢與打擊資助恐怖分子之要求，於無權力實施制裁，相關遵循權力是賦予經濟部。

816) The SROs are not responsible for monitoring and ensuring compliance of jewellery shops with the AML/CFT requirements. The SROs also do not have the powers to impose sanction. Compliance powers are vested in the MOEA.

817) 經濟部在 2006 年曾委託會計師對20家銀樓業者進行反洗錢與打擊資助恐怖分子之遵循檢查，檢查結果並未發現任何違反洗錢防制法第 6-8 條規定之情形。

817) The MOEA commissioned a CPA to conduct audit inspections of 20 jewellery shops in 2006 to check AML/CFT compliance of jewellery shops. The examinations findings did not reveal any violations of Articles 6-8 on the MLCA.

818) 經濟部已對一家銀樓業者因違反洗錢防制法第 7 條申報現金交易達新台幣 1 百萬以上之規定，處以新台幣 40 萬元罰鍰，另對一家銀樓業者因未申報一件新台幣 2 千萬元交易之疑似洗錢交易報告，處以新台幣 1 百萬元之罰鍰。

818) The MOEA has fined a jewellery shop NT$400,000 under Article 7 of the MLCA for failure to report a cash transaction above NT$1 million. Another jewellery shop was fined NT$1 million for failure to report suspicious transaction report that involved some NT$20 million.

819) 依據有關機關表示，銀樓業者在中華台北境內顯露相當之洗錢風險，統計資料顯示，非法所得透過非金融行業如地下通匯、不動產及銀樓業者洗錢之件數，在 1173 件洗錢案件中占有 5 件。

819) According to the authorities the jewellery sector poses some risk of money laundering in Chinese Taipei. Statistics shows that illegal proceeds were laundered through non financial industries for underground banking, real estate and precious stone stores for 5 out of the 1,173 money laundering cases.

820) 經濟部委託會計師對銀樓業者進行反洗錢與打擊資助恐怖分子檢查，在 2006 年受檢的20家銀樓業者全

820) The Ministry of Economic Affairs engaged CPAs to conduct AML/CFT inspections on jewellery shops. However, all the 20 jewellery shops inspected in 2006 were

部爲公司組織，相對較具規範並有較佳之反洗錢與打擊資助恐怖分子內控程序。如果將監理重點放在具有較佳內控程序之業者，將會使規模較小且易受洗錢威脅之業者未受到檢查。

incorporated entities, which are relatively large businesses and have relatively good AML/CFT internal control procedures. By focusing on larger incorporated entities, Chinese Taipei may run the risk of focusing supervisory efforts on the ones with relatively better control procedures while leaving the smaller but more vulnerable ones not inspected.

不動產業者(Real Estate Sector)

821) 內政部地政司負責中華台北境內不動產業之一般管理，該行業並未涵蓋在洗錢防制法所稱之金融機構範圍，然而依據洗錢防制法第 5 條規定，法務部爲反洗錢與打擊資助恐怖分子之目的，得指定任何行業或金融機構爲該法所稱之金融機構。作爲防制洗錢全國性協調會之成員，內政部多次參與法務部舉辦之研討會及會議，對反洗錢與打擊資助恐怖分子之要求相當了解。

821) The DLA of the MOI is responsible for the general regulation of the real estate sector in Chinese Taipei. The real estate sector is not covered as a financial institution under the scope of MLCA. However, pursuant to Article 5 of the MLCA Act the MOJ may designate any business or financial institution as a covered institution for AML/CFT purposes. As a member of the national coordinating committee the MOI has attended seminars and meetings at the MOJ and is aware of the scope of AML/CFT requirements.

822) 有關地政士及不動產經紀業之營業由相關法令規範，另外不動產交易被要求必須登記。

822) The business of Land Administration Agent and Real Estate Broking Agency is regulated by laws and decrees. In addition to this, all real estate transactions are required to be registered.

823) 地政士法規範所有中華台北境內之地政士，不僅應具專業知能，且應誠實執行他人所委託之業務。依據該法，所有地政士必須通過資格考、擁有地政士

823) The Land Administration Agent Act regulates all land administration agents in Chinese Taipei. The agents are required to be qualified of professional knowledge and operate business based on sincerity and honesty. According to the Act, all land

證書、取得營業執照並參加地政士公會始可營業。自 1990 年迄今，在中華台北境內有 16411 位人士擁有營業執照，25579 位人士通過資格考試並取得資格證明。

administration agents have to pass the qualification examination, own the certificate of land administration agent, get business operation license and join the membership of the Association of Land Administration Agent before commencing their business operation. There are 16,411 persons who own the business operation license in Chinese Taipei. 25,579 persons have passed the qualification examination and received the certificates since 1990.

824) 不動產經紀業受到不動產經紀業管理條例之管理，所有不動產經紀業，包括不動產仲介及代銷業務，需要取得主管機關之許可，辦妥公司登記或商業登記，及加入登記所在地之同業公會後方得營業，並應依規定繳存營業保證金及僱用具備不動產經紀人員資格者執行業務。又不動產經紀業僱用之從業人員有二類：

a) 一類爲不動產經紀人，其須經國家考試及格並領有證書；

b) 一類爲不動產經紀營業員，其須經經紀人考試及格或經訓練合格，並經登錄及領有證明。截至 2006 年 1 月底止，主管機關核發不動產經紀人證書計 5,602 張，登錄及核發不動產經紀營業員證明計 63,946 張。

824) The real estate broking agency sector is regulated under the Real Estate Broking Management Act. All real estate broking agencies, including real estate inter-mediators and dealers, need to get a license from authorities, register to set up a company to operate business, and join the membership of the local trade association before commencing their business operation. In addition, all real estate broking agencies are required to deposit a sum of money as business guarantee and have to employ a certain number of qualified real estate agents to operate the business. The employees of real estate broking agency can be classified into two categories:

a) real estate agents who have passed the national qualification examination; and

b) business practitioners who own the qualification of real estate agent or complete the professional training course and have registered and received certificate from the authority. As at January 2006, the authorities have issued 5,602 certificates to real estate agents and

63,946 certificates to the business practitioners.

825) 不動產買賣市場規模，按地政機關辦理不動產買賣移轉登記數量統計如下：

年度	土地交易	房屋交易
2001	517,900 筆	259,494 棟
2002	654,745 筆	320,285 棟
2003	639,550 筆	349,706 棟
2004	727,537 筆	418,187 棟

825) All real estate transactions are reported to the real estate administration authorities and proper transactions records are maintained as follows:

Year	Number of land transactions	Number of housing transactions
a) 2001	517,900	259,494
b) 2002	654, 745	320,285
c) 2003	639,550	349,706
d) 2004	727,537	418,187

826) 有關機關相信不動產事業在中華台北境內暴露相對較低之洗錢及資助恐怖分子風險威脅。

826) The authorities believe that real estate business exposes comparatively low risks to ML and TF threats in Chinese Taipei.

827) 作爲不動產經紀業遵循反洗錢與打擊資助恐怖分子過渡性作爲，內政部於2006年3月函告中華民國不動產仲介經紀商業同業公會全國聯合會、中華民國地政士公會全國聯合會、各直轄市、縣（市）不動產代銷經紀商業同業公會通報所屬會員加強洗錢防制作爲。不動產業者須確認客戶身分並留存交易紀錄或收據，以及向所屬公會申報疑似洗錢交易，並由公會轉送洗錢防制中心。評鑑團被告知內政部已要求公會將防制洗錢政策納入章程或職業倫理規範，並對於未能遵循自律章程或職業倫理規範者要施予適當之制裁。

827) As an interim measure to provide some coverage of AML/CFT requirements for the real estate sector, in March 2006 the MOI advised the National Business Union of Real Estate Associations, Land Administration Agent Association and Real Estate Selling Agent Associations of local municipalities, counties and cities to inform its members of the need to enhance money laundering prevention initiatives. The real estate sector has been advised to ascertain clients' identities and keep records or receipts of the transactions and report any suspicious transaction to their respective associations who would then forward the STR to the MLPC. The Evaluation Team was also advised that the associations are required by MOI to include the policies of preventing money laundering into their constitutions or regulations of business ethic code and

impose proper sanctions to those who do not comply with the self-regulated constitutions and ethic code.

828) 律師及公證人並未納入目前中華台北的反洗錢與打擊資助恐怖分子法律及管理體制之內，因此無任何刑事、民事或行政制裁要求律師執行反洗錢與打擊資助恐怖分子之要求。

828) Lawyers and notaries are not covered that the current AML/CFT legislative and regulatory regime in Chinese Taipei. Therefore there are no criminal, civil or administrative penalties to obligate an attorney to implement AML/CFT requirements.

829) 關於公證人，迄 2006 年 7 月底，有 47 位法院公證人依公證法及公務人員相關人事法規執行職務，同日期有 178 民間公證人，其中律師兼辦文書認證事務之民間公證人計 121 人，另專業公證人有 57 位，其職務行爲受公證法及相關法規規範，諸如關於中華台北海外領事人員認證執行規則及公證文件及登記保存與銷毀規定等。

829) Regarding the notaries sector, there were 47 court notaries who perform their duties according to the Notary Law as well as those public servant personnel regulations as at end of July 2006. As at the same date there were 178 civil notaries who include 121 lawyer-notaries, who perform signatures and private writings authentication only, and there were 57 single-profession notaries, who perform all functions of a notary. The performance of a notary for the notarial affairs is governed by the Notary Law and related rules such as the regulations relating to the execution of authentication by overseas consular official of Chinese Taipei, and the rules for preservation and destruction of the notarial documents and registers.

830) 按中華台北律師係扮演有在野法曹之角色，故負有以保障人權、實現社會正義及促進民主法治爲使命之責，且應本於自律自治之精神，誠實執行職務，維護社會秩序及改善法律制度，中華台北律師法第 1

830) Attorneys in Chinese Taipei play the role of non-governmental jurists who are charged with the responsibility for safeguarding human rights, ensuring social justice and promoting democracy and the rule of law. They are required to discipline themselves and fulfill their duties honestly so that they can contribute to law and order in society

條定有明文。經中華台北律師考試及格者，於取得法務部所核發之律師證書，即具律師資格。

and the improvement of the legal system. This is provided for in Article 1 of the nation's Attorney Regulation Act. A person may practice law as an attorney after he/she passes the bar examinations and obtains an attorney certificate issued by the Ministry of Justice.

831) 律師於執行職務時，除應加入律師公會外，尚須向法院聲請登錄，惟於向法院聲請登錄前，應先完成職前訓練，中華台北律師法第 7 條、第 11 條第 1 項規定可資參照。

831) An attorney must be a member of a Bar Association to enable him/her to the practice. Besides, he/she must apply for registration with the court. Before application for registration, an attorney has to go through pre-service training. This is provided for in Article 7 and Paragraph 1 of Article 11 of the Attorney Regulation Act.

832) 律師法第 4 條規定不適合充任律師之條件。

832) Article 4 of the Attorney Regulation Act stipulates clear criteria by which unsuitable persons are disqualified from practicing law.

833) 律師得向各法院聲請登錄。律師應完成職前訓練，方得登錄。但曾任法官、檢察官、公設辯護人、軍法官者，不在此限。法務部訂定相關職前訓練要求與程序。

833) An attorney may apply for registration with a Court. Prior to being registered, an attorney must complete a "New Admittees Training Program". Exempt from this requirement are former judges, prosecutors, public defenders, and military judges. The Ministry of Justice establishes the requirements and procedures for the New Admittees Training Programs.

834) 律師法第 8 條要求各法院及各該法院檢察署，應置律師名簿。

834) Under Article 8 of the Attorney Regulation Act a Roll of Registered Attorneys is posted at all courts and Prosecutor Offices of parallel jurisdiction with said courts.

835) 依律師法第 20 條第 1 項規定，律師受當事人之委託或法院之指定，得辦理法律事務，包括商標、專利、

835) Under Article 20 of the Attorney Regulation Act an attorney may engage in the practice of law when so employed by a client or appointed by a court. The practice of law

工商登記、土地登記及其他依法得代理之事務。

includes, but is not limited to: handling trade marks, patents, commercial and industrial registrations, land registrations and other legally permissible law related business.

836) 律師於執行職務時，在所有情形下都要注意並遵守相關法規，違反者之依法律懲罰。

836) An attorney in the course and scope of his/her practice is required in all circumstances to observe and abide by relevant statutes. The attorney is liable for the penalties set by law for non-compliance.

837) 律師得聘僱外國人從事助理或顧問性質之工作；其許可及管理辦法，由法務部會同行政院勞工委員會定之。

837) An attorney may employ a non-citizen as an assistant or a consultant. The regulations governing the requirements for granting approval of such employment and administrative matters connected with such employment is established by the Ministry of Justice in association with the Council of Labor Affairs, the Executive Yuan.

838) 成立律師事務所之律師要加入地方法院轄區所在之地區律師公會，並通知事務所所在地之地方法院及檢察署。律師管理規則第 21 條禁止律師在同一地方法院管轄區域內設二以上之事務所，並不得另設其他名目之事務所。

838) Upon establishing a law firm, the attorney is required to join the local bar association in that jurisdiction. Attorneys are required to notify the District Court and the District Court Prosecutors Office in that jurisdiction of the address of the attorney's place of business. Article 21 of the Attorney Regulation Act prohibits an attorney from maintaining more than one place of business nor is any form of branch office permitted within one jurisdiction. The attorney is also prohibited from establishing another law firm under another name.

839) 目前有 16 個地方性律師公會，每一縣市各有一

839) There are currently 16 local bar associations, one for each county or each

個，並有一個全國性公會。依據法務部提供之資訊，目前有 9800 位有執照之律師，其中在中華台北境內執業有 5500 位。雖然統計資料中未提及，評鑑團被告知大多數在中華台北境內之律師都是獨立執業，只有一個律師事務所的律師超過 1 百位，二個律師事務所有 50 至 100 位律師，大約 20 個律師事務所低於 5 個律師。

city and there is only one national bar association. According to information provided by MOJ there are currently around 9,800 people who are licensed out of which around 5,500 are practicing lawyers in Chinese Taipei. Although specific statistics are not maintained, the Evaluation Team was advised by authorities that most lawyers in Chinese Taipei are single practitioners. There is only 1 law firm that has more than 100 lawyers, 2 law firms that have 50 to 100 lawyers, and about 20 law firms that have 5 or fewer lawyers.

840) 有關機關認爲公會應是中華台北境內最適合擔任律師反履行洗錢與打擊資助恐怖分子義務之監理角色，並進一步告知司法院的基本立場是維持獨立性，不涉入反洗錢與打擊資助恐怖分子之管理與遵循體制。司法院對此問題保留評論，因爲該院不願與評鑑團會晤並討論中華台北反洗錢與打擊資助恐怖分子之評鑑。

840) The authorities believe that the bar association would be the most appropriate authority to undertake AML/CFT supervisory role in Chinese Taipei. The authorities further advised that the basic position of the Judicial Yuan is to maintain its independence and not to be involved in the AML/CFT regulatory and compliance regime. The Judicial Yuan itself reserved its comments on this matter due to its reluctance to meet and discuss AML/CFT assessment of Chinese Taipei with the Evaluation Team.

841) 雖然法務部是律師公會的管理機關，該公會之功能與運作都是獨立的。依據律師公會組織章程第 14 條，該公會已建立許多不同的功能性委員會，會員代表大會是該公會最高組織，被賦予許多權力，包括制定、修正律師倫理及行爲規範，以及同意取消

841) Although the MOJ is the bar association's governing authority, the association operates and functions independently. The association has establishment of various functional committees under Article 14 of the Articles of Incorporation of the Taiwan Bar Association. The General Assembly of Delegates is the supreme organization of the bar association and is vested with many powers including the power to

任何會員資格，該公會之理事會亦有許多權力，包括：

a) 審查及同意該公會組織章程、法規、規範、規則等。
b) 審查及同意會員資格。
c) 處理其他法律、規定及條例之相關事務。

constitute and amend the code of ethics and conduct for lawyers and approve disbarment of any membership. The board of directors of the bar association also has a number of powers including the following:

a) powers to review and approve the articles of incorporation, codes, regulations, rules and provisions of the association;
b) to review and approve the qualification of membership;
c) to handle matters stipulated by other related laws, regulations and rules.

842) 從上面觀點，律師公會應是中華台北境內最適合被指定擔任監督並確保律師執行反洗錢與打擊資助恐怖分子義務之最適當機構。

842) In view of the above it is recommended that the bar association is the most appropriate agency to be designated as the competent authority responsible for implementing, monitoring and ensuring compliance with AML/CFT obligations for lawyers in Chinese Taipei.

843) 調查局、洗錢防制中心或法務部未展開與法律專業人士包括律師公會共同討論並進行諮詢，以評估此一行業面對洗錢／資助恐怖分子之弱點。

843) There has been little if any discussion and consultation initiated by the MJIB, MLPC or the MOJ with the legal profession including the bar association to assess ML/FT vulnerabilities for the sector.

會計師(Accountants)

844) 會計師行業目前並未涵蓋在中華台北反洗錢與打擊資助恐怖分子體制之中。會計師受會計師法及相關法規之管理與規範，對於如何處理會計師執業時違反法律有相當多之要求。

844) The CPA industry is not presently covered under Chinese Taipei's AML/CFT regime. Accountants are governed and regulated under the CPA Act and related regulations. The current CPA Act and related regulations set out a number of requirements for how to handle violations of the law by CPAs in the course of their professional practice.

845) 審計準則公報第 29 號「法令遵循之考量」要求會計師查核財務報表時，對於受查者未遵循法令事項提高警覺，必要時應考量是否出具保留意見、否定意見或是終止委任。

845) Statement on Auditing Standards No. 29 (Consideration of Laws and Regulations in an Audit of Financial Statements) requires CPAs to be alert when auditing financial statements about possible legal compliance failures by the audited party, and to consider as necessary the possibility of giving a qualified opinion or an adverse opinion, or of withdrawing from the audit.

846) 依據會計師法規定，經會計師考試及格，取得會計師資格，領有會計師證書者，得在中華台北境內充任會計師。會計師應向省(市) 主管機關申請登錄，方得開業。會計師應在公私機構擔任會計職務，或在會計師事務所擔任助理人員二年以上，方得登錄。

846) Under the CPA Act, a person who passes the CPA examination, possesses the qualification of a certified public accountant (CPA) and has acquired a CPA certificate may practice as a CPA in Chinese Taipei. A CPA is required to file an application for registration with the authority in a province (municipality) before commencing his practice. A CPA is also required to have worked in the accounting field with a public or a private institution or as an assistant with a CPA firm, for at least two years, to qualify for filing his application for registration.

847) 依據會計師法第 15 條規定，會計師得在登錄之區域內執行下列業務：

a) 受當事人之委託或受政府機關之指定，辦理關於會計之設計、管理、稽核、調查、整理、清算、鑑定、財務分析或資產估價等事項。
b) 承辦財務報告之查核、簽證。
c) 充任檢查人、清算人、破產管理人、遺囑執行人或

847) Article 15 of the CPA Act requires that a CPA may perform the following types of professional services within the area in which he is registered:

a) to perform, upon assignment by government agencies or judicial authorities or engagement by a client, services with regard to planning, management, auditing, verification, arrangement, liquidation, appraisal, financial statement analysis, and evaluation of assets as may be required in connection with accounting;
b) to perform services with regards to

其他信託人。

d) 充任稅務案件之代理人。

e) 充任工商登記或商標註冊及其有關事件之代理人。

f) 代辦其他與會計有關之事項。

examination and certification of financial reports;

c) to serve as an inspector, liquidator, bankruptcy administrator, or executor of a will, or in any other fiduciary capacity;

d) to serve as an agent in cases involving taxation;

e) to serve as an agent in cases in connection with registration of business firms or trademarks, and in other cases relevant to such registration;

f) to perform services regarding other accounting matters.

848) 對於會計師行業之現行管理架構是由經濟部商業司、金管會及自律組織共同分擔，其中 307 家會計師事務所爲聯合會計師事務所，其中 104 家經金管會證期局核准得查核公開發行公司，另有 3 個自律組織對於會計師在中華台北境內執業訂定一些管理機制。中華民國會計師公會全國聯合會是唯一爲強化會計師行業管理之全國性會計師公會，設有自律委員會負責確保職業倫理與相關標準之監督。如前所述，該公會及金管會有權力規範所屬會員。該公會在與評鑑團討論時指出，由於該公會是一個自律組織，有關會計師之反洗錢與打擊資助恐怖分子之規範與監理，最好由政府處理，然而該公會亦樂

848) The current administration structure of the CPA sector is shared between the DOC of MOEA, the FSC and the SROs. Out of the 307 CPA firms that are accountants and auditors for publicly listed companies, only 104 firms are regulated by the Securities Bureau. There are 3 regional SROs that provide several regulatory mechanisms for the general practice and operation of CPAs in Chinese Taipei. The National Federation of CPA was established as a single nationwide CPA association to strengthen the management of the CPA industry. The NFCPA has a self-disciplinary committee that is also responsible for ensuring monitoring of ethics and standards. As mentioned earlier, the NFCPA and the FSC have powers to discipline members. Discussions with the NFCPA indicated the since they were a self-regulatory organization, the AML/CFT regulatory and supervisory role would be best handled by the government. However, the SROs

意提供所屬會員相關警訊及訓練，以確保對中華台北反洗錢與打擊資助恐怖分子規範的新發展有所了解。

would be happy to provide their members with appropriate awareness and training to ensure that members are continuously updated of AML/CFT regulatory developments in Chinese Taipei.

849) 評鑑團被告知，中華台北有關機關正計劃修正會計師法，有關機關將被授權可以檢查會計師有關營運及相關財務事項。

849) The Evaluation Team was informed that the Chinese Taipei authorities are planning to amend the CPA Act. Among other changes, the competent authority will be empowered to examine the operations and operations-related financial matters of accounting firms.

4.3.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

850) 建議經濟部對於非公司形態之團體進行抽樣檢查。

850) It is recommended that the Ministry of Economic Affairs undertake inspections of non-incorporated entities on a random sampling basis.

851) 中華台北應考慮採取更嚴厲之制裁，以確保非法賭場不會營業。

851) Chinese Taipei should consider stronger sanctions to ensure illegal casinos do not operate.

852) 建議有關機關（特別是法務部及洗錢防制中心）進行綜合檢討，以確定受到洗錢與資助恐怖分子風險威脅之特定非金融事業體與專業人士能夠納入反洗錢與打擊資助恐怖分子體制之規範與監理，並決定主管機關。

852) It is recommended that the authorities (especially MOJ and MLPC) carry out a comprehensive review to ascertain the extent to which the DNFBP entities may pose ML and TF risks and to determine the competent authorities that would be responsible for the AML/CFT regulatory and supervisory regime for DNFBP.

853) 有關機關應有足夠資源、能力與適當權力可以確保所有特定非金融事業體與專業人士遵循反洗錢與打擊資助恐怖分子要求，包括銀樓業。

853) Ensure that sufficient resources, capacity and suitable powers are available for competent authorities to ensure AML/CFT requirements for all DNFBPs, including dealers in precious metal and stones.

4.3.3 建議第24及25項之遵循評等(COMPLIANCE WITH RECOMMENDATION

24 AND 25)

	評等	評等理由摘述
建議第24項	NC	● 賭場在中華台北境內被禁止，有關機關可以考慮對於違反者施以更嚴厲之懲罰。 ● 在目前架構下未涵蓋所有銀樓業者。 ● 對於不動產業之過渡性監督作爲在許多方面都不符必要準則。 ● 中華台北的反洗錢與打擊資助恐怖分子管理體制不涵蓋律師及會計師行業。
R.24	NC	● While casinos are prohibited in Chinese Taipei, authorities may consider providing more severe penalties for the offenders. ● The jewellery sector is not fully covered under the current framework. ● The interim measures for monitoring the real estate sector falls short of the essential criteria in many ways. ● Chinese Taipei's AML/CFT regulatory regime does not cover lawyers and accountants sector.
建議第25項	PC	● 有關機關尚未對律師、會計師及不動產經紀人防制洗錢之管理規範進行諮詢。 ● 本第25項建議是一項綜合評等。
R.25	PC	● The authorities are yet to undertake consultation on the issuance of regulatory guidelines for lawyers, accountants and the real estate agents ● The rating in this box is an aggregate rating of R.25 across the various parts of the report.

4.4 其他類型之「特定非金融事業體與專業人士」及確保交易安全技術（建議第20項）-(OTHER NON-FINANCIAL BUSINESSES AND PROFESSIONS – MODERN SECURE TRANSACTION TECHNIQUES-R.20)

4.4.1 說明與分析 (DESCRIPTION AND ANALYSIS)

854) 中華台北顯然未曾慎重考慮將其他類型之特定非金融事業體與專業人士納入反洗錢與打擊資助恐怖分

854) Chinese Taipei does not appear to have given serious consideration to the possibility of bringing non-financial professions and businesses other than the

子體制。

DNFBPs into the scope of the AML/CFT regime.

4.4.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

855) 中華台北僅將一種特定非金融事業體與專業人士納入反洗錢與打擊資助恐怖分子體制。

855) Chinese Taipei has brought only one of the DNFBPs into the scope of its AML/CFT regime.

856) 中華台北應檢討其他類型之非金融事業體與專業人士面對洗錢與資助恐怖分子威脅之弱點，例如藝品古董業者。

856) Chinese Taipei should reviews the vulnerability of other non-financial businesses and professions that may be vulnerable to ML and TF, for example dealers in arts and antiques.

4.4.3 建議第20項之遵循評等 (COMPLIANCE WITH RECOMMENDATION 20)

	評等	評等理由摘述
建議第20項	NC	● 無跡象顯示中華台北曾慎重考慮將其他類型之特定非金融事業體與專業人士納入反洗錢與打擊資助恐怖分子體制。
R.20	NC	● No indication that serious consideration has been given to the possibility of bringing other non-financial professions and businesses into the scope of the AML/CFT regime.

5 法人、法律合意及非營利組織 (LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS)

5.1 法人-利益所有權與控制權等資訊之取得-建議第33項 (LEGAL PERSONS – ACCESS TO BENEFICIAL OWNERSHIP AND CONTROL INFORMATION -R.33)

本節報告僅針對營利組織之法人，信託及非營利組織將分別在5.2及5.3節討論。因此將僅分析公司及其要求事項，不管是上市或未上市公司。

This section of the report addresses only profit-seeking organizations recognized as legal persons. Trusts and non-profit organizations will be discussed in Section 5.2 and 5.3 respectively. This section will, therefore, analyze only corporations and the matters that apply to corporations regardless of whether they are listed companies or unlisted companies.

5.1.1 說明與分析 (DESCRIPTION AND ANALYSIS)

857) 中華台北確認下列之公司型態：

a) 無限公司：指二人以上股東所組織，對公司債務負連帶無限清償責任之公司。

b) 有限公司：由一人以上股東所組織，就其出資額爲限，對公司負其責任之公司。

c) 兩合公司：指一人以上無限責任股東，與一人以上有限責任股東所組織，其無限責任股東對公司債務負連帶無限清償責任；有限責任股東就其出資額爲限，對公司負其責任之公司。

d) 股份有限公司：指二人以上股東或政府、法人股東一人所組織，全部資本分爲股份；股東就其所認股份，對公司負其責任之公

857) Chinese Taipei recognizes the following types of corporations:

a) Unlimited Company: a company organized by two or more shareholders who bear unlimited joint and several liabilities for discharge of the obligations of the company.

b) Limited Company: a company organized by one or more shareholders, with each shareholder being liable for the company in an amount limited to his/her contribution of capital.

c) Unlimited Company with Limited Liability Shareholders: a company organized by one or more shareholders of unlimited liability and one or more shareholders of limited liability; among them the shareholder(s) with unlimited liability shall bear unlimited joint liability for the obligations of the company, while each of the shareholders with limited liability shall be held liable for the obligations of the company only in proportion to his/her

司。	contribution of capital. d) Company Limited by Shares: a company organized by two or more or one government or corporate shareholder, with the total capital of the company being divided into shares and each shareholder being liable for the company in an amount equal to the total value of shares subscribed by him.
858) 中華台北使用中央登記系統及主管機關檢查與命令送繳相關文件之權力，以確保公司之透明度。	858) Chinese Taipei utilizes a combination of a central registry system and the government authorities' power to conduct inspections and to order submission of documents to ensure transparency of corporations.

註冊與識別(Registration and Recognition)

859) 依據中華台北民法規定，除非向主管機關登記，不得成立法人。法人登記後，有應登記之事項而不登記，或已登記之事項有變更而不爲變更之登記者，不得以其事項對抗第三人。	859) Under the Civil Code of Chinese Taipei, no juristic person can be established unless it has been registered with the authorities concerned. If a juristic person, after its registration, fails to register any entry which should have been registered, or fails to register any amendment to any of the entries already registered, such entry or amendment therein should not be a valid defense against any third party.
860) 在中華台北成立公司，負責人必須將申請書併同相關必備文件，繳交經濟部商業司。如果由代理人申請，代理人必須出示委託書，並只有會計師或律師可以爲代理人。	860) To establish a company in Chinese Taipei, the responsible person must submit an application together with a complete set of required documents to the Ministry of Economic Affairs Depart of Commerce. In case the application is submitted by an agent, the agent must present power of attorney. Only a CPA or a lawyer can work as an agent in such application.

861) 公司法第19條規定，未經設立登記，不得以公司名義經營業務或爲其他法律行爲。

861) Article 19 of the Company Act provides that a company may not conduct its business operations or commit any juristic act in the name of its company, unless it has completed the procedure for company incorporation registration.

862) 公司法第387條規定，公司之登記或認許，應由代表公司之負責人備具申請書，連同應備之文件一份，向中央主管機關申請；由代理人申請時，應加具委託書。同法條規定只有會計師、律師得爲代理人辦理公司登記。

862) Article 387 of the Company Act provides that in applying for company registration or recognition, an application together with a complete set of the documents as required shall be filed with the central competent authority by the responsible person who represents the company for its approval. In the case the application is filed by an agent, a power of attorney shall be attached thereto. The same Article also provides that only lawyers or public accountants can work as agents in company registration.

863) 申請成立公司社團或變更公司登記資本額，必須先取得會計師之稽核簽證。

863) Before applying for company incorporation, or for alteration of the registered amount of capital of the company, the company must first obtain an audit certificate from an independent certified public accountant.

864) 公司之登記及認許辦法第15條規定，公司及外國公司登記事項如有變更者，應於變更後十五日內，向主管機關申請爲變更之登記。

864) Article 15 of the Rules Governing Company Registration and Recognition provides that application for amendment of registration must be files within 15 days of any change in the particulars registered in a company or a foreign company registration.

865) 依據民法第48條規定，社團設立時，應登記之事項如下：

- 目的。
- 名稱。
- 主事務所及分事務所。

865) Article 48 of the Civil Code sets out the entries to be registered when a corporation is established and includes requirements for the following:

- purpose;
- name;

- 董事之姓名及住所。設有監察人者，其姓名及住所。
- 財產之總額。
- 定有代表法人之董事者，其姓名。

866) 同法條於規定，社團之登記，應附具章程備案。相關資訊包括：

無限公司：

--所營事業。

--股東姓名、住所或居所。

--資本總額及各股東出資額。

--本公司所在地；設有分公司者，其所在地。

--定有代表公司之股東者，其姓名。

--定有執行業務之股東者，其姓名。

有限公司：

--所營事業。

--股東姓名或名稱、住所或居所。

--資本總額及各股東出資額。

--本公司所在地；設有分公司者，其所在地。

--董事人數。

兩合公司：

--所營事業。

--股東姓名、住所或居所。

--資本總額及各股東出資額。

--本公司所在地；設有分公司者，其所在地。

--定有代表公司之股東

- the principal and branch offices;
- the name and domicile of the director; and same of the controller, if any;
- the total assets; and
- the name of the director who represents the juridical person, if any.

866) The same Article also provides that a copy of the company's bylaw should be annexed to the application for registration. Information to be included in the articles of incorporation include:

Type of Company	Specifics to be Included in Articles of Incorporation
Unlimited Company	– The scope of business to be conducted; – The name and address of each shareholder; – Details of the amount and form of shareholder capital stock and the equity capital; – The location of the head and offices; – The name of the shareholder designated to represent the company, if any; – The name of the shareholder(s) who is (are) designated to conduct the business operations of the company, if any;
Limited Company	– The scope of business to be operated; – The name and address of each shareholder; – The aggregate of capital stock and the capital contribution made by each shareholder; – The location of the head and branch offices; – The number of directors;
Unlimited Company with Limited Liability Shareholders	– The scope of business to be conducted; – The name and address of each shareholder; – Details of the amount and form of shareholder capital stock and the equity capital; – The location of the head and branch offices; – The name of the shareholder designated to represent the company, if any; – The name of the shareholder(s) who is (are) designated to conduct the business operations of the company, if any;
Company Limited by Shares	– The scope of business to be operated; – The total number of shares and the par value of each share certificate; – The location of the company; – The number of directors and supervisors, and the term of their respective offices;

者，其姓名。
--定有執行業務之股東者，其姓名。
股份有限公司：
--所營事業。
--股份總數及每股金額。
--本公司所在地。
--董事及監察人之人數及任期。

867) 有限公司、無限公司及兩合公司，代表公司之股東或董事，不備置前項章程於本公司者，處新臺幣一萬元以上五萬元以下罰鍰。連續拒不備置者，並按次連續處新臺幣二萬元以上十萬元以下罰鍰。

867) For limited companies, unlimited companies, and unlimited companies with limited liability shareholders, the shareholder or the director who is designated to represent the company is imposed with a fine in an amount not less than NT$10,000 but not more than NT$50,000 if articles of incorporation are not made available at the head office of a company. For consecutive refusals to prepare and make the articles of incorporation available, a fine in an amount not less than NT$ 20,000 but not more than NT$ 100,000 is imposed for each consecutive violation.

868) 對於股份有限公司，下列各款事項，非經載明於章程者，不生效力：
a) 分公司之設立。
b) 分次發行股份者，定於公司設立時之發行數額。
c) 解散之事由。
d) 特別股之種類及其權利義務。
e) 發起人所得受之特別利益及受益者之姓名。

868) For a company limited by shares, the following matters do not take effect unless stipulated in the articles of incorporation:
a) establishment of branch office;
b) the number of shares to be issued upon incorporation of the company, if the total authorized number of shares are to be issued in instalments;
c) the cause(s) for dissolution of the company, if any;
d) the kind of special shares and the rights and obligations covered by such beneficiaries;

e) special benefits to be accorded to promoters and the name of such beneficiaries.

869) 發起人對於前項報告有虛偽情事時，各科新臺幣六萬元以下罰金。

869) In the case of any false statements in the report of the matters listed above, each of the promoters is imposed with a fine not exceeding NT$60,000.

870) 依據公司法第 393 條規定，公司下列登記事項，主管機關應予公開，任何人得向主管機關申請查閱或抄錄：

a) 公司名稱。
b) 所營事業。
c) 公司所在地。
d) 執行業務或代表公司之股東。
e) 董事、監察人姓名及持股。
f) 經理人姓名。

870) According to Article 393 of the Company Act, the competent authority must provide details of company registration to the public, including:

a) the name of the company;
b) the scope of business of the company;
c) the location of the company;
d) the shareholder(s) executing the business operations or representing the company;
e) the name of directors and supervisors and their respective shareholdings;
f) the name of the manager.

871) 任何人得至主管機關之資訊網站查閱 (工商服務入口網站)。

871) Access to such corporate registration information is possible via the information web site of the competent authority (Industrial Commerce Services Portal).

取得利益擁有人資訊(Access to Information about Ownership)

872) 有限公司及股份有限公司應將股東名簿置放於本公司。代表公司之董事不備置前項股東名簿於本公司者，處新臺幣一萬元以上五萬元以下罰鍰。連續拒不備置者，並按次連續處新臺幣二萬元以上十萬元以下罰鍰。

872) Limited companies and companies limited by shares are required to make the shareholders' roster available at the head office. The director who is authorized to represent the company and fails to make the shareholders' roster available at the company shall be imposed with a fine not less than NT$ 10,000 but not more than NT$ 50,000. For successive refusals to make the shareholders roster available at the company, the amount of the fine is

increased to not less than NT$ 20,000 but not more than NT$ 100,000 for each successive refusal.

873) 對於有限公司，股東名簿必須載明下列事項：
a) 各股東出資額及股單號數。
b) 各股東姓名或名稱、住所或居所。
c) 繳納股款之年、月、日。

873) For limited companies, the shareholders' roster must specify the following:
a) the amount of capital contribution made by each shareholder, and the serial number of the share certificate issued to him/her;
b) the name or title, domicile or residence of each shareholder; and
c) the date of payment of share equity by each shareholder.

874) 對於股份有限公司，股東名簿必須載明下列事項：
a) 各股東之姓名或名稱、住所或居所。
b) 各股東之股數；發行股票者，其股票號數。
c) 發給股票之年、月、日。
d) 發行無記名股票者，應記載其股數、號數及發行之年、月、日。
e) 發行特別股者，並應註明特別種類字樣。

874) For companies limited by shares, the shareholders' roster must specify the following:
a) the name or title and the domicile or residence of the shareholders;
b) the number of shares held by each shareholder; and the serial number(s) of share certificate(s), if issued, by that shareholder;
c) the date of issuance of the share certificates;
d) the number of shares, the serial number of share certificate(s), and the date of issuance of the bearer share certificate(s), if bearer stocks are issued; and
e) the words describing the type of special shares, if special shares are issued.

875) 股份之轉讓，非將受讓人之姓名或名稱及住所或居所，記載於公司股東名簿，不得以其轉讓對抗公司。

875) Assignment/transfer of shares cannot be set up as a defence against the issuing company, unless name/title and residence/domicile of the assignee/transferee have been recorded in the shareholders' roster.

876) 在中華台北禁止發行無記名股票，主要是考量股票

876) Issuance of bearer shares is not allowed in Chinese Taipei. Consequently, there is

所有人身分透明度問題。

transparency concerning the identity of the owner of a share.

股東大會及董事會議之決定／決議(Decisions/Resolutions by the Shareholders' Meeting and Board of Directors' Meeting)

877) 股東會之決議事項，應作成議事錄，並於會後 20 日內，將議事錄分發各股東，並在公司存續期間，應永久保存，代表公司之董事未能履行該項責任，處新臺幣 1 萬元以上 5 萬元以下罰鍰。

877) Companies limited by shares are required to record resolutions adopted at shareholders' meetings and the proceedings of the board of directors' meeting. Such minutes must be distributed to all shareholders within 20 days after the close of the meeting and be kept at the company for the life of the company. The Director authorized to represent the company is fined not less than NT$10,000 but not more than NT$50,000 if he/she fails to fulfil the duties.

外國公司之認許(Recognition of Foreign Companies)

878) 外國公司非在其本國設立登記營業者，不得申請認許。非經認許，並辦理分公司登記者，不得在中華台北境內營業。

878) A foreign company cannot apply for recognition without incorporating registration in its own country and conducting its business operation therein. In addition, a foreign company may not transact business within the territory of the Chinese Taipei without obtaining a certificate of recognition from the government of the Chinese Taipei and completing the procedure for branch office registration.

879) 外國公司經認許後，其法律上權利義務及主管機關之管轄，除法律另有規定外，與中華民國公司同。外國公司應於認許後，將章程備置於中華民國境內指定之訴訟及非訴訟代理人處所，或其分公司，如有無限責任股東者，並備

879) After being given the certificate of recognition, foreign companies have the same rights and obligations and are subject to the same jurisdiction of the authority as a domestic company. A foreign company must keep a copy of its articles of incorporation in the office of its representative for litigious and non-litigious matters or branch office within the territory of Chinese Taipei. In case

置其名冊。公司負責人違反前項規定，不備置章程或無限責任股東名簿者，各處新臺幣一萬元以上五萬元以下罰鍰。連續拒不備置者，並按次連續各處新臺幣二萬元以上十萬元以下罰鍰。主管機關於必要時，得查閱外國公司有關營業之簿冊文件。

there are shareholders of unlimited liability, a roster of such shareholders must also be kept. The responsible persons who fail to keep a copy of the articles of incorporation or the roster of unlimited liability shareholders are severally subject to a fine of not less than NT$ 10,000 but not more than NT$ 50,000. For any further failure of the same nature, a fine of not less than NT$10,000 but not more than NT$100,000 is imposed for each successive failure. Whenever necessary, a foreign company may also be subject to examination of its books, records and documents relating to its business by the Authority.

政府有關機關之檢查(Examination by Government Authorities)

880) 依據公司法規定，主管機關得隨時派員檢查公司年報及財務報表，或命令公司在一定期限內將相關表報送查。公司負責人妨礙、拒絕或規避檢查或未能提交者，將被處以新臺幣二萬元以上五萬元以下罰鍰。如果公司妨礙、拒絕或規避檢查或未能在期限之後提交該當文件者，將被處以新臺幣二萬元以上十萬元以下罰鍰。

880) Under the Company Act, the competent authority may, at any time or from time to time, send its officers to conduct examination of the annual report and financial statements or may require a company by an order to submit such documents within a given time limit. The responsible of a company that impedes, refuses, or evades such examination or fail to make the submission is fined in an amount not less than NT$20,000 but not more than NT$ 50,000; or is imposed with a fine of not less than NT$ 20,000 but not more than NT$ 100,000 if the company impedes, refuses or evades the examination or fails to submit the documents after expiry of the deadline date.

881) 依照同法，主管機關得會同目的事業主管機關，隨時派員檢查公司業務及財

881) Under the same Act, the competent authority may, in conjunction with the authority in charge of the end enterprise concerned, at

務狀況，公司負責人不得妨礙、拒絕或規避。公司負責人妨礙、拒絕或規避前項檢查者，各處新臺幣二萬元以上十萬元以下罰鍰。連續妨礙、拒絕或規避者，並按次連續各處新臺幣四萬元以上二十萬元以下罰鍰。

any time or from time to time, conduct inspection of the operation and financial conditions of a company. The responsible person of a company who impedes, refuses or evades such inspection is imposed with a fine of not less than NT$ 20,000 but not more than NT$ 100,000. For successive acts in terms of impeding, refusing or evading such inspection, the responsible person of a company shall be imposed successively in each case a fine of not less than NT$ 40,000 but not more than NT$ 200,000.

882) 主管機關查核公司申報之各項書表，或檢查公司業務及財務狀況時，得令公司提出證明文件、單據、表冊及有關資料。公司負責人違反前項規定，拒絕提出時，各處新臺幣二萬元以上十萬元以下罰鍰。連續拒絕者，並按次連續各處新臺幣四萬元以上二十萬元以下罰鍰。

882) In examining the documents and statements submitted by a company or in inspecting the operation and financial conditions of a company, the competent authority can order the company to present evidential documents, vouchers, books and statements and other relevant information. The responsible person of a company who refuses to provide evidentiary documents is imposed with a fine of not less than NT$ 20,000 but not more than NT$ 100,000. For successive failure to provide such information, the responsible person of a company is imposed in each case a fine of not less than NT$ 40,000 but not more than NT$ 200,000.

883) 中華台北使用中央登記系統及主管機關檢查與命令送繳相關文件之權力，以確保公司之透明度。任何人都可以查閱有關存在中央機關之公司資料，包括公司名稱、所營事業、公司所在地、執行業務或代

883) Chinese Taipei utilizes a combination of a central registration system and the government authorities' general compulsory powers to maintain transparency of legal persons. Anybody can access the information about a company stored in the central registry including the name of the shareholder(s) executing the business

表公司之股東及董事、監察人姓名及持股。公司應在一定時間內揭露登記資料之變更，並保存股東名簿。

operations or representing the company, the name of directors and supervisors, and their respective shareholdings in the company. Companies are required to disclose changes to the registered information within a prescribed time. All companies are also required to maintain roster of shareholders.

884) 中央登記系統中對於「所有權」之觀念與 FATF 建議事項之「利益所有權」有所差異，登記資料上之資訊只是書面的「所有權」狀態，而 FATF 建議對於「利益擁有人」之定義爲「最終擁有或控制一個客戶／或一個人代表從事金融交易之自然人，或那些最終能有效控制法人或法律合意之人。

884) The concept of "ownership" in the central registry, however, differs from the concept of "beneficial ownership" under the FATF Recommendations. The registry provides information about only the immediate ownership, whereas the FATF Recommendation defines the term "beneficial owner" as "the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted" or "those persons who exercise ultimate effective control over a legal person or arrangement."

5.1.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

885) 中華台北應確保法人在中央登記系統揭露利益擁有人之資訊必須精確且是最新，亦即要能揭露最終有效控制法人與法律合意之人。

885) Chinese Taipei should ensure that legal persons are required to disclose in the central registry accurate and up to date information on the beneficial owner, that is those persons who exercise ultimate effective control over a legal person or arrangement.

5.1.3 建議第33項遵循評等 (COMPLIANCE WITH RECOMMENDATIONS 33)

	評 等	評 等 理 由 摘 述
建議第33項	PC	● 法人並無義務保存並提供利益擁有權之資訊。
R.33	PC	● There is no obligation to maintain and make available beneficial ownership information for legal persons

5.2 法律合意-利益所有權與控制權資訊之取得-建議第34項(LEGAL ARRANGEMENTS – ACCESS TO BENEFICIAL OWNERSHIP AND

CONTROL INFORMATION - R.34)

5.2.1 說明與分析 (DESCRIPTION AND ANALYSIS)

個人信託(Private Trusts)

886) 個人信託受到信託法及法院依據當事人間信託契約關係之規範。依信託法第 2 條之規定，信託應以契約或遺囑爲之。

886) Private trustees are regulated by the Trust Law and treated by the court in accordance with the contractual relationship between the parties. Under Article 2 of the Law, trusts are established by a contract or a will.

887) 信託財產之登記：以應登記或註冊之財產權爲信託者，非經信託登記，不得對抗第三人。以有價證券爲信託者，非依目的事業主管機關規定於證券上或其他表彰權利之文件上載明爲信託財產，不得對抗第三人。以股票或公司債券爲信託者，非經通知發行公司，不得對抗該公司。

887) Registration of trust assets: Trust assets that are registrable must be registered with respect to the fact that the assets are owned by the trust through trustees, otherwise it will not be valid against third parties. If securities are the subject of a trust property, the trust is not valid unless the particular stock certificates or other documentary certificates of rights specify that they appertain to the trust. No trust established in respect of a stock certificate or corporate bond is valid against the issuing company unless the issuing company has been advised of the trust.

888) 對於土地權信託，土地登記規則第 9 章定有詳細之登記程序，如果是訂定契約之信託，信託人與受託人必須會同申請登記，如果是遺囑信託，在繼承人完成繼承登記之後，由信託人與受託人必須共同申請登記，如果遺囑另指定有遺囑執行人時，應於辦畢遺囑執行人及繼承登記後，由遺囑執行人會同受託人申請登記。

888) For trust of land rights, Chapter IX of the "Land Registration Regulation" sets out detailed procedures for such registration. If the trust is created by a contract, the mandatory and the trustee must jointly apply for the registration. If the trust is created by a testament, after the inheritors have completed the registration of inheritance, the mandatory and the trustee must jointly apply for the registration. In case the executor of the testament is specifically designated by the testament, after completion of the registration of the executor of the testament and inheritance, the trustee and the

executor must jointly apply for registration.

889) 信託之監理：信託除營業信託及公益信託外，由法院監督。法院得因利害關係人或檢察官之聲請爲信託事務之檢查，並選任檢查人及命爲其他必要之處分。受託人不遵守法院之命令或妨礙其檢查者，處新台幣一萬元以上十萬元以下罰鍰。

889) Supervision of trusts: All trusts other than business trusts or charitable trusts are executed under the supervision of the court. Upon application of the interested party or the prosecutor, the court may inspect the trust affairs as well as appoint and order an inspector to take any necessary official actions. A trustee who disobeys or obstructs the court inspection is imposed a fine ranging from NT$10,000 to NT$100,000.

890) 此外，受益人不特定、尚未存在或其他爲保護受益人之利益認有必要時，法院得因利害關係人或檢察官之聲請，選任一人或數人爲信託監察人。

890) Moreover, if no beneficiary is specified or exists or if protection of the rights and interests of the beneficiary is deemed necessary, the court may, upon application of the interested party or the prosecutor, appoint one or more trust supervisors.

891) 信託法允許建立公益信託，稱公益信託者，謂以提昇慈善、文化、學術、技藝、宗教、祭祀或其他以公共利益爲目的之信託。公益信託由目的事業主管機關監督。目的事業主管機關得隨時檢查信託事務及財產狀況。受託人應每年至少一次定期將信託事務處理情形及財務狀況，送公益信託監察人審核後，報請主管機關核備並公告之。

891) The Trust Law allows for establishment of charitable trusts. A “charitable trust" is defined as a trust established for such purposes as promotion of charity, culture, academic studies, craft, religion, religious sacrifice offering or other public interests. Charitable trusts operate under the supervision of their respective industry’s regulatory authority. The industry’s regulatory authority can from time to time inspect the business and financial conditions of the trust. Trusts must at least once every year deliver the statement of both business and financial conditions of the trust to the trust supervisor for review and approval and then file the same with the competent authority for approval.

892) 公益信託違反設立許可條

892) The relevant industry's regulatory authority

件、監督命令或爲其他有害公益之行爲者，目的事業主管機關得撤銷其許可或爲其他必要之處置。其無正當理由連續三年不爲活動者，亦同。

may revoke the approval granted or take other necessary official actions if a charitable trust breaches the conditions of its establishment, disobeys the order of the supervisory authority or acts in any way detrimental to the public interest. The same applies if the trust performs no activities for three consecutive years without any good cause.

893) 公益信託之受託人有左列情事之一者，由目的事業主管機關處新台幣二萬元以上二十萬元以下罰鍰：

a) 帳簿、財產目錄或收支計算表有不實之記載。
b) 拒絕、妨礙或規避目的事業主管機關之檢查。
c) 向目的事業主管機關爲不實之申報或隱瞞事實。
d) 怠於公告或爲不實之公告。
e) 違反目的事業主管機關監督之命令。

893) The industry's regulatory authority can impose a fine of not less than NT$20,000 and not more than NT$200,000 on the trustee of a charitable for any of the following:

a) the trustee misrepresents any books of account, property inventory or statement of receipts and payments;
b) the trustee refuses, obstructs or bypasses the inspection of the industry's regulatory authority;
c) the trustee misrepresents or conceals any material;
d) the trustee omits in publishing a public notice or misrepresents the public notice published; or
e) the trustee violates any supervisory order of the industry's regulatory authority.

信託業(Trust Enterprises)

894) 信託業由財政部管理，包括以經營信託爲業之機構或銀行兼營信託業務，信託業之組織，以依公司法規範之股份有限公司爲限，但銀行經主管機關之許可兼營信託業務者，不在此限。

894) Trust enterprises are regulated by the Ministry of Finance. Trust enterprises include trust corporations set up for conducting trust business or banks involved in the trust business. Except for banks approved to conduct trust businesses, trust enterprises must be organized as a company limited by shares regulated under

the Company Act.

895) 信託業法規定信託契約之訂定，應以書面爲之，並應記載下列各款事項：

a) 委託人、受託人及受益人之姓名、名稱及住所。

b) 信託目的。

c) 信託財產之種類、名稱、數量及價額。

d) 信託存續期間。

e) 信託財產管理及運用方法。

f) 信託收益計算、分配之時期及方法。

g) 信託關係消滅時，信託財產之歸屬及交付方式；受託人之責任。

h) 受託人之報酬標準、種類、計算方法、支付時期及方法。

i) 各項費用之負擔及其支付方法。

j) 信託契約之變更、解除及終止之事由。

k) 簽訂契約之日期。

l) 其他法律或主管機關規定之事項。

895) The Trust Enterprise Act provides that trust agreements must be in writing and contain the following items:

a) name, title and address of the trustor, trustee and beneficiary;

b) purpose of the trust;

c) type, name, amount and value of the trust assets;

d) term of the trust;

e) the means of managing the trust and employing the trust assets;

f) time of, and methods for, calculating and allocation of trust gains;

g) means of liquidation and delivery of the trust assets upon termination of the trust agreement; responsibilities of the trustee;

h) standards, types, calculation method, payment period and method of the remuneration of the trustee;

i) expenses and method of payment thereof;

j) amendment, suspension and termination of the agreement;

k) execution date; and

l) other matters required by other laws or by regulations promulgated by the Ministry of Finance.

896) 信託業接受以應登記之財產爲信託時，應依有關規定爲信託登記。信託業接受以有價證券爲信託者，應於證券上或其他表彰權利之文件上載明爲信託財產。信託業接受以股票或

896) If a trust enterprise accepts property which requires registration as trust assets, the trust enterprise must register such property as required by applicable regulations. If a trust enterprise accepts securities as trust assets, it must indicate such fact on the relevant certificates or the documents evidencing the

公司債券爲信託者，應通知發行公司。

rights. If a trust enterprise accepts shares or corporate bonds as trust assets, the trust enterprise must notify the issuer of such fact.

897) 共同信託基金之募集，應先擬具發行計畫，載明該基金之投資標的及比率、募集方式、權利轉讓、資產管理、淨值計算、權益分派、信託業之禁止行爲與責任及其他必要事項，報經主管機關核准。信託業非經財政部核准，不得募集共同信託基金。共同信託基金受益證券應爲記名式。共同信託基金受益證券由受益人背書轉讓之。但非將受讓人之姓名或名稱通知信託業，不得對抗該信託業。

897) To raise collective trust funds, a trust enterprise must file an offering plan to the Ministry of Finance for approval. Such an offering plan must include the scope and ratio of investment of the funds, the offering method, transfer of rights, asset management, calculation of net asset value, the distribution of the gains, the prohibition on activities of, and liabilities of, a trust enterprise and other necessary matters. A trust enterprise may not raise collective trust funds unless approved to do so by the Ministry of Finance. The collective trust fund beneficial certificates are issued in registered form. Collective trust fund beneficial certificates may be transferred by endorsement of the beneficiary. Unless the identity of the transferee is notified to the trust enterprise, the transfer is not valid against such trust enterprise.

898) 財政部得隨時指定人員，委託合宜機構次指示地方主管機關指定人員進行業務、財務事項及其他信託業或當事人相關事務之檢查。信託業董事、監察人、經理人或其他職員於主管機關派員監管或接管，或勒令停業並限期清理時，有下列情形之一者，處三年以下有期徒刑、拘役或科或併科新臺幣一千萬元以下罰金：

898) The Ministry of Finance may, at any time, appoint a designee, entrust an appropriate institution or direct a local competent authority to appoint a designee to examine the business, financial affairs and other relevant affairs of a trust enterprise or related parties, or direct a trust enterprise or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination. Any of the following acts by a trust enterprise's director, supervisor, manager or other staff member

a) 拒絕移交。
b) 隱匿或毀損有關該信託業業務或財務狀況之帳冊文件。
c) 隱匿或毀損該信託業之財產或爲其他不利於債權人之處分。
d) 無故拒絕監管人、接管人或清理人之詢問，或對其詢問不爲必需之答復，或拒絕其要求，不爲監管、接管或清理之必要行爲。
e) 捏造債務或承認不真實之債務。

is punished by imprisonment for not more than three years, detention, and/or a fine of not more than NT$10,000,000:
a) refusing to turn over business operations;
b) concealing or destroying accounting books or other documents regarding the trust enterprise's business or financial situation;
c) concealing or destroying the trust enterprise's properties, or making other decisions to the detriment of creditors;
d) failing to reply, without justification, to inquiries from the officials sent by the ministry of finance to supervise or take over business operations; and/or
e) fabricating debts or accepting false claims.

899) 信託登記名冊提供一般民眾查閱拷貝。

899) Trust Registration Roster is compiled for public viewing of copying.

5.2.2 建議與評論 (RECOMMENDATIONS AND COMMENTS)

900) 個人信託並無任何揭露或登記之要求，有關機關取得利益所有權資訊之能力，幾乎全憑檢查或調查之權力。法院得依利益關係人或檢察官之請求，對個人信託進行檢查。依照中華台北信託法，法院得依利益關係人或檢察官之請求，指定監察人。

900) Private trusts are not subject to any upfront disclosure or registration requirement. The competent authority's ability to obtain information about the beneficial ownership and the control structure of private trusts relies almost entirely on its powers to conduct inspection or investigation. Courts may conduct inspection of private trusts' affairs upon request of interested parties or a prosecutor. Under the trust law of Chinese Taipei, the court may also appoint a supervisor of a trust upon request of interested parties or a prosecutor.

901) 對於公益信託，主管機關得隨時進行檢查，對於違反信託條件或監督命令者，並得撤銷信託許可。有關公益信託，進行實地

901) For charitable trusts, the regulatory authority of the relevant industry may carry out inspections from time to time and may revoke approvals granted to the trusts if they are in breach of the conditions trust or if they

檢查或文件查核，由主管機關依銀行法相關規定辦理。

disobey supervisory orders. With respect to trust enterprises, the powers to conduct examination and to require submission of documents given to the competent authorities under the Banking Act apply mutatis mutandis.

902) 中華台北無論如何應建立可以讓有關機關及時取得信託利益所有權及控制架構資訊之程序。

902) Chinese Taipei, however, should introduce processes to enable competent authorities to access information about the beneficial ownership and control structure of trusts in a more timely manner.

5.2.3 建議第34項遵循評等 (COMPLIANCE WITH RECOMMENDATIONS 34)

	評 等	評 等 理 由 摘 述
建議第34項	PC	● 有關機關僅有有限權力可以及時取得信託利益所有權及控制之資訊。
R.34	PC	● Competent authorities have only limited powers to have timely access to information on the beneficial ownership and control of trusts.

5.3非營利組織--特別建議第VIII項 (NON-PROFIT ORGANISATIONS - SR.VIII)

5.3.1 說明與分析 (DESCRIPTION AND ANALYSIS)

903) 內政部及地方政府是非營利組織之監理機關，目前由內政部負責全國性財團法人社會福利慈善事業基金會計 148 單位、全國性宗教財團法人計 164 單位、社會團體 6,905 個。地方政府負責地方性社會團體已逾 1 萬個。

903) Both the Ministry of the Interior (MOI) and the Local Governments undertake the supervision of non-profit organisations. Currently the MOI has responsibility for 148 national social welfare organisations, 148 religious organisations and 6,905 social groups. Local government has responsibility for the supervision of over 10,000 local social welfare groups nationwide.

904) 政府監理作爲係透過法律、規定及管理政策辦理，所有慈善及非營利組織都須登記，如果非營利組織之運作範圍跨越單一縣市，必須向內政部登

904) Government supervision is undertaken through laws, regulations and governing policies. All charities and NPOs must be registered. If the scope of the NPO operations is across a special municipality, city or county, the application for registration

記，如果只是在單一縣市內活動，則向地方政府登記。

must be made to the MOI. If the scope of operation is within a specific county or city, the application for registration is made to the local city or county government.

905) 中華台北於 2006 年對於非營利組織相關之國內法律與規定適用性進行檢討，同時考量發布不同類型非營利組織之相對風險威脅。

905) Chinese Taipei conducted a review of the adequacy of domestic laws and regulations that relate to NPOs in 2006. At the same time Chinese Taipei considered issues regarding the relative risk of the various NPO sectors.

906) 有關機關指出，基於中華台北所處地理位置及歷史背景因素，非恐怖分子活動之高風險地區。目前已採取積極作為嚴格控制非營利組織，以防制遭到恐怖組織利用，包括強迫註冊登記、財務透明化、加強行政管理及與其他機關之資訊分享等。

906) Chinese Taipei authorities indicate that their NPO sector, due to location and the historic background of Chinese Taipei, is not a high risk for terrorist activities. However there are strict controls on the NPO sector with active measures in place to prevent their exploitation by terrorist organisations. These measures include compulsory registration, transparency of finances, reinforcement of administrative regulations and information sharing with other authorities.

907) 有關機關已與非營利組織建立聯繫溝通管道，以提升透明度、可靠度及廉正度，然而並未特別針對被恐怖分子濫用之風險。

907) Authorities have undertaken outreach to the NPO sector to promote transparency, accountability and integrity. However, outreach has not occurred in relation to specific risk of terrorist abuse.

908) 中華台北已建立相當完整之非營利組織註冊登記與監理之體制，強調法令規定與稽核之要求，對於無法達到要求標準或無法提供預算報告、活動計畫與報告及年終財務報表等予有關機關者，亦施以制裁。

908) Chinese Taipei has introduced a comprehensive regime of registration and supervision of NPOs. The rules and regulations and the auditing requirements are enforced and sanctions have been imposed against organizations that do not meet the required standards or provide authorities with budget reports, operations plans and reports and end of year financial statements.

909) 當一個基金會由主管機關同意後，該法人之董事必須向所在地之地方法院登記，並在 30 日內將登記證書報內政部備查。

909) When a foundation has been approved by the relevant authority the Director of the legal person must register with the local court. Having been registered a registration certificate must be sent within 30 days to the MOI for future reference.

910) 完成法人登記後，捐助之財產應於 3 個月內移歸法人並由主管機關併同其業務設施進度予以查核，以確保一切會務、業務工作悉依民法、內政業務財團法人監督準則、財團法人捐助章程及其他相關規定運作，未於規定辦理者，主管機關得撤銷其許可。

910) After registration all assets contributed by donors must be transferred into the control of the legal person within 3 months and the authorities must undertake an examination of the charity to ensure it has been established in accordance and comply with the 'Civil Code', 'Rules for Interior Affairs Guidance for Legal Persons' and the 'Statute of Benevolent Contribution' failure to comply will result in the registration certificate being repealed.

911) 財團法人於完成法人登記後，法院必須公告該基金會之詳細資料、地址、董事詳細資料及其他一般性資訊。

911) Upon registration the court must make a public announcement detailing details of the foundation the address and details of the director, and other general information.

912) 依據內政業務財團法人監督準則第 16 條規定，財團法人應於年度開始前三個月，檢具年度預算書及業務計畫書；於年度終了後三個月，檢具年度決算及業務執行書，報請主管機關核備。主管機關為了解財團法人之狀況，得隨時通知其提出業務及財務報告，並得派員查核之。內政部已開發會計系統軟體送各社會福利組織使用，以協助建立會計系統讓有

912) According to Article 16 of the 'Regulations on Supervision of Interior Business Incorporated Foundations' a foundation shall submit an annual budget and business plan within 3 months before the beginning of a year, and an annual report on final settlement and business performance within 3 months after the end of a year to the authorities. In order to know more about the status of a foundation, the authorities may at any time notify the foundation to submit a business and financial report and may send personal to perform inspection and audit of the charity. The MOI has developed

關機關可以進行稽核。

accounting system software that has been disseminated to all social welfare organisations to assist them to establish accounting systems that can be audited by authorities.

913) 在 2005 年，內政部辦理 129 個全國性財團法人社會福利慈善事業基金會(2004 年 1 月 1 日前成立者)評鑑，評鑑項目包括：會務、業務、財務及成效，除評鑑缺失函請基金會限期改善，有關機關並列管追蹤改善。

913) In 2005 the MOI conducted a nationwide evaluation of the 129 national social welfare foundations that existed before 2004. The evaluated items included organizational affairs, operational affairs, financial management and the achievements of operations. Any faults identified through this process were reported to the foundations which were then given a specified time period to make improvements. Authorities actively monitored the improvements.

914) 只有 4 個全國性慈善團體，所有董事會成員都必須經過篩選，以確認能夠適任慈善團體之運作，進而透過註冊登記與監理過程，亦有足夠的保護作爲，恐怖組織很難在中華台北境內以合法的非營利組織形態出現。

914) There are only four national charities. All members of the various boards of directors are vetted to ensure they are fit and proper persons to be involved in the operations of a charitable entity. Further, through the registration and supervision process, safeguards are in place to make it difficult for a terrorist organisation to pose as a legitimate NPO in Chinese Taipei.

915) 所有善款籌募團體必須向內政部提供所有捐獻名單、捐獻內容及其他相關資訊。

915) All fund raising groups must provide detail of who the donators are and what has been donated and any other relevant information to the MOI.

916) 在參與任何國際性活動前需函報內政部同意後始得辦理。只有在取得同意後，才可將資金移轉並限於指定之用途，在完成慈善活動後，需將活動報告陳報內政部，內容涵蓋

916) Prior to engaging in any international involvement, an application is required to be submitted to the MOI seeking permission for involvement in a special project. Only when permission is granted can funds be transferred and only pre-designated use of funds can occur. Upon completion of the

活動之詳細財務報表。

charity work, a report is submitted back to the MOI outlining a detailed financial report of the work undertaken.

5.3.2 建議與評論 (RECOMMENDATIONS AND COMMENTS)

917) 應加強輔導非營利組織，以提升被恐怖分子濫用之風險警覺。

917) Additional outreach should be conducted to raise awareness in the NPO sector in relation to specific risk of terrorist abuse.

5.3.3 特別建議第VIII項之遵循評等 (COMPLIANCE WITH SPECIAL RECOMMENDATION VIII)

	評 等	評 等 理 由 摘 述
特別建議第VIII項	LC	● 尚未輔導非營利組織，提升被恐怖分子濫用之風險警覺。
SR. VIII	LC	● Outreach has not been undertaken to raise awareness of specific vulnerabilities in the NPO sector in relation to specific risk of terrorist abuse.

6 國內與國際合作 (NATIONAL AND INTERNATIONAL CO-OPERATION)

6.1 國內合作與協調-建議第31項 (NATIONAL CO-OPERATION AND COORDINATION - R.31)

6.1.1 說明與分析 (DESCRIPTION AND ANALYSIS)

建議第31項 (Recommendation 31)

918) 調查局及洗錢防制中心係法務部所屬部門，負責洗錢防制法及未來反恐怖行動法通過後之行政事務，因此負有形成並促進有關防制洗錢與資助恐怖分子政策討論之責任。	918) The Investigation Bureau and the MLPC are divisions or departments of the MOJ and are responsible for the administration of the MLCA and will be administering the Counter Terrorism Act when this Act is passed. As a result, the formulation of and facilitation of discussion on policies relating to ML and FT is their responsibility.
919) 法務部所屬檢察機關之各檢察官有權指揮法務部調查局、內政部警政署及海岸巡防署等機關從事犯罪偵查。透過這種頻繁聯繫，執法機關間維持緊密工作關係。	919) The Prosecutors Office also falls under the MOJ and has the authority to direct officers of the Investigation Bureau, National Police Administration and the National Coastguard Administration, when conducting criminal investigations. Through this continual contact, a close working relationship is maintained with these other law enforcement agencies.
920) 2004年7月1日，中華台北建立金融監督管理委員會，整合所有先前由不同政府部門執行之金融監理。	920) On 1 July 2004, Chinese Taipei also established the Financial Supervisory Commission (FSC) to integrate all financial supervision which was previously being carried out under different government entities.
921) 洗錢防制法中一些條款亦要求不同政府機關間之相互諮詢，諸如第7條第2項規定金管會要會商法務部及中央銀行，以建立一定金額、通貨交易之範圍、確認客戶身分之程序、留存交易紀錄憑證之	921) Certain provisions of the MLCA also require consultation between entities such as Article 7, paragraph 2 which provides that the FSC in consultation with the MOJ and the CBC , shall establish the amount and scope of a currency transaction, the procedures for ascertaining the identity of a customer and the method and length of time for keeping

方式與期限，第 8 條亦要求金管會、法務部及中央銀行相互諮詢以建立類似之疑似洗錢交易申報規則或指引。

transaction records as evidence. Article 8 also requires consultation between the FSC, MOJ and CBC in establishing similar rules or guidelines for CTR.

922) 所有執法及金融監理機關均指派一位反洗錢與打擊資助恐怖分子之代表或聯絡窗口，參加法務部召開之會議或研討會。例如，自 2005 年 6 月，法務部成立「防制洗錢及資助恐怖分子策進作爲協調會報」，以檢討反洗錢與打擊資助恐怖分子作爲並討論改善中華台北反洗錢與打擊資助恐怖分子體制，以符合國際要求標準。該會報每二個月會議一次，並由法務部次長擔任主席。

922) All law enforcement and financial supervisory agencies have identified or assigned an AML/CFT representative or contact person who attends AML/CFT meetings or for a rganized by the MOJ. For example, since June 2005, the MOJ established an " Improving AML/CFT Measures Coordination Forum" to review AML/CFT measures and discuss ways to improve Chinese Taipei's AML/CFT regime in terms of compliance with international standards. This Forum meets every 2 months and is chaired by the Deputy Director of MOJ.

923) 除上面所述之外，中華台北有一特別會報，名爲治安協調會報，由行政院長主持，有關部會及機關首長參加，會中討論新興犯罪趨勢、態樣涵蓋洗錢與資助恐怖分子，任何會中決議之策略，分由各有關之司法、執法及金融監理機關執行。

923) In addition to the above, Chinese Taipei has a specific forum called the "Public Security Coordination Forum" which is organised by the Executive Yuan and hosted by the President. In this forum, Ministers and CEOs of law enforcement agencies discuss emerging criminal trends and typologies including AML/CFT. Any strategies that are identified by the Forum are referred to the relevant judicial, law enforcement and financial supervisory agencies for effective implementation.

924) 此外，法務部調查局經濟犯罪防制中心成立一個定期會議機制，名爲「經濟犯罪防制會報」，由來自下

924) Another mechanism established by the Economic Crime Prevention Center (a division of the Investigation Bureau) is the "Economic Crime Prevention Forum" which

列之機關代表參加：

a) 來自調查局之其他部門，如洗錢防制中心。
b) 司法機關。
c) 執法機關。
d) 移民機關。
e) 金融監理。
f) 國際貿易與商業管理等部門。

involves participants from:

a) other divisions within the IB such as the MLPC;
b) judicial departments;
c) law enforcement agencies;
d) immigration departments;
e) financial supervisory agencies;
f) international trade and commercial administration departments.

925) 該會報之主要目的是爲了協調打擊經濟犯罪、追緝外逃及「反洗錢與打擊資助恐怖分子」，有關機關表示該會報每三個月舉辦一次，直到去年增加爲每個月舉辦一次。

925) The main objective of the forum is to coordinate the work of the authorities in combating economic crime, seeking fugitives and in AMLCFT. The authorities advise that the Forum was held every 3 months up until last year when the frequency was increased to once a month.

926) 值得注意的是有關打擊資助恐怖分子立法遲遲未過，顯示有關機關在支持打擊資助恐怖分子執行作爲之協調有缺陷。

926) Concerns are noted regarding delays with introducing CFT legislation which may reflect a lack of coordinated efforts between authorities to support CFT implementation.

附加因素 (Additional elements)

927) 關於權責機關、金融行業及特定非金融事業體與專業人士間之咨詢，有關機關表示法務部會諮商這些機關及機構對於反洗錢與打擊資助恐怖分子之意見。法務部有權可以管理法律專業人員，但無權管理其他專業人員如會計師、不動產經紀業及地政士。中華台北有關機關進而指出，法務部，特別是洗錢防制中心，作爲反洗錢與打擊資助恐怖分子事

927) In terms of consultation between competent authorities, the financial sectors and other sectors (DNFBP), the authorities advise that the MOJ consults with these agencies to seek their views on AML/CFT implementation. The MOJ has authority to regulate the law profession but does not have any authority to regulate other professionals such as accountants, real estate broking agencies and land administration agents. Chinese Taipei authorities further advise that the MOJ and in particular the MLPC as the AML/CFT coordinator, is generally consulted by these

務之協調者，經常提供這些行業任何相關之政策及法律問題之諮商。法務部在必要時會召集這些機關舉行會議，討論相關問題以尋求決議方案。在評鑑團進行現地評鑑訪問金融及其他行業，都顯示與洗錢防制中心互動密切。

928) 洗錢防制中心透過下列機制提供有關機關、金融業者及其他行業諮詢：

a) 舉辦銀行洗錢防制業務負責人研討會：國內銀行及外國銀行之洗錢防制業務負責人參加，共同討論洗錢／資助恐怖分子之新手法、趨勢與技巧、銀行面臨之問題與解決之道及洗錢防制中心與銀行間之回饋機制。本研討會每二年舉辦一次。

b) 籌辦年度洗錢防制法修法研討會：邀請學者專家、法官、檢察官、法務部代表、金融監理機關代表、調查局代表、刑事警察局代表及洗錢防制中心所有同仁參加，共同討論洗錢防制法在實際運作上所面臨之問題與修法建議。最近一次之研討會在 2006 年 12 月舉辦，邀請來自德國之學者專家演講。

sectors over any queries regarding the policy and relevant laws. Where necessary, MOJ will call meetings with these agencies to discuss the issues with a view to finding solutions. During the Evaluation Team's onsite visits with the financial and other sectors, this interaction with MLPC was evident.

928) The MLPC utilises the following mechanisms:

a) Hosting the "Forum for Compliance Officers from Banks" which is attended by all compliance officers of AML/CFT from domestic and foreign banks whereby discussion of new AML/CFT methods, trends and techniques, and any problems faced by banks takes place. It also acts as a "feedback mechanism" between the banks and MLPC and provides an opportunity to discuss and consider solutions to any problems in implementing any AML/CFT requirements. This forum is held every two years.

b) Organising the annual "Amending MLCA Seminar" whereby academic experts or scholars specialising in AML/CFT are invited to present papers to those Chinese Taipei authorities involved in AML/CFT – this includes judges, prosecutors, MOJ representatives, financial supervisory authorities, officers of the Investigation Bureau, Criminal Investigation Bureau and staff of MLPC. The Seminar provides an avenue for participatory discussion of the practical problems in the implementation of the MLCA and to recommend or suggest amendments to the MLCA aimed at

rectifying these problems. The last seminar was held in December 2006 whereby an academic expert from Germany was invited.

929) 洗錢防制中心於建立一個網站提供金融機構對於遵循反洗錢與打擊資助恐怖分子要求之線上討論功能以及其他執法機關進行洗錢與資助恐怖分子調查所需。該網站會在中華台北有關機關參加國際會議如亞太防制洗錢組織、艾格蒙聯盟及其他研討會議後，會進行資料更新。另有關機關進一步指出洗錢防制中心之網站提供連結到聯合國及美國提列恐怖分子及團體名單之官方網站。

929) The MLPC also has a website which provides capacity for online discussion with the financial institutions over AML/CFT compliance and also with other law enforcement agencies regarding ML/FT investigations. This website is updated after international meetings such as APG and Egmont and also following any AML/CFT workshops or conferences attended or held by the Chinese Taipei authorities. The Chinese Taipei authorities further advise that the MLPC website provides links to both UN and US Government websites that list terrorist entities.

930) 洗錢防制中心基於其他機關之請求，會指派專家協助追查不法資金流向。

930) The MLPC regularly assigns experts from within their department to other agencies upon request, for the purpose of assisting these agencies trace the flow of illegal funds.

建議第32項 (Recommendation 32)

931) 綜合前面所述，中華台北經常檢討反洗錢與打擊資助恐怖分子系統效率之檢討。

931) It could be concluded from the above, that Chinese Taipei is reviewing the effectiveness of their systems for ML and FT on a regular basis.

6.1.2 建議與評論 (RECOMMENDATIONS AND COMMENTS)

932) 中華台北顯然致力於定期諮詢，以檢討降低反洗錢與打擊資助恐怖分子系統效率之問題。值得注意的是該系統是由金融

932) Chinese Taipei appears to be pursuing regular consultation to identify and discuss outstanding issues that undermine the effectiveness of their AML/CFT systems. It is noted that the systems set up by the

機構及特定非金融事業體與專業人士在所屬主管機關所訂之指引及在洗錢防制中心與金管會協助下完成，在履行洗錢防制法之要求上，證明具有相當之成效。

financial institutions and DNFBPs under the guidance of various regulatory bodies and with the assistance of the MLPC and FSC, are proving effective in terms of their implementation of the MLCA.

933) 對於執法機關仍然存在有些弱點，相關評述如本報告第 2.6 節。

933) Areas of weakness still exist among law enforcement agencies as have been identified under Section 2.6.

934) 有關機關應著重國內支持反洗錢與打擊資助恐怖分子作爲之執法合作，諸如邊際管制及緝毒工作。

934) Authorities should focus on domestic cooperation to support the implementation of AML/CFT measures by law enforcement agencies in areas such as border control and drug law enforcement.

935) 質疑構成反洗錢與打擊資助恐怖分子體制重要要件之資助恐怖分子罪刑化立法之延遲，況且金融機構已經被要求對於涉及恐怖團體之交易或帳號進行監控。

935) It is also queried as to why there has been a delay in introducing CFT legislation which is a major component of the AML/CFT regime - and also when financial institutions are already being required to monitor accounts or transactions that may involve terrorist entities.

936) 中華台北應加強執行打擊資助恐怖分子之合作。

936) Chinese Taipei should enhance cooperation to support CFT implementation.

6.1.3 建議第31項之遵循評等 (COMPLIANCE WITH RECOMMENDATION 31)

	評 等	評 等 理 由 摘 述
建議第31項	LC	● 雖然具備相關廣泛之國內合作機制，但是在執法機關間以及在支持打擊資助恐怖分子作爲之發展與提倡上仍然存在一些弱點。
R. 31	LC	● There is extensive national cooperation but weaknesses still exist among law enforcement agencies and to support the development and promulgation of CFT measures.
建議第32項	LC	● 舉辦過一些會報以檢討反洗錢與打擊資助恐怖分子系統之效能。
R. 32	LC	● A number of forums have been held to review

		the effectiveness of AML/CFT systems

6.2 國際公約與聯合國特別決議案-建議第35及特別建議第I項 (THE CONVENTIONS AND UN SPECIAL RESOLUTIONS - R.35 & SR.I)

6.2.1 說明與分析 (DESCRIPTION AND ANALYSIS)

937) 中華台北尚未批准或用其他方式成爲聯合國維也納公約、巴勒莫公約及制止向恐怖主義提供資助國際公約之成員，於 1971 年退出聯合國之後，即未批准相關公約，聯合國亦不接受中華台北簽署、批准或同意聯合國公約。

937) Chinese Taipei has not ratified or otherwise become a party to the UN Vienna and Palermo Conventions or the Terrorist Financing Convention. Chinese Taipei withdrew from the UN in 1971 and does not appear to have ratified relevant UN conventions since that time. Chinese Taipei advises that the UN would not accept their attempts to sign, ratify or accede to UN conventions.

938) 有關機關表示中華台北決心履行維也納公約、巴勒莫公約及制止向恐怖主義提供資助國際公約，因此制定或修定反洗錢與打擊資助恐怖分子相關法律，並賦予執法與司法機關執行能力。

738) Authorities advise that Chinese Taipei is determined to implement the requirements of the Vienna and Palermo conventions and the Terrorist Financing Convention by enacting or revising AML/CFT related laws and equipping law enforcement and judicial agencies in the implementation of such legislation.

939) 中華台北缺乏有效的法律與程序以履行聯合國第 1267 號與第 1373 號決議案。

739) Chinese Taipei lacks effective laws and procedures to implement UNSCR 1267 and 1373.

6.2.2 建議與評論 (RECOMMENDATIONS AND COMMENTS)

940) 中華台北應採取必要步驟以充分履行及批准（如果有必要）或其他成爲維也納公約、巴勒莫公約及制止向恐怖主義提供資助國際公約成員之作爲。

940) Chinese Taipei should take the steps necessary to fully implement and ratify (if possible) or otherwise become party to the Vienna, Palermo and Terrorist Financing conventions.

941) 值得注意的是洗錢犯行缺

941) It was noted that the ML offence is lacking

乏維也納公約第 3(1)條及巴勒莫公約第 6(1)條之部分要素，進而恐怖主義、恐怖行動及資助恐怖分子都尚未罪刑化。基於這些發現，結果是中華台北尚未完全履行國際公約與聯合國特別決議案。

some of the elements set out in Article 3(1) of the Vienna Convention and Article 6(1) of the Palermo Convention. It is further noted that terrorism, terrorist acts, terrorist riminalized and FT have not yet been riminalized. In light of these findings, it is concluded that full implementation has not occurred.

942) 建議中華台北有關機關修正、制定並執行相關法律，以充分履行這些國際公約之相關條款。

942) It is recommended that the Chinese Taipei authorities amend and introduce legislation to fully implement the relevant provisions of these Conventions.

6.2.3 建議第 35 項及特別建議第 I 項之遵循評等 (COMPLIANCE WITH RECOMMENDATION 35 AND SPECIAL RECOMMENDATION I)

	評 等	評 等 理 由 摘 述
建議第35項	PC	● 中華台北尚未成爲維也納公約、巴勒莫公約及制止向恐怖主義提供資助國際公約成員。 ● 中華台北尚未完全履行維也納公約、巴勒莫公約。 ● 中華台北尚未履行制止向恐怖主義提供資助國際公約。
R. 35	PC	● Chinese Taipei has not become party to the Vienna, Palermo or Terrorist Financing conventions ● Chinese Taipei has not fully implemented the Vienna and Palermo conventions ● Chinese Taipei has not implemented the terrorist financing convention
特別建議第I項	NC	● 中華台北尚未履行或成爲制止向恐怖主義提供資助國際公約之成員。 ● 中華台北缺乏有效之法律與程序以履行聯合國安理會第1267號及第1373號決議案
SR. I	NC	● Chinese Taipei has not implemented or become a party to the Terrorist Financing convention ● Chinese Taipei lacks effective laws and

		procedures to implement UNSCR 1267 and 1373.

6.3 司法互助-建議第 36-38 項及特別建議第 V 項(MUTUAL LEGAL ASSISTANCE - R.36-38, SR.V)

6.3.1 說明與分析 (DESCRIPTION AND ANALYSIS)

943) 中華台北接受司法互助請求統計：

	美國	其他國家	數量
2002	2		2
2003	8		8
2004	5		5
2005	10	11	21
2006	2	14	16
合計	27	25	52

943) MLA requests made to Chinese Taipei:

	United States	Other Countries	Total
2002	2		2
2003	8		8
2004	5		5
2005	10	11	21
2006	2	14	16
Total	27	25	52

944) 其他國家包括瑞士、比利時、美國、德國、波蘭、丹麥、奧地利、列支敦斯敦、韓國、澳洲及中國。

944) Other countries includes Switzerland, Belgium, United Kingdom, Germany,Poland, Demark, Austria, Liechtenstein, Korea, Australia and China.

945) 中華台北提供請求之司法互助：

	美國	其他國家	數量
2002	1		1
2003	4		4
2004	7		7
2005	8		8
2006	3	5	8
合計	23	5	28

945) MLA request made by Chinese Taipei:

	United States	Other Countries	Total
2002	1		1
2003	4		4
2004	7		7
2005	8		8
2006	3	5	8
Total	23	5	28

946) 中華台北透過司法互助協定或條約提供司法互助，其他則透過 1963 年制定之外國法院委託事件協助法辦理。

946) Chinese Taipei provides MLA through MLA agreements or treaties and can also provide MLA where no such agreement or treaty exists under the Law Supporting Foreign Courts on Consigned Cases Act 1963 (“the LSF Act”).

947) 目前中華台北與美國簽有中美司法互助協定，雙方同意提供下列之司法互助：

a) 取得證言或陳述；

947) To date, Chinese Taipei has entered into an MLA agreement with the USA whereby the parties agree to provide the following MLA:

a) taking the testimony or statements of persons;

b) 提供供證之文件、紀錄及物品；
c) 確定關係人之所在或確認其身分；
d) 送達文件；
e) 爲作證或其他目的而解送受拘禁人；
f) 執行搜索及扣押之請求；
g) 協助凍結及沒收資產、歸還補償、罰金之執行程序；
h) 不違反受請求方所屬領土內法律之任何形式之協助。

b) providing documents, records and articles of evidence;
c) locating or identifying persons;
d) serving documents;
e) transferring persons in custody for testimony or other purposes;
f) executing requests for searches and seizures;
g) assisting in proceedings related to immobilisation and forfeiture of assets, restitution, or collection of fines; and
h) any other form of assistance not contrary to the laws of the territory represented by the requested party.

948) 該互助協定規範如何提出請求、遵循之程序及資訊使用之限制等。

948) The US MLAA sets out how requests are to be made, the processes to be followed and restrictions on the use of the information provided.

949) 洗錢防制法有許多條款規範在與中華台北有司法互助協定或條約下可以提供之協助。

949) There are also provisions in the MLCA under which assistance can be given to countries that enter into a MLAA or MLAT with Chinese Taipei.

950) 洗錢防制法第 8-1 條規定檢察官向法院提出請求或自行發動凍結洗錢交易之職權，該法條第 2 項規定：對於外國政府、機構或國際組織依第十四條所簽訂之條約或協定請求我國協助之案件，如所涉之犯罪行爲符合第三條所列之罪，雖非在我國偵查或審判中者，亦得準用第一項規定。

950) Article 8-1 of the MLCA sets out the authority for a prosecutor to either request the court to freeze a specific ML transaction or on the prosecutor's own authority freeze the transaction. Paragraph 2 of Article 8-1 provides: "The first paragraph of this Article also applies to foreign governments, foreign institutions or international organizations requesting our government to assist in a particular money laundering activity based on the reciprocal treaties or agreements entered with our government relating to the prevention of money laundering activities, whenever the activity

engaged by the offender constitutes a crime under Article 3 of this Act regardless of whether such activity is being investigated or tried in this jurisdiction."

951) 洗錢防制法第 12 條規範有關犯罪資產之沒收，該法條第 3 項規定：對於外國政府、機構或國際組織依第十四條所簽訂之條約或協定，請求我國協助之案件，如所涉之犯罪行爲符合第三條所列之罪，雖非我國偵查或審判中者，亦得準用前二項之規定。

951) Article 12 of the MLCA incorporates the confiscation of POC. Paragraph 3 of Article 12 provides: "The first two paragraphs of this Article also applies to foreign governments, foreign institutions or international organizations requesting our government to assist in a particular money laundering activity based on the reciprocal treaties or agreements entered with our government relating to the prevention of money laundering activities, whenever the activity engaged by the offender constitutes a crime under Article 3 of this Act regardless such activity is being investigated or tried in this jurisdiction."

952) 洗錢防制法第 14 條規定：爲防制國際洗錢活動，政府依互惠原則，得與外國政府、機構或國際組織簽訂防制洗錢之合作條約或其他國際書面協定。

952) Article 14 of the MLCA also provides - "The government of Chinese Taipei may, based on the principle of reciprocity, enter into cooperative treaties or other international written agreements relating to the prevention of money laundering activities with foreign governments, institutions or international organizations to effectively prevent and eradicate international money laundering activities."

953) 對於提供未簽署司法互助協定或條約國家之司法互助，中華台北有關機關是依照外國法院委託事件協助法辦理，該辦法規範有關外國法院委託中華台北法院協助民事或刑事事件

953) In reference to the kind of assistance that can be provided to other jurisdictions where there is no MLAA or MLAT, the Chinese Taipei authorities refer to the LSF Act. This Act facilitates the granting of assistance where a foreign court requests a court in Chinese Taipei to "take charge of civil or criminal cases". Such assistance is available

之事務。只要符合下列條件，可以提供司法協助：

a) 不牴觸中華民國法令者。

b) 委託法院所屬國，應聲明中華民國法院如遇有相同或類似事件須委託代辦時，亦當爲同等之協助。

if:

a) the request does not conflict with the laws of Chinese Taipei;

b) the requesting jurisdiction declares reciprocity in providing similar assistance to Chinese Taipei.

954) 該辦法相關法規進一步規定如下：

第 5 條：法院受託送達民事或刑事訴訟上之文件，依民事或刑事訴訟法關於送達之規定辦理。委託送達，應於委託書內詳載應受送達人之姓名，國籍及其住所居所或事務所、營業所。

第 6 條：法院受託調查民事或刑事訴訟上之證據，依委託本旨，按照民事或刑事訴訟法關於調查證據之規定辦理之。委託調查證據，應於委託書內詳載訴訟當事人之姓名，證據方法之種類，應受調查人之姓名、國籍、住所、居所或事務所、營業所及應加調查之事項，如係刑事案件，併附案件摘要。

第 7 條：委託事件之委託書，及其他有關文件，如係外國文時，應附中文譯本，並註明譯本與原本符合無訛。

第 8 條：關於送達或調查之費用，民事依中華民國有關徵收費用之法令辦理，刑

954) Further provisions of the Act provide as follows:

Article 5：The documents of civil or criminal cases for which a court is consigned by a foreign court to help take charge shall be duly served according to document service provisions in the Civil Code or Criminal Procedure Code. The service document shall expressly bear the name, nationality, domicile, address or office of the party to be served.

Article 6：The exhibits or evidence of civil or criminal cases for which a court is consigned by a foreign court to help investigate shall be duly handled according to evidence investigations in the Civil Code or Criminal Procedure Code. For consigned investigation into evidence, the power of attorney shall expressly bear the names of the involved parties, methods and categories of evidence, the name, nationality, domicile, address or office of the parties to be investigated, and the subjects of investigation, and in case of a criminal case, summary of the case.

Article 7：Chinese translation versions, along with the affidavit of faithful conformity between Chinese and foreign language shall accompany the Power of attorney or other

事按受委託法院實際支出之費用計算，由委託法院所屬國償還。

documents in a foreign language.

Article 8：The service and investigation costs shall be duly handled according to the relevant regulations of the Republic of China in civil cases, and shall be counted at actual spending and reimbursed by the country of the consigning foreign court in criminal cases."

955) 有關於及時以供司法互助，中華台北有關機關指出在收到協助請求後，法務部通常會馬上將請求送高檢署轉地區檢察署指派嫻熟該種語言之檢察官負責所請求之調查，如果有必要，法務部將同意請求國派檢察官或司法警察前來中華台北協助或會同調查。沒有資訊顯示依據外國法院委託事件協助法對於國外提出請求司法協助之平均回應時間。

955) In terms of timeliness in providing MLA, the Chinese Taipei authorities advise that upon receiving a request, the MOJ as a rule, immediately passes the request to the High Prosecutor's Office who then dispatches it to the Prosecutors' Office of the relevant jurisdiction to assign a prosecutor proficient in the language of the request to take charge of the required investigation. If necessary, the MOJ will agree with the requesting jurisdiction to send prosecutors or judicial police to Chinese Taipei to assist or join the investigation. No information has been provided as to how long on average it takes to respond to a request under the LSF Act.

956) 依據中美刑事司法互助協定第 4 條規定之協助限制如下：

1 有下列情形之一者，受請求方之指定代表人得拒絕協助：

(a) 所涉行爲係觸犯軍法而非觸犯普通刑法；

(b) 該請求之執行將有害於受請求方所屬領土內之安全、公共秩序或類似之重要利益；或

(c) 該請求與本協定不符者；

956) Under the US MLAA, Article 4 sets out the limitations on assistance:

1. The Designated Representative for the Requested Party may deny assistance if:

(a) the request relates to an offense under military law that would not be an offense under ordinary criminal law;

(b) the execution of the request would prejudice the security, public order, or similar essential interests of the territory represented by the Requested Party;

(c) the request is not made in conformity with

(d) 依第十五條規定所爲之請求，其所涉行爲在受請求方所屬領土內不構成犯罪者。

2 受請求方之指定代表人依本條規定拒絕提供協助前，應與請求方之指定代表人協商考量是否在附加必要之條件後，再提供協助，如請求方之指定代表人接受該附加條件之協助，則其所屬領土內之相關機關應遵守該條件。

3 受請求方之指定代表人如拒絕提供協助，應將拒絕之理由通知請求方之指定代表人。

the Agreement; or

(d) the request is made pursuant to Article 15 and relates to conduct which, if committed in the territory represented by the Requested Party, would not be an offense in that territory.

2. Before denying assistance pursuant to this Article, the Designated Representative for the Requested Party shall consult with the Designated Representative for the Requesting Party to consider whether assistance can be given subject to such conditions as it deems necessary. If the Designated Representative for the Requesting Party accepts assistance subject to these conditions, authorities of the territory represented by it shall comply with the conditions.

3. If the Designated Representative for the Requested Party denies assistance, it shall inform the Designated Representative for the Requesting Party of the reasons for the denial."

957) 對於未與中華台北簽署司法互助協定或司法互助條約之其他國家，外國法院委託事件協助法規定任何從外國法院收到有關出示證據、蒐集證據及調查之請求，將依民法或刑事訴訟法規定辦理。因此相關程序應遵循該兩種法律之規定。

957) In terms of other jurisdictions that do not have an MLAA or MLAT with Chinese Taipei, the Law in Supporting Foreign Courts Act provides that any documents received from a foreign court will be "duly served according to document service provisions in the Civil Code or Criminal Procedure Code", as is the case for exhibits, evidence gathering and investigation. Such processes therefore would be subject to the same rules and procedures set out under these two Codes.

958) 依據中美刑事司法互助協

958) Under the Chinese Taipei/USA MLAA, in

定，除了該協定所訂定之程序之外，中華台北有關機關亦依據檢察及調查機關執行我國與美國間刑事司法互助協定作業要點作爲執行之指引，該作業要點由法務部於2002年8月29日制定，規定提供司法互助之要點如下：

a) 受請求協助案件之處理：檢察機關於接獲法務部通知執行美國之刑事司法協助請求時，應即分「互助」字案，指派專股檢察官迅速辦理，檢察官得自行或指揮司法警察官、司法警察執行之。執行完畢後，應將辦理結果陳報法務部轉送美國司法部。

b) 雙方可罰主義之限制：對於受請求協助之事項，除搜索或扣押需以同一行爲在中華台北亦構成犯罪者爲限外，不得以其請求所涉事件之行爲在中華台北不構成犯罪爲由，而拒絕提供協助。

c) 執行協助之延緩：受請求之事項如有礙於中華台北目前正在進行中之刑事訴訟程序者，檢察機關得延緩執行之，但應即將延緩之事由陳報法務部。如於附加特定條件後即可執行者，則應將該條件陳報法務部轉與美國司法部協商同意後執行

addition to the processes set out in the MLAA, the Chinese Taipei authorities also refer to the "Guidance for Prosecutorial and Police Agencies Implementing the Agreement on Mutual Legal Assistance in Criminal Matters". This decree which was issued by the MOJ on 29 August 2002, sets out key points in providing the MLA. In terms of the USA making a request to Chinese Taipei, it sets out the following:

a) Acceptance of a request for assistance: When a prosecutor's office is instructed by the MOJ to handle a US MLA request, the prosecutor's office "shall immediately classify it as a 'mutual assistance case'" and assign a special prosecutor to the case "immediately". The prosecutor may execute the request himself or direct judicial police to execute it. The prosector's office is then required to file a report with the MOJ who shall then relay the report to the US Department of Justice (USDOJ).

b) Restriction of mutually punishable requirement: In a request for assistance, a search or detention is limited to an act that also constitutes an offence in Chinese Taipei. But Chinese Taipei cannot reject a request for assistance on the grounds that the act does not constitute an offence in Chinese Taipei.

c) Execution postponement for a request: The prosecutor can postpone the execution of a request that will hamper any ongoing Chinese Taipei criminal proceeding and immediately report this to the MOJ. If the prosecutor's office deems that the request can be carried out under an added condition, the MOJ shall be advised and will relay that to the USDOJ for

之。

d) 受請求協助事項之保密：美國司法部如對該協助之請求及其內容要求保密者，執行協助之檢察官或司法警察機關應予保密，如因執行該請求而有不能保密之虞時，應報請法務部轉請美國司法部決定是否仍請求執行協助。

e) 受請求代爲取得證言或陳述：檢察官應即依據刑事訴訟法相關規定，送達傳票或以適當方式通知證人於指定時間內到庭應訊。如證人無正當理由不到庭而確有強制其到庭之必要時，得依刑事訴訟法之規定拘提之。如美國司法部擬指定人員參與訊問，檢察官如認無不當，並依個案之情節及程序進行之必要性，美方人員得直接或透過通譯詢問證人，並進行紀錄。

959) 證人到庭陳述，應依刑事訴訟法規定命令其具結。證人如引用美國法律主張有拒絕證言之事由時，檢察官仍應盡力取得相關證詞，但應將證人之主張陳報法務部轉知美國司法部。如要求證人提供其業

agreement.

d) Confidentiality for requested assistance: If USDOJ asks that a MLA request be kept confidential, the Chinese Taipei authorities shall keep the matter confidential. If there is danger of the request not being kept confidential, the executing organisation shall report it to the MOJ who shall ask USDOJ whether they still want the execution of the request to continue.

e) Request for getting testimony or a statement: The prosecutor is required to act in accordance with the Code of Criminal Procedure when summoning and taking evidence of a witness. "If witness fails to appear without justification and a compulsory measure is needed to make him or her appear, the prosecutor may bring him or her in by force." If the USDOJ requests to have a US official attend the "interrogation", such a request will depend on the prosecutor determining whether it would be appropriate or proper for that person to be present or to join in the taking of evidence. If the prosecutor agrees, the US official may be allowed to question the witness directly or through an interpreter and record the statement "depending on the situation of the case and procedural necessity".

959) A witness brought in under this provision is required to sign an affidavit pursuant to the provisions of the Code of Criminal Procedure. If the witness refuses to give evidence under US law, "the prosecutor shall also try to get the evidence" but will report the refusal to the MOJ who shall relay the information to the USDOJ. If the witness

務上製作或保管之文書者，應令其在檢察官面前簽署本互助協定所附之證明書。

is requested to supply a document he or she has made or taken custody of in the course of his or her employment or business responsibilities, he or she shall be ordered to sign a certificate of agreement as set out in the Chinese Taipei/US MLAA.

960) 受請求解送在我國受拘禁之人至美國出庭：美國司法部請求在中華台北境內矯正機關受拘禁之人至美國出庭者，應經承辦法官或檢察官之許可，由該管地方法院檢察署檢附法官或檢察官之許可函及受拘禁人之同意書報請法務部同意後，始得解送該受拘禁之人至美國出庭，並在30 天內解還。

960) Request for escorting a detainee to appear in US court: If the USDOJ requests a prisoner held in Chinese Taipei to appear in a US court, the agreement of the judge or prosecutor in charge of the case shall be sought. The competent prosecutors' office shall report the case, together with letters of agreement from the judge or prosecutor and the detainee, to the MOJ for approval. Once approved by the MOJ, detainee can be sent to the US but has to be escorted back to Chinese Taipei within 30 days.

961) 受請求提供政府機關之文書或紀錄：美國司法部請求提供我國政府機關所持有得公開之文書或紀錄者，檢察官應即函請相關政府機關提供該文書或紀錄之影本或副本，並要求提供該文書或紀錄之人員在檢察官面前簽署本互助協定所附之證明書。

961) Request for supply of government documents or records: Where the MLA request is for the supply of documents or records in the possession of a government agency, the prosecutor shall immediately write to the respective agency to request a copy or duplicate of the document or record. The prosecutor shall also ask the agency to sign in his or her presence a certificate to ensure authenticity of the copy or duplicate in the form attached to the Chinese Taipei/US MLAA.

962) 受請求督促中華台北國民至美國作證：美國司法部請求督促中華台北國民至美國作證時，檢察或調查機關應即徵詢該受請求作證者之意願，並將有關回

962) Request for persuading citizen of Chinese Taipei to stand Witness in USA: If the USDOJ requests a Chinese Taipei citizen to give evidence in a US court, the prosecutor or investigative organisation "shall immediately" contact the person and enquire

應陳報法務部轉告美國司法部。此項徵詢，不得施用任何強制力，並應尊重該證人之意願。

as to his or her willingness to do so and report his or her findings to the MOJ, to be relayed to the USDOJ. "No compulsion shall be used and the willingness of the said person shall be respected".

963) 受請求送達文件：檢察機關接受送達文件之請求，應先指揮司法警察直接付與應受送達人或有辨別事理能力之同居人或受雇人，並製作送達證書報請法務部轉送美國司法部。如受送達之人拒絕受領而無法律上理由者，則將文書置於送達處所以爲送達，並將拒絕情事記明於送達書。

963) Request for delivering document: In an MLA request for the service or delivery of documents, the prosecutors' office shall direct judicial police to deliver the document directly to the correct person "or cohabitant or employee who has ability to discern a fact". The judicial officer is also required to complete a delivery certificate, to be provided to the MOJ for relaying to the USDOJ. If a person refuses to accept a document without legal justification, the document may be left at the person's address and the situation registered in the delivery certificate.

964) 受請求搜索及扣押：美國司法部提出搜索特定人或處所，或扣押及移轉證物之請求者，檢察官應先審查認定請求書上所述之犯罪事實，依中華台北法律之規定亦構成犯罪時，始得依刑事訴訟法相關規定向法院聲請搜索票，指揮檢察事務官、司法警察官或司法警察，依刑事訴訟法相關規定執行搜索及扣押。

964) Request for search and detention: If the MLA request requires the search of the place or premises of a specific person "or impounding or transferring piece of evidence, the prosecutor shall first examine the crime described in the request. Only when the crime also constitutes a crime under the law of Chinese Taipei, can a prosecutor request the court to issue a search warrant in accordance with the provisions of the Code of Criminal Procedure and direct investigative assistants and judicial police to carry out the search and impound the evidence, in accordance with the provisions of the Code.

965) 執法機關之直接連繫：檢察或調查機關爲辦理美國

965) Direct contact by the execution organisation: A prosecutorial or investigative organisation

刑事司法協助請求案件而有與美國執法機關直接連繫之必要時，得逕以電話、傳真或電子郵件等方式，直接聯繫，但應留存紀錄並副知法務部。

that is dealing with a MLA request can enter into direct contact with its US counterpart via telephone facsimile or email but is required to keep a record of the contact and inform the MOJ.

966) 非依正式請求之協助：檢察及調查機關關於犯罪情資之交換及蒐集或其他行政協助事項，如未涉及執法機關公權力之發動與執行者，得逕與美國相關執法單位連繫，互相提供協助，但應留存連繫紀錄陳報所屬機關長官備查。

966) Assistance not officially requested: "As long as the initiation and exercise of public power is not involved", a prosecutorial or investigative organisation may enter into direct contact with related US law enforcement agencies for the "exchange and collection of criminal intelligence or other administrative mutual assistance". Where this takes place, the Chinese Taipei organisation is to keep a record of such dealings and report to the head of the organisation.

967) 對於沒有司法互助協定或條約之國家，中華台北有關機關指出，在實務上執行其他國家請求，亦參照該作業要點辦理。

967) In the absence of an MLAA or MLAT, the Chinese Taipei authorities advise that in practice, the implementation procedure of any request made by another jurisdiction is also based on the processes set out in the Guidance decree as referred to in the above paragraphs.

968) 中華台北有關機關指出司法互助請求不會因爲只考慮涉及稅務犯罪或因金融機構／特定非金融事業體與專業人士職業上之保密要求而予以拒絕，亦不曾接獲此類請求因此等原因而被拒絕。

968) The Chinese Taipei authorities advise that MLA requests are not refused on the sole ground that the offence is also considered to involve fiscal matters nor is such a request refused on the grounds of laws imposing any secrecy or confidentiality requirements on financial institutions or DNFBPs. The Chinese Taipei authorities also confirm that no MLA request received has been rejected on those grounds.

969) 刑事訴訟法第 11 章規定

969) Chapter XI of the Criminal Procedure Code,

搜索及扣押之條款亦適用於司法互助請求，該法第122 條規定：對於被告或犯罪嫌疑人之身體、物件、電磁紀錄及住宅或其他處所，必要時得搜索之。對於第三人之身體、物件、電磁紀錄及住宅或其他處所，以有相當理由可信爲被告或犯罪嫌疑人或應扣押之物或電磁紀錄存在時爲限，得搜索之。

which sets out the "search and seizure" provisions, are available for use in MLA requests. Article 122 of the Code authorises the search of "a person, property, electronic record, dwelling, or other premises of an accused or a suspect". The "person, property, electronic record, dwelling or other premises of a third party may be searched only when there is probable cause to believe that the accused or the suspect, or property or electronic record subject to seizure is there".

970) 中華台北尚未設計或運用任何機制，可以決定可以在多國起訴案件之擱住起訴地點。有關機關指出迄今尚未遇到這種問題。

970) Chinese Taipei has not yet devised or applied any mechanism for determining the best venue for prosecution of defendants in cases that are subject to prosecution in more than one country. The Chinese Taipei authorities advise that Chinese Taipei has not yet faced such a situation.

971) 中華台北有關機關指出建議第 28 項對於有關機關應具備權力之要求，適用於依據外國法院委託事件協助法所提出之請求。換言之，並沒有一個機關對機關或外國司法或執法機關可以提出請求之對口單位。

971) The Chinese Taipei authorities advise that the powers of the competent authorities required under R28 are available for use where a request is made under the Law in Supporting Foreign Courts on Consigned Cases, i.e. it is not available agency to agency or where there is a direct request from a foreign judicial or law enforcement authority to its domestic counterpart.

972) 依據中美刑事司法互助協定，雙方可罰主義之要求應依司法互助請求內容特性而定，該作業要點規定如下：

雙方可罰主義之限制：對於受請求協助之事項，除搜索或扣押需以同一行爲

972) Under the Chinese Taipei/USA MLAA, the dual criminality requirement depends on the nature of the MLA request. The Guidance decree provides as follows:

Restriction of mutually punishable requirement: In a request for assistance, a search or detention is limited to an act that also constitutes an offence in CT. But

在中華台北於構成犯罪者爲限外，不得以其請求`所涉事件之行爲在中華台北不構成犯罪爲由，而拒絕提供協助。

搜索及扣押之請求：如司法互助之請求，提出搜索特定人或處所，或扣押及移轉證物之請求者，檢察官應先審查認定請求書上所述之犯罪事實，依中華台北法律之規定亦構成犯罪時，始得依刑事訴訟法相關規定向法院聲請搜索票，指揮檢察事務官、司法警察官或司法警察，依刑事訴訟法相關規定執行搜索及扣押。

Chinese Taipei cannot reject a request for assistance on the grounds that the act does not constitute an offence in CT.

Request for search and detention: If the MLA request requires the search of the place or premises of a specific person "or impounding or transferring piece of evidence, the prosecutor shall first examine the crime described in the request. Only when the crime also constitutes a crime under the law of CT, can a prosecutor request the court to issue a search warrant in accordance with the provisions of the Code of Criminal Procedure and direct investigative assistants and judicial police to carry out the search and impound the evidence, in accordance with the provisions of the Code.

973) 依照外國法院委託事件協助法，中華台北對於他國提出司法協助之請求，並不以雙方有簽訂司法協助條約或協定爲前提，只要該外國政府提出將來互惠之聲明，中華台北均願意提供必要之司法協助，以促進國際司法協助。

973) The Chinese Taipei authorities refer to the LSF Act in explaining that "Chinese Taipei is willing to provide assistance even in the absence of dual criminality as long as the commissioning foreign court declares, according to the Law in Supporting Foreign Courts on Consigned Cases, that if a court of the nation commissions the foreign nation to make an investigation, that foreign nation will do accordingly".

974) 中華台北有關機關確認雙方可罰主義是必須的，但是請求國與被請求國在法律上的差異，諸如對於犯罪行爲之歸類或罪名使用不同名稱等，並不會造成司法互助之妨礙。

974) The Chinese Taipei authorities confirm that where dual criminality is required, technical differences between the laws in the requesting and requested states, such as differences in the manner in which each country categorises or denominates the offence do not pose an impediment to the provision of MLA.

建議第 38 項(Recommendation 38)

975) 對於洗錢及前置犯罪之相關法律與程序可以讓中華台北有關機關用於辨識、凍結、扣押及沒收犯罪資產之規定，亦可依據下列條件，適用於執行有關資助恐怖分子之司法互助請求：

a) 請求國與中華台北間存在有司法互助協定或條約；或

b) 請求國透過法院提出；

c) 中美刑事司法互助協定作業要點及外國法院委託事件協助法對於雙方可罰主義之限制。

976) 中華台北有關機關確認對於犯罪財產等值之請求，適用於國內犯罪案件之相關條款於同樣可以在上述的條件下，適用於司法互助之請求。

977) 對於與其他協調有關扣押與沒收之安排，中華台北在 2003 年訂定之毒品危害防制條例中之控制下交付條款規定如下：

第 32-1 條：為偵辦跨國性毒品犯罪，檢察官或刑事訴訟法第二百二十九條之司法警察官，得由其檢察長或其最上級機關首長向最高法院檢察署提出偵查計畫書，並檢附相關文件

975) In terms of ML and predicate offences, the same laws and procedures as are available to the Chinese Taipei authorities in the identification, freezing, seizure and confiscation of POC, are available in the execution of MLA requests relating to FT subject of course to –

a) an MLAA or MLAT existing between Chinese Taipei and the requesting jurisdiction; or

b) a request being made by a jurisdiction through its courts;

c) the restrictions in terms of dual criminality as identified in the Guidance decree issued under the Chinese Taipei/USA MLAA and the Law in Supporting Foreign Courts Act.

976) The Chinese Taipei authorities confirm that where the request relates to property of corresponding value, the same provisions that apply in domestic cases are available for MLA requests subject to the conditions set out in the above clause.

977) In terms of what arrangements Chinese Taipei has with other countries for coordinating seizure and confiscation with other countries, the Statute for Narcotic Hazards Control Act 2003 contains a controlled delivery provision:

Article 32-1 - To prosecute international narcotics crime, a prosecutor or a judicial police officer installed under Article 229 of the Criminal Procedure Code may make, through the chief prosecutor or the head of the officer's highest-up organization, an investigation plan for submission, together

資料，經最高法院檢察署檢察總長核可後，核發偵查指揮書，由入、出境管制相關機關許可毒品及人員入、出境。前項毒品、人員及其相關人、貨之入、出境之協調管制作業辦法，由行政院定之。

第 32-2 條：前條之偵查計畫書，應記載下列事項：

1. 犯罪嫌疑人或被告之年籍資料。
2. 所犯罪名。
3. 所涉犯罪事實。
4. 使用控制下交付調查犯罪之必要性。
5. 毒品數量及起迄處所。
6. 毒品及犯罪嫌疑人入境航次、時間及方式。
7. 毒品及犯罪嫌疑人入境後，防制毒品散逸及犯罪嫌疑人逃逸之監督作爲。
8. 偵查犯罪所需期間、方法及其他作爲。
9. 國際合作情形。

with related materials, to the National Prosecutor-General's Office and request the Prosecutor-General to approve issuing an investigation command edict so he/she can enjoin the entry exit control authority to allow the exit or entry of the narcotics or personnel. The regulations governing the entry and exit of the said personnel or narcotics shall be prescribed separately by the Executive Yuan.

Article 32-2- The investigation plan mentioned in the foregoing article shall carry the following items:

1. Age of the suspect(s)
2. Name of the crime
3. Fact about the crime
4. The need for subjecting the case to investigation.
5. Quantity of the narcotics and the places to and from
6. The flight number, time, and mode of smuggling used by the suspect(s) and the narcotics
7. Measures for preventing the distribution of the said narcotics and escape by the said suspect(s)
8. The period required for the investigation and other information
9. The state of international cooperation."

978) 中華台北有關機關指出該法條之規定已完成，經請求提供抄本，但一直沒有收到下文。

978) Chinese Taipei authorities advise that Regulations have been passed under this provision but a copy of these regulations although requested, has not been provided.

979) 雖然並來建立「犯罪沒收資產基金」，洗錢防制法第 12-1 條規定如下：「沒收之

979) Although not identified as an "asset forfeiture fund", Article 12-1 of the MLCA provides as follows: "The property or property interests confiscated, other than

犯罪所得財物或財產上利益爲現金或有價證券以外之財物者，得由法務部撥交檢察機關、司法警察機關或其他協助查緝洗錢犯罪之機關作公務上使用。外國政府、機構或國際組織依第十四條所簽訂之條約或協定協助我國執行沒收犯罪所得財物或財產上利益者，法務部得將該沒收財產之全部或一部撥交該外國政府、機構或國際組織。沒收財產之管理、撥交及使用辦法，由行政院定之。」

cash, investment securities or negotiable instruments, may be distributed by the Ministry of Justice to the prosecutor offices, the police departments, or other government agencies assisting the investigation of the money laundering activities for official use, in accordance with the provisions set forth in paragraph I of Article 12. The Ministry of Justice may distribute the confiscated property or property interests in whole or in part to a foreign government, foreign institution or international organization which enters a treaty or agreement in accordance with Article 14 of this Act to assist our government in confiscating the property or property interests obtained by an offender from his or her commission of a crime or crimes. The Executive Yuan shall promulgate regulations for management, distribution and use of the property or property interests mentioned in the preceding two paragraphs."

980) 洗錢犯罪沒收財產管理撥交及使用辦法已經行政院公布施行，該辦法第 2 條規定得爲管理、撥交及使用之沒收財物，以現金或有價證券以外得爲公務使用之財物爲限。第 3 條進一步規定（註：應爲第 2 條第 2 項之誤），但撥交外國政府、機構及國際組織者，不在此限。

第 4 條--檢察機關、司法警察機關或其他協助查緝洗錢犯罪之機關得於收受通知後三個月內，向法務部

980) " Regulations Governing Management, Allocation, and Utilisation of Confiscated Properties Confiscated due to ML" have been promulgated by the Executive Yuan. Article 2 of these Regulations provide that the Regulations are limited to "properties that can be used for public service, not including cash and securities". Article 3 further adds that the Regulations do not cover "those appropriated to a foreign government, institution or international organisation". Other articles set out the procedure for applying for an allocation of confiscated property:

Article 4 – A prosecutorial or judicial police

提出撥交該沒收財物作其公務使用之申請。但因故無法於三個月內提出申請者，得以書面敘明正當理由，向法務部爲延緩提出之申請，並以一次爲限。法務部於前項期間內未受理撥交使用或延緩提出之申請者，應通知保管沒收財物之檢察機關，將沒收物依法處分之。

第6條--法務部應組成撥交使用審議委員會（以下簡稱審議委員會），負責審核撥交使用之案件。委員會主任委員由法務部次長擔任，其餘委員，分別由最高法院檢察署、行政院海岸巡防署、內政部警政署法務部調查局及其他機關組成。

第7條--委員會審核撥交使用申請時，應審酌下列事項：沒收財物之特性及申請機關對該特定沒收物之實際需求情形；申請機關在本案中參與之情形及其與沒收財物之關聯性；同一洗錢案件所沒收非現金或有價證券之財物，有二個以上機關提出申請時，各該機關以往依本辦法所獲撥交財物之次數及價值。

第8條--法務部應將審議委員會所爲撥交使用之決定通知沒收物保管機關，並

organisation or other organisation that has assisted in cracking down on ML may within 3 months of receiving a notice, apply to the MOJ for an allocation of confiscated property for public use. If it fails to do so within the time stipulated, it can still petition the MOJ for a deferment but only one deferment is permitted. If the MOJ does not receive any application under this article, it shall inform the prosecutorial organisation that has custody of the property to dispose of the property according to law.

Article 6 – the MOJ is required to organise a Confiscated Property Allocation and Utilisation Review Committee to be in charge of case review and allocation. The members of this committee comprise of the Justice Minister as Chair with the remaining representatives being from other prosecutorial and judicial organisations such as the Supreme Prosecutors Office, the National Coast Guard Administration, the National Police Agency, the Investigation Bureau and others.

Article 7 – the Review Committee is required to consider several matters when deliberating over the allocation of property. This includes the nature of the confiscated property and the practical need of the applicant organisation for the property; the actual participation of the applicant organisation in the case and its connection with the confiscated property; amount and value of the properties to be allocated under the Regulations if there are more than 2 organisations applying.

Article 8 – the MOJ notifies the organisation

由該保管機關在二個月內將沒收物撥交予使用機關。

第9條--對於撥交使用之沒收財物，應依國有財產法及相關法令保管、使用及收益。受撥交機關爲該沒收財物之管理機關，應將撥交其使用之財產依國有財產法及相關法令完成登記，或確定其權屬。

who has custody of the property to deliver the property to the receiving organisation within 2 months of the notice.

Article 9 – a receiving organisation is required to maintain, use or "make profit" from the property in accordance with the National Assets Act and related laws. The receiving organisation becomes responsible for managing the property and is required to complete registration under this Act and to keep an account of the properties under its management.

981) 洗錢犯罪沒收財產管理撥交及使用辦法涵蓋分享沒收財產予外國政府之條款：

第10條--依本法第12-1條第 2 項規定，由外國政府、機構或國際組織協助我國執行沒收之財物，交付我國政府者，由法務部指定檢察機關保管之，並由法務部列冊通知承辦之檢察機關、司法警察機關、其他協助查緝洗錢犯罪之機關及相關外國政府、機構或國際組織。依本法第十四條規定與我國簽訂條約或協定之外國政府、機構或國際組織對於前項沒收之財物，得於收受前項通知後六個月內，經由我國外交部向法務部提出撥交之請求；其撥交使用之申請方式及審核程予，準用第五條及第七條規定。法務部對於第一項

981) The above Regulations do contain a provision under which sharing of confiscated assets with a foreign jurisdiction can occur:

"Article 10 – According to the provisions of Paragraph 2 of Article 12-1 of the Act, the properties that are confiscated through the assistance of a foreign country, institution or international organisation shall be handed over to the government of this country and shall be placed under custody of an organisation designated by the MOJ and the MOJ shall be responsible for making a list for information of the prosecutorial and judicial police organisations in-charge, the assisting organisations and the related foreign governments, institutions and international organisations. According to Article 14 of the Act, the foreign government, institution or international organisation that has signed an agreement on mutual assistance in judicial matters may, within 6 months of receiving the said notice, make a claim to the MOJ through the Ministry of Foreign Affairs for allocation of the property. The provisions of Article 7 are applicable mutatis mutandis to

沒收之財物，亦得不待申請，逕提審議委員會審核後，撥交該外國政府、機構或國際組織。

the procedure of application for allocation and use of said property. The MOJ may directly refer the confiscated property mentioned in paragraph 1 to the Review Committee for deliberation and allocation to the foreign government, institution, and international organisation without waiting for their application."

982) 中華台北有關機關指出目前尚無依據上述這些條款沒收之財產或分享前面所揭外國政府或組織。

982) The Chinese Taipei authorities advise that property has not yet been allocated under these provisions either within Chinese Taipei or to the aforesaid foreign entities.

983) 中美刑事司法互助協定第 17 條第 3 項規定有關沒收財產分享，犯罪所得或犯罪工具在法律所許可之範圍，且認爲適當時，得移轉該財物、變賣所得之全部或部分予他方國家。

983) The US MLAA, refers to asset sharing in Article 17, paragraph 3 whereby either party may transfer all or part of any POC or instrumentalities or the proceeds of their sale, to the other party to the extent permitted by the laws of the territory represented by the transferring party and upon such terms as it deems appropriate.

984) 國外非刑事沒收命令在中華台北不被認可或執行，因爲中華台北並無民事沒收法律或任何民事案件之沒收系統。

984) Foreign non-criminal confiscation orders cannot be recognised or executed by Chinese Taipei given that Chinese Taipei does not recognise civil forfeiture nor does it have any "confiscation system for civil cases".

985) 雖然中華台北未將資助恐怖分子罪刑化，有關機關指出，如果該行爲是有罪可以處罰的，可以依照相關法律如組織犯罪防制條例或刑法加以處罰，如劫持航空器，如屬於刑法處罰之罪刑，只要請求國依照外國法院委託事件協助法提出請求，將會給予司

985) Although Chinese Taipei has not yet criminalised FT, the Chinese Taipei authorities advise that if the act is culpable, it could be dealt with under other laws such as the Organised Crime Prevention Act or the Criminal Code if for example it involved the hijacking of aircraft. If the offence could fall within the existing criminal law, then assistance could be given if the requesting country made a request by way of the Law in

法協助。

Supporting Foreign Courts Act.

986) 依據反恐怖行動法草案第19條規定，政府或其委任或委託之機構依互惠原則，得簽訂防制國際恐怖行動之合作條約或其他國際協定。

986) Under the draft law of the Counter Terrorism Act, Article 19 provides that the government and its authorised organisations may on the of reciprocity, enter into an anti-terrorism treaty "or other international pact of anti-terrorism cooperation".

987) 在該草案中對於司法互助作爲與前面所提僅有一些加強，其中第10條授權有關機關爲防制恐怖行動之發生認有必要時，得爲扣留或禁止處分之命令。第11條授權有關機關對從事恐怖行動交易之財產爲禁止提款、轉帳、付款、交付、轉讓或其他相關處分之命令，第15條規定第十二條第三項及第十三條第二項之罪，視爲洗錢防制法第三條第一項所定之重大犯罪、通訊保障及監察法第五條第一項所定得發通訊監察書之罪，除本法另有規定外，適用洗錢防制法及通訊保障及監察法之相關規定。

987) There is little in the draft that adds any further MLA measures to what has been already identified. Article 10 authorises Chinese Taipei authorities to order the detention or ban on movable, immovable or other assets when there is suspicion that terrorists are using them for terrorist acts; Article 11 authorises Chinese Taipei authorities to ban the withdrawal, account transfer, payment, disbursement or other related disposal of terrorist funds or accounts. Article 15 of the draft law provides that in terms of confiscating articles used in committing terrorist acts (Article 12, paragraph 3) and financing a terrorist organisation (Article 13, paragraph 2) "shall be regarded as a felony under paragraph 1 of Article 3 of the MLCA", i.e. as a "serious crime" whereby the related provisions of the MLCA shall apply – and also under the Communications Protection and Surveillance Act which will allow telecommunication interceptions.

988) 一旦資助恐怖分子在中華台北予以罪刑化，有關機關可以透過與其他國家簽署之司法互助協定或條約或依據外國法律委託事件

988) Once CFT offences are criminalised in Chinese Taipei, the Chinese Taipei authorities can provide assistance either through MLAA or MLAT with other jurisdictions or without an agreement by way

協助法之規定，提供司法協助。關於雙方可罰主義如前所述，該法第 2 條明定，法院受託協助民事或刑事事件，以不牴觸中華民國法令者爲限。

of the Law in Supporting Foreign Courts on Consigned Cases process. In terms of dual criminality, as already mentioned, Article 2 of this law provides as follows; "A court, when consigned by a foreign court to help take charge of civil or criminal cases, shall not conflict laws of" Chinese Taipei.

989) 如前所述，中華台北尚未將資助恐怖分子、從事恐怖分子活動或參與恐怖組織加以罪刑化，一旦完成之後，對於洗錢及前置犯罪之相關法律與程序可以讓中華台北有關機關用於辨識、凍結、扣押及沒收犯罪資產之規定，亦可依據下列條件，適用於執行有關資助恐怖分子之司法互助請求：

a) 外國託查之案件必須基於互惠原則。

b) 請求國與中華台北間存在有司法互助協定或條約；或

c) 中美刑事司法互助協定作業要點。

989) As indicated previously, Chinese Taipei is yet to criminalise FT, engaging in a terrorist act or participating in a terrorist organisation. Once these offences are criminalised, the same processes as have been referred to for existing offences such as ML and predicate offences, are available to the Chinese Taipei authorities in the identification, freezing, seizure, confiscation of POC, will be available in the execution of MLA requests relating to TFC offences subject of course to:

a) reciprocity by the jurisdiction in matters of foreign 'consigned cases';

b) MLAA or MLAT entered into with Chinese Taipei;

c) the restrictions in terms of dual criminality as identified in the Guidance decree issued under the US MLAA.

990) 有關國外非刑事沒收命令，目前反恐怖行動法草案並沒有引進新的法律規定授權中華台北有關機關執行。

990) In terms of foreign non-criminal confiscation orders, the current Counter Terrorism draft law does not introduce any new laws whereby these can be executed by the Chinese Taipei authorities.

建議第 32 項 (Recommendation 32)

991) 中華台北有關機關對於司法互助之受請求與提出請

991) The Chinese Taipei authorities do maintain statistics on MLA received and provided but

求保有統計資料，但是統計並未分類屬於洗錢罪或是前置犯罪、請求性質及回應時間等資料，被問及對於司法互助的平均回應時間需要多久，但是沒有得到回應。

the statistics do not identify the offence – whether ML or predicate offences – the nature of the request nor the time required to respond. The authorities were asked how long on average it takes to respond to a MLA request but that information was not provided.

992) 中華台北接受司法互助請求統計：

	美國	其他國家	數量
2002	2		2
2003	8		8
2004	5		5
2005	10	11	21
2006	2	14	16
合計	27	25	52

992) MLA requests made to Chinese Taipei:

	United States	Other Countries	Total
2002	2		2
2003	8		8
2004	5		5
2005	10	11	21
2006	2	14	16
Total	27	25	52

6.3.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

993) 建議中華台北：

- 修正法律以確保或闡明司法互助請求國被中華台北接受，無需經過司法程序才能啓動。
- 應考慮創造適當可行機制以決定在多國可以起訴情形下之最佳起訴犯罪者之地點。
- 關於 2003 年訂定之毒品危害防制條例第 32-1 條之實際成效，有關機關指出執行上的一個困難是沒有法律保護從事臥底，扮成毒販或買主或處理毒品之警察，中華台北目前正在草擬臥底偵查法，主要提針對臥底調查員之權益保護，並賦予警察運用此法條之權力，建議中華台北

993) It is recommended that Chinese Taipei:

- amend the law to ensure or clarify that it is not necessary for judicial proceedings to have been commenced in the requesting jurisdiction for an MLA request to be accepted by Chinese Taipei;
- consider devising and applying mechanisms for determining the best venue for prosecution of offenders in cases that are subject to prosecution in more than one country;
- in terms of the practical effectiveness of Article 32-1 of the Statute for Narcotic Hazards Control Act 2003, the authorities advised of a difficulty in its implementation in that there is no legal protection for police officers who may be required to go undercover as drug dealers or buyers, or handle any narcotics that are under border surveillance for example. Chinese Taipei

優先通過臥底偵查法。

currently has a draft Undercover Investigation Act that is aimed at protecting the rights and interests of undercover investigators and through this, enable police to utilise this provision. It is recommended that Chinese Taipei give priority to passing the Undercover Investigation Act.

994) 值得關注的是中華台北對於分配沒收財產是依照查緝洗錢犯罪或協助查緝洗錢犯罪而有沒收財產之機關提出申請爲之，進而注意到依照此一程序，迄今無沒收財產分配之實例，不確定是否因爲這樣而造成沒有申請的情形不得而知。對於接受分配之機關應依據洗錢犯罪沒收財產管理撥交及使用辦法第 9 條將撥交其使用之沒收財物，應依國有財產法及相關法令保管、使用及收益。這將形成諸如執法機關或檢察機關會增加責任負擔之問題。

994) It is of interest to note Chinese Taipei's policy of distributing confiscated property upon application by any department that was involved in the confiscation of the property in question. It is further noted that no property has been distributed under this process but it is not certain whether or not the reasons for this is because no applications have been made. Given that a "receiving organisation" is required under Article 9 of the "Regulations Governing Management, Allocation and Utilisation of Confiscated Properties" to "make profit" from the property in accordance with the National Assets Act and other related laws, this raises the issue as to whether a law enforcement agency or prosecutors office for example, would want this added responsibility.

6.3.3 建議第 36-38 項及特別建議第 V 項之遵循評等(COMPLIANCE WITH RECOMMENDATIONS 36 TO 38, AND SPECIAL RECOMMENDATION V)

	評 等	評 等 理 由 摘 述
建議第36項	LC	● 對於與中華台北沒有簽訂司法互助協定之國家，只能透過法院命令或正式請求書方式受理司法協助請求。
R. 36	LC	● For jurisdictions with no MLAA with Chinese Taipei, that jurisdiction can only receive MLA through court order or letters rogatory.
建議第37項	C	● 本項建議完全遵循。
R. 37	C	● This recommendation is fully observed.

建議第38項	LC	● 執法機關不能運用控制下交付條款。
R. 38	LC	● Law enforcement unable to utilize controlled delivery provision.
特別建議第V項	NC	● 資助恐怖分子及其他恐怖主義犯行尚未予以罪刑化。
SR. V	NC	● FT and other terrorism offences have not been criminalized.
建議第32項	LC	● 國際合作資料統計如司法互助及引渡等，並未標明請求是否涉及洗錢或前置犯罪以及收到請求與回應時間等。
R. 32	LC	● Statistics for international cooperation (MLA, extradition etc) do not identify whether request relates to ML or predicate offence or when requests were received and when responded to.

6.4 引渡—建議第 37 項、第 39 項及特別建議第 V 項(EXTRADITION - R.37 & 39, & SR.V)

6.4.1 說明與分析(DESCRIPTION AND ANALYSIS)

建議第 39 項(Recommendation 39)

995) 中華台北與多米尼克、多明尼加共和國、南非共和國、史瓦濟蘭共和國、馬拉威共和國、哥斯大黎加共和國及巴拉圭共和國等簽有引渡條約。

995) Chinese Taipei has entered into 7 extradition agreements with the Commonwealth of Dominica, the Dominican Republic, the Republic of South Africa, the Kingdom of Swaziland, Republic of Malawi, the Republic of Costa Rica, and the Republic of Paraguay.

996) 對於與中華台北沒有引渡協定之國家，中華台北會依照 1954 年訂定之引渡法規定接受引渡請求，該法第 1 條規定如下：引渡依條約，無條約或條約無規定者，依本法之規定。

996) Regarding other jurisdictions with which Chinese Taipei has no extradition agreement, Chinese Taipei will accept extradition requests in accordance with the provisions of the Law of Extradition 1954. Article 1 of the Law of Extradition provides as follows: "Extradition shall be effected in accordance with treaties. Where there are no treaties or no provisions applicable to a case in existing treaties, the provisions of

this law shall prevail."

997) 引渡法第 2 條規定：凡於請求國領域內犯罪，依中華民國及請求國法律規定均應處罰者，得准許引渡。但中華民國法律規定法定最重本刑爲一年以下有期徒刑之刑者，不在此限。凡於請求國及中華民國領域外犯罪，依兩國法律規定均應處罰者，得准許引渡。但中華民國法律規定法定最重本刑爲一年以下有期徒刑之刑者，不在此限。

997) Article 2 of the Extradition Law provides: "Extradition may be approved if the offense is committed within the territory of the country making requisition therefor and if it is punishable both under the laws of the Republic of China and those of the country making such requisition; provided, that this shall not apply where under the laws of the Republic of China the maximum basic punishment for such offense is a punishment of imprisonment for not more than one year or higher. Extradition may be approved if the offense is committed outside the territory of the country making requisition therefor and that of the Republic of China and if it is punishable under the laws of both of the two countries, provided, that this shall not apply where under the laws of the Republic of China the maximum basic punishment for the offense committed is a punishment of imprisonment for not more than one year or higher."

998) 洗錢在中華台北是屬於可以引渡之犯罪，但無特別法律或程序針對引渡犯洗錢罪之個人。目前未知是否有任何引渡協定涵蓋洗錢引渡之特別條款。

998) ML is an extraditable offence in Chinese Taipei. There are no separate specific laws or procedures to extradite individuals charged with ML. It is unknown whether any of the extradition agreements contain any provisions relating to ML specifically.

999) 引渡法第 4 保規定有關請求引渡中華台北國民之程序：請求引渡之人犯，爲中華民國國民時，應拒絕引渡。但該人犯取得中華民國國籍在請求引渡後者

999) Article 4 of the Extradition Law sets out the procedure regarding a request for the extradition of a Chinese Taipei national - "Extradition shall be refused if the person whose surrender is requested for is a citizen of the Republic of China; provided, that this

不在此限。中華民國國民在外國領域內犯本法第二條及第三條但書所定之罪，於拒絕外國政府引渡之請求時，應即移送該管法院審理。

shall not apply if the person acquired the citizenship after the requisition for extradition is made. A citizen of the Republic of China who commits an offense specified in the provisions of Articles 2 and 3 of this Law in the territory of a foreign country shall, after the requisition for extradition made by a foreign government is refused, be referred to a court which has jurisdiction over the case for trial."

1000) 中華台北有關機關提及刑法第6、7條涵蓋公務員於領域外犯罪之適用，如果中華台北拒絕具公務員身分之國家引渡到國外，則檢察機關及法院有責任追訴其犯行。

1000) The Chinese Taipei authorities also refer to Articles 6 and 7 of the Criminal Code which cover offences committed by a public official 'beyond the territory of' Chinese Taipei. These articles provide that in such cases, the Criminal Code shall apply. It is therefore the duty of the prosecutorial agencies and court to pursue such cases if Chinese Taipei rejects a request for the extradition of a national who is a public official.

1001) 在引渡法中並無法條要求中華台北對於涉及國人之引渡請求必須與其他國家合作，然而中華台北有關機關指出會在法律限度內加速執行之效率。此一要求是否可以涵蓋在引渡協定內不得而知。

1001) There is no legal requirement in the Extradition law which require Chinese Taipei to cooperate with the other requesting country in a case involving a Chinese Taipei national, however the Chinese Taipei authorities indicate that "it will be processed rapidly and efficiently within the limits of the law". Whether or not such a requirement is or can be covered in an extradition agreement is not known.

1002) 如前所述，中華台北無針對洗錢犯罪之引渡設計特別程序，但倘有其他國家請求引渡，中華台北願意在中華台北法律限度內加速執行之效率。

1002) As mentioned earlier, there is no specific law or process relating specifically to the extradition requests and proceedings relating to ML. The Chinese Taipei authorities advise that "any request for an extradition is raised by other nation, Chinese

Taipei is willing to process the request rapidly and efficiently within the limits of laws".

1003) 依據引渡法第 10 條規定，請求國家備妥引渡請求書，透過外交管道送達外交部，第 15 條規定，外交部收到引渡之請求後，應連同有關文件，送請法務部發交人犯所在地之地方法院檢察處辦理。如人犯所在不明時，應發交適當之地方法院檢察處辦理。人犯到場後，依據第 17 條規定，檢察官應於二十四小時內加以訊問，告以請求引渡之內容，並儘速將案件移送法院。法院受理前項移送案件後，依刑事訴訟法之規定，對於人犯得命拘提羈押。

1003) Pursuant to Article 10, the requesting country prepares an extradition request and forwards it to Chinese Taipei through diplomatic channels to MOFA. Under Article 15, MOFA is required to forward the same together with other relevant documents to MOJ for relegation to the Prosecutors' Office having jurisdiction over the place of residence of the person requested to be extradited. If the place of residence is unknown, the documents are sent to the District Prosecutors' Office. (No information has been provided as to what happens to the documents once it reaches this office). Where the person is found, pursuant to Article 17, the prosecutor is required to "interrogate the accused within 24 hours after he is arrested, inform him of the requisition for extradition and forward the case as soon as possible to the court". The court will then issue a warrant to apprehend and hold the accused in custody in accordance with the provisions of the Criminal Code.

附加因素(Additional elements)

1004) 有關於簡化引渡程序，並無任何法律程序允許機關間直接傳遞引渡請求，或對於「自願接受引渡之個人」之同意程序，但引渡法第 12 保規定：外國政府於提出引渡請求書前，遇有緊急情形，得以函電請

1004) In terms of "simplified procedures of extradition", there are no processes allowing direct transmission of extradition requests between appropriate ministries or a process for "consenting persons" but Article 12 of the Extradition Law provides – "In case of emergency, a foreign government may, before presenting the written requisition for

求拘提羈押所擬引渡之人犯。但應載明第十條所列事項，及已起訴或判決有罪之事實。前項情形，其提出引渡請求書，應自羈押人犯之日起三十日內爲之，逾期應即撤銷羈押，並不得再就同一案件請求引渡。

extradition, request by correspondence or cablegram the arrest and detention of the person to be extradited. However, the correspondence or cablegram shall state the matters listed in Article 10 and the fact that a public prosecution has been brought against such person or that a judgment of guilty has been pronounced. In the circumstance specified in the preceding paragraph, the written requisition for extradition shall be presented within thirty (30) days from the date the accused is detained, failing which the detention shall be cancelled, and no requisition for extradition may be made on the same case."

1005) 引渡法第 10 條規定引渡請求書應記載左列事項：

a) 人犯之姓名、性別、年齡、籍貫、職業、住所或居所，或其他足資辨別之特徵。
b) 犯罪事實及證據並所犯法條。
c) 請求引渡之意旨及互惠之保證。
d) 關於遵守第七條第一項前段及第八條前段所定限制之保證。

1005) Article 10 of the Extradition Law sets out the matters to be covered in a request for extradition which includes:

a) the name, sex, age, native place, occupation, domicile or residence, or other features of identification of the accused;
b) the facts and evidences of the offence and articles of the law violated;
c) intent of requisition for extradition and assurance of reciprocity;
d) assurance to observe the limitations specified in the first part of paragraph 1 of Article 7 and the first part of Article 8.

1006) 引渡法第 2 條要求雙方可罰主義，除了於請求國領域內犯罪，並依法律規定法定最重本刑爲一年以上有期徒刑之刑者，得准許引渡。

1006) Article 2 of the Extradition Law requires dual criminality except where (if the offence is committed in or outside the requesting country), under the Chinese Taipei laws the maximum penalty for the offence is "imprisonment of not more than one year or higher".

1007) 在雙方可罰主義之要求

1007) Where dual criminality is required, there is

下，對於提供司法互助並無法律、實務或技術障礙。

no legal, practical or technical impediment to rendering assistance.

1008) 資助恐怖分子犯行尚未被罪刑化，也就屬於引渡法上無可引渡之犯行。

1008) As CFT offences have not been criminalised, they are not extradictable offences under the Extradition Law.

6.4.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

1009) 建議中華台北對於引渡法第4條第2項有關涉及國人之情形，應建立一個可以和請求國合作之機制。

1009) It recommended that Chinese Taipei establish a process whereby it can cooperate with a requesting jurisdiction when it comes to prosecuting its own nationals under Article 4 paragraph 2 of the Extradition Law.

1010) 中華台北有關機關被問及是否保存有關引渡請求受理與提出之統計資料，評鑑團被告知無相關統計資料，中華台北因爲國際政治地位之關係，未曾接到或提出任何引渡請求，但提到曾有請求被拒絕，顯示有過提出請求，結果中華台北有關機關表示在實際作爲上，是以驅逐出境稱病代替引渡。

1010) When the Chinese Taipei authorities were asked whether they kept statistics of extradition requests received and made, the Evaluation Team was advised that there were no statistics for extradition, given that the authorities had not received or made any extradition request due to their international political status. However they did advise that their requests have been rejected which indicate requests have been made. As a result Chinese Taipei authorities advised that Chinese Taipei uses “deportation procedures” instead of extradition.

6.4.3 建議第37&39以及特別建議第V項之遵循評等(COMPLIANCE WITH RECOMMENDATIONS 37 & 39, AND SPECIAL RECOMMENDATION V)

	評等	評等理由摘述
建議第37項	C	● 完全遵循。
R. 37	C	● Fully observed
建議第39項	LC	● 中華台北沒有任何法律程序針對國人起訴地點可以與國外合作。
R. 39	LC	● Chinese Taipei does not have any process in place whereby they will cooperate with another jurisdiction when prosecuting their

		own nationals
特別建議第V項	NC	● 資助恐怖分子及其他恐怖主義犯行尚未予以罪刑化，屬於不可引渡之犯行。
SR. V	NC	● TF offences have not been criminalised and are not extraditable offences
建議第32項	NC	● 無引渡或遣送之統計資料。 ● 本項係綜合評等，散見於本報告。
R. 32	NC	● There are no statistics for extradition or for 'repatriation'. ● This is a composite rating and appears at a number of points in the report.

6.5 其他形式之國際合作-建議第 40&特別建議第 V 項 (OTHER FORMS OF INTERNATIONAL CO-OPERATION - R.40 & SR.V)

6.5.1 說明與分析(DESCRIPTION AND ANALYSIS)

建議第 40 項(Recommendation 40)

1011) 中華台北已經和 5 個國家簽署合作備忘錄以促進「反洗錢與打擊資助恐怖分子」資訊交換與司法互助，亦積極參與「亞太防制洗錢組織」及「艾格蒙聯盟」等相關國際組織所舉辦的論壇與活動。

1011) Chinese Taipei has signed agreements and MOUs with 5 countries to facilitate assistance and information exchange on AML/CFT. Chinese Taipei also actively participates in related international fora and activities held by the APG and the Egmont Group.

1012)中華台北目前已經採取下列作爲以加強國際合作，：

a) 加入反洗錢與打擊資助恐怖分子之國際組織以交換資訊，如「艾格蒙聯盟」。

b) 在其他國家派駐執法聯絡官。

c) 與其他國家駐本地區的執法聯絡官保持密切的聯繫與合作。

d) 和相關國際組織保持合作管道，諸如「國際刑

1012) Chinese Taipei has several measures in place for enhancing international cooperation:

a) membership on AML/CFT international organizations for exchanging information, such as Egmont;

b) assignment of law enforcement liaison officers to posts in other countries;

c) close communication and cooperation with other country's law enforcement liaison officers;

d) maintaining cooperation channels with related international organizations such as

警組織」。

e) 基於平等互惠與遵循「電腦處理個人資料保護法」相關規定之原則下，主動提供國際對等單位資訊。

Interpol;

e) providing information to international counterparts or upon request, based on the principles of mutual benefits and reciprocity, and subject to the Data Protection Law.

1013)有關司法協助請求，不論請求國與中華台北有無司法互助之協定，法務部均會依照一定程序，交由檢察機關儘速依照請求國之請求意旨完成協助。近年來，中華台北已受理美國、英國、波蘭、丹麥、瑞士、比利時、列支敦士登等多國有關刑事司法之互助請求 52 件。中華台北有關機關表示，均順利完成司法協助。

1013) With regard to MLA requests made by foreign jurisdictions (where there is no agreement or MOU with Chinese Taipei), the MOJ in accordance with established procedure, forwards the requests to the relevant prosecutors' office to provide the assistance requested. In recent years, Chinese Taipei has received and provided assistance in 52 MLA requests received from jurisdictions including USA, UK, Poland, Denmark, Switzerland, Belgium and Liechtenstein. The Chinese Taipei authorities advise that all requests were met and "completed satisfactorily".

1014) 中華台北有關機關進一步指出有關洗錢之情報交換，法務部調查局透過艾格蒙聯盟安全網路，可以迅速有效的回應請求。經由上揭管道，法務部、調查局及刑事警察局能夠及時有效的提供國外對等單位協助。

1014) The Chinese Taipei authorities further advised that in terms of the exchange of ML intelligence, the Investigation Bureau is able to respond quickly and efficiently to requests through the Egmont Group Secured Website. Through this website, the MOJ, the Investigation Bureau and Criminal Investigation Bureau are able to provide timely and effective assistance to their foreign counterparts.

1015) 洗錢防制中心對於國際對等單位提出之協助要求都列爲優先處理事務，並由專人負責，大部分都可以在一至二星期內回復，案情特別複雜者，則時間較長。

1015) The MLPC prioritises all requests from foreign counterparts and assigns staff members to deal with each of the matters. On average, the majority of requests take one to two weeks to respond to, with more complicated cases taking longer.

1016) 洗錢防制中心亦透過下列管道進行資訊交換：

a) 如果對方亦是「艾格蒙聯盟」會員，洗錢防制中心可以透過「艾格蒙安全網路」進行交換。

b) 如果對方非屬「艾格蒙聯盟」會員，但與中華台北有簽署資訊交換合作備忘錄或協定，則洗錢防制中心會依照案件的時效性與保密性需求，使用傳真或信函或網際網路電子郵件進行交換。

c) 前二種情形之外，洗錢防制中心亦可基於平等互惠，經由其他政府間的溝通管道，諸如外交管道，與國際對等單位交換資訊。

1016) The MLPC also exchanges information through the following channels.

a) if the counterpart is a member of Egmont, the MLPC will exchange information through the Egmont Secured Website;

b) if the counterpart is not a member of Egmont but has signed an MOU or agreement with Chinese Taipei, the MLPC can exchange information directly with the foreign counterpart by fax, letter or email depending on the urgency and confidentiality concerns of the case;

c) where the counterpart is not a member of Egmont and does not have an MOU or agreement with Chinese Taipei, the MLPC can still exchange information based on the "principles of mutual benefits and reciprocity through other government communication channels such as the diplomatic channel".

1017) 洗錢防制中心被賦予依據下列原則，可以基於自發性與被請求方式，進行資訊交換：”從相關機關取得之資訊或文件，在未取得來源機關同意前，不得分送給第三者，亦不得被用來作爲行政、起訴或判決之目的使用。該類資訊僅能應用於調查洗錢前置重大犯罪有關之犯罪活動，且必須是在雙方領域內都屬刑事犯罪。”

1017) The MLPC is also vested with the authority to exchange information spontaneously and upon request under the following principle: "The information or documents obtained from the respective Authorities will not be disseminated to any third party, nor be used for administrative or prosecutorial or judicial purposes without prior consent of the disclosing Authority. The information obtained can only be used in connection with investigations related to money laundering originating from specific categories of criminal activity. The predicate offenses for the offense of money laundering are defined as acts that would be criminal offenses under both jurisdictions penal laws, had the offense been committed in that jurisdiction."

1018) 基於確保所有有關機關可以有權代表國外對等單位進行查詢，法務部目前正進行洗錢防制法之修訂，擬增訂第 8 條之 2：外國政府或國際組織為調查、追訴刑事犯罪，而請求中華台北提供司法協助時，除條約或協定另有規定者外，法務部調查局得基於平等互惠之原則，提供本法第 7 條、第 8 條、第 8 條之 2 所受理申報或通報之資料及其調查結果。

此一增訂條文，明確授權法務部調查局可以與國外有權機關進行情報交換，並符合中華台北電腦處理個人資料保護法之相關規定。

1018) With a view to ensuring that all competent authorities are authorized to conduct inquiries on behalf of foreign counterparts, the MOJ intends to amend the MLCA, by adding the following new provision:

Article 8-2: "When a foreign government or an international organization requests this nation for legal assistance in investigating and pursuing a criminal offense, unless otherwise prescribed in the law, the Investigation Bureau under the Ministry of Justice may, on the basis of reciprocal favoured treatment, provide it with the notification data and investigation results set forth in Articles 7, 8, and 8-2 of this law."

This article will ensure that the Investigation Bureau has the authority to exchange intelligence with a foreign organization. This is also consistent with the provisions of the Data Protection Law.

1019) 如果詢問僅屬於資訊交換層級，有關機關可以基於平等互惠及不違背電腦處理個人資料保護法的原則下，依據本身對於資訊交換所建立的機制逕自提供資料給外國對等單位。

1019) If an inquiry is made for information exchange only, competent authorities can comply within their own respective procedures or mechanisms in providing the information requested to their foreign counterparts based on the "principles of mutual benefits and reciprocity" and without breaching the Data Protection Law.

1020) 如前所述，正式之司法互助請求應送法務部轉檢察署辦理，並得轉司法警察進行調查。

1020) As mentioned, formal MLA requests are referred to the MOJ and are referred by MOJ to the Prosecutors' Office who in turn refer it to the judicial police for investigation.

1021) 依據行政院賦予洗錢防制中心之任務及「法務部調查局洗錢防制中心作業要點」之規定，洗錢防制中

1021) The MLPC is authorised by the Executive Yuan through the "Operation Regulation of Money Laundering Prevention Center", to exchange information with foreign

心得爲國外對等單位查詢相關資訊，包括搜尋本身資料庫有關疑似洗錢交易報告、大額通貨交易報告及旅客攜帶大額外幣入出境等資料，以及其他機關之執法犯罪資料庫、行政管理資料庫、商業資料庫和公開之一般資料庫。

counterparts and is authorized to conduct inquiries relating to information on behalf of foreign counterparts. The information that can be provided includes searching its own database with respect to STRs, CTRs and Cross-border Currency Movement Reports; and searching certain other law enforcement databases, administrative databases, commercial databases and other public commercial databases.

1022) 洗錢防制中心在與國外對等單位進行資訊交換，主要依據合作備忘錄、協定以及洗錢防制法和電腦處理個人資料保護法之相關規定。一般而言，只要資訊交換係以平等互惠及爲促進公共安全考量，都可以進行，並無比例原則或適當原則之限制。

1022) The MLPC is subject to the conditions stipulated in MOUs, Agreements, MLCA and Data Protection Law when exchanging information with foreign counterparts. In general terms however, there is no disproportionate or unduly restrictive condition if the information exchange is based on the principles of mutual benefits and reciprocity, and for “facilitating public security”.

1023) 洗錢防制中心與國外對等單位進行資訊交換，主要是根據上述政策與規定進行，不會因爲案子本身涉及稅務問題而加以拒絕。金融機構或「特定非金融事業與專業人士」之保密要求，並不會妨礙與國際對等單位之合作。

1023) The MLPC exchanges information with foreign counterparts subject to the policies and regulations mentioned above and advises that it would not refuse any request which solely involved fiscal matters. Neither is there any impediment to the provision of that assistance on the grounds of any secrecy or confidentiality requirements for financial institutions or DNFBP.

1024) 洗錢防制法第 11 條第 1 項規定：公務員洩漏或交付關於申報疑似洗錢交易或洗錢犯罪嫌疑之文書、圖畫、消息或物品者，處三年以下有期徒刑。

1024) Paragraph 1, Article 11 of the MLCA provides: “ Any government official who reveals, discloses or turns over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, he or she shall be sentenced to

imprisonment of not more than three years".

1025) 洗錢防制中心指出，任何由國外對等單位提供之資訊均視同疑似洗錢交易報告，依上述保密規定處理。此外，如果該資訊必須分送有關機關，亦會事先敘明該資訊之使用限制。

1025) The MLPC advise that information provided by foreign counterparts is treated as relating to a "reported suspect financial transaction" or "suspect money laundering activity" and safeguarded according to the above provision. In addition, if the information has to be disseminated to competent authorities, the conditions of using the information will be clearly outlined prior to such dissemination.

1026) 日前外國請求中華台北司法互助之個案，除臺灣與美國之間有刑事司法互助協定外，都需依照外國法院委託事件協助法辦理。有關機關進一步指出，只要是透過外交部門轉送之司法協助個案，都會盡可能以彈性方式處理。

1026) Currently all MLA requests from non-counterparts are handled in accordance with the LSF Act (except for the US). The Chinese Taipei authorities further advise that as long as a request for assistance comes through the MOFA, they will do their utmost to handle it "flexibly".

1027) 洗錢防制中心對於資訊交換，都依據協定、合作備忘錄以及洗錢防制法和電腦處理個人資料保護法之相關規定辦理，並沒有特別限制不能與非對等單位進行資訊交換。而在實務運作上，大多數案件都是以直接聯繫對方單位進行，只有少數案件是透過雙方國家之執法協調官從中協調或由其他機關轉送的間接方式進行。

1027) In exchanging information, the MLPC is subject only to the conditions stipulated in the MOUs, agreements, the MLCA and Data Protection Law. There is no specific inhibition to exchange information with non-counterparts. In practice, the MLPC advises that most cases are conducted through direct contact with the requesting agency, with few being conducted indirectly through law enforcement liaison officers of both sides or through other authorities.

1028) 有關揭露請求目的，對於司法互助之請求：

a) 依照外國法院委託事件

1028) With regard to the disclosure of the purpose of the request, in respect of MLA requests:

a) under the LSF Act, Chinese Taipei will only

協助法，中華台北僅接受外國法院委託之案件，第6保條規定，法院受託調查民事或刑事訴訟上之證據，委託書應載明調查本旨，如爲刑事案件，應同時載明案情摘要。且請求司法協助之請求國，必須表明其請求之目的。

b) 「外國法院委託事件協助法」目前正在擬定修法草案，新增請求國所屬法院或檢察機關必須聲明「所取得之資料，不得使用於委託書所載以外用途之任何刑事訴訟程序。」

c) 台美刑事司法互助協定第五條亦規定請求書中必須包括請求調查之機關及請求調查之目的。且同協定第八條亦規定受請求方得請求請求方，在未經受請求方同意之前，不得將依該協定而取得之資料或證據，使用於請求書所載以外用途之任何調查、起訴或訴訟程序。

accept cases commissioned by foreign courts. Article 6 stipulates that for an investigation into evidence, the "power of attorney" shall include "the subjects of investigation, and in case of a criminal case, summary of the case". Chinese Taipei authorities also advise that the requesting country is required to clearly express the purpose of the request.

b) Chinese Taipei authorities further advise that an amendment to the LSF Act is being drafted, which will require the court or prosecutorial organisation of the requesting country to declare that "the materials obtained will not be used for any criminal proceedings not mentioned in the request."

c) Article 5 of the US MLAA provides that the request must contain the name of the organization that requests the investigation and the purpose of the investigation. Article 8 of the MLAA provides that the requested party may ask the requesting party not to use the materials and evidence obtained under the agreement for investigation, indictment and lawsuit proceedings not mentioned in the request unless the two parties have otherwise agreed on the matter.

1029) 對於情資交換，洗錢防制中心爲「艾格蒙聯盟」會員，有義務遵循該組織有關跨國資訊交換之聲明，因此請求機關有義務向被請求機關揭露請求之目的及其所代表之機關。

1029) In respect of information exchange, as the MLPC is a member of Egmont, the authorities advise that MLPC is willing to comply with the statement of purpose on information exchange, which clearly requires the requesting authority to disclose the purpose of the request and on whose behalf the request is made.

1030) 洗錢防制中心得向其他機關查詢相關資訊，而取得之程序及有關資訊之保護機制，都必須遵循「洗錢防制工作手冊」及「洗錢防制中心作業要點」之規定。

1030) The MLPC advises that it can access and obtain relevant information from other competent authorities but such access is subject to the restrictions and control mechanism set out in the "Working Manual of Money Laundering Prevention" and " Operation Regulation of Money Laundering Prevention Center".

1031) 一旦反恐怖行動法通過立法，第 19 條將授權政府簽訂防制國際恐怖行動之合作條約或其他國際協定。

1031) Once the Counter Terrorism Act is passed, Article 19 of the draft law will authorise Chinese Taipei to enter into cooperative treaties and agreements through which the full range of assistance can be given in TF matters.

1032) 如先前所提及，提議修正洗錢防制法，將明確授權調查局提供司法互助之法源，第 8-3 條規定：外國政府或國際組織為調查、追訴刑事犯罪，而請求中華台北提供司法協助時，除條約或協定另有規定者外，法務部調查局得基於平等互惠之原則，提供本法第 7 條、第 8 條、第 8 條之 2 所受理申報或通報之資料及其調查結果。資助恐怖分子已列為異常金融交易表徵，金融機構一經發現，即應申報疑似洗錢交易報告(第 8 條授權規定事項)，而洗錢防制中心被授權與國外對等單位分享資訊及協調採取必要作為。

1032) As mentioned earlier, the proposed amendment to the MLCA will also clearly uthorize the Investigation Bureau to provide legal assistance –Article 8-2 – "When a foreign government or an international organization requests this nation for legal assistance in investigating and pursuing a criminal offense, unless otherwise prescribed in the law, the Investigation Bureau under the Ministry of Justice may, on the basis of reciprocal favored treatment, provide it with the notification data and investigation results set forth in Articles 7, 8, and 8-2 of this law." The Chinese Taipei authorities also refer to the fact that FT is listed as an indicator for reporting STRs by financial institutions (Regulations Regarding Article 8 of the MLCA) and the MLPC is vested with the power to share such information and take necessary steps to coordinate with foreign counterparts when handling ML cases.

1033) 反恐怖行動法草案第 4 條第 1 項規定：國家安全局負責統合協調辦理反恐怖情報資訊之蒐集與處理，並應將國際間以認定之恐怖組織、恐怖分子，或疑爲恐怖組織或恐怖分子之資訊，及其他必要之情報資訊，適時提供行政院反恐怖行動專責小組、情治機關及相關權責單位。

1033) Article 4 paragraph 1 of the draft Counter Terrorism Act provides as follows; "The National Security Bureau is in charge of orchestrating the collection and processing of counter terrorist intelligence and supplying the Executive Yuan's counter terrorist task force, intelligence agencies and other related agencies with information about internationally identified terrorist organizations, terrorists, or suspected terrorist organizations and suspected terrorists."

1034) 反恐怖行動法草案第 4 條第 2 項：各情治機關應主動針對國內外恐怖行動蒐集相關情報資料，即時送交國家安全局；其他政府機關蒐獲涉及恐怖行動之相關情報資料者，除依權責處理外，應即送交國家安全局，不受其他法律有關保密規定之限制。

1034) Article 4 paragraph 2 of the draft law also provides: "All intelligence agencies shall actively collect intelligence and information related to terrorist actions at home land and abroad, and disseminate them to the National Security Bureau in time; other government agencies obtain intelligence related to terrorist actions shall, besides disposing the intelligence according their power and responsibility, immediately forward it to the National Security Bureau regardless the secret-keeping provisions of other laws."

1035) 洗錢防制法第 8 條授權規定事項規定：交易最終受益人或交易人爲行政院金融監督管理委員會函轉外國政府所提供之恐怖分子或團體者，已列爲疑似洗錢交易申報之範圍，要在發現之後 10 個營業日之內進行申報。

1035) The Regulations Regarding Article 8 of the MLCA also stipulates that "transactions where the ultimate beneficiary or transaction party is a terrorist or terrorist group as listed by the MOF based on information provided by foreign governments" are to be reported as STR and reported to the MLPC in 10 business days after being discovered.

1036) 緝毒中心年報報導調查局與包括歐洲、美國、香港、

1036) The Drug Crime Prevention Year Book states that the MJIB have direct

澳門、東南亞及東北亞等超過 20 個國家或地區直接聯繫。以 2005 年爲例，有 811 件毒品情資交換，許多案例顯示中華台北和菲律賓、越南、澳洲、美國、日本、馬來西亞、香港、澳門等國家與地區的合作，均導致成功的毒品犯罪調查。

communication with over 20 countries or territories in Europe, America, Hong Kong, Macau, Southeast Asia and North East Asia. During 2005 for example 811 cases of intelligence exchange took place between Chinese Taipei and other jurisdictions in relation to narcotics. A number of examples where Chinese Taipei has worked with other jurisdictions include Philippines, Vietnam, Australia, United States, Japan, Malaysia, Hong Kong Macau to successfully conclude drug investigations.

1037) 洗錢防制中心與警政署確有專屬單位與資源以因應國際合作請求，並於現地評鑑當時，有 42 件協助請求正在進行。

1037) Both the MLPC and the NPA have dedicated resources to attend to international requests and at the time of the onsite visit were undertaking 42 requests for assistance.

6.5.2 建議與評論(RECOMMENDATIONS AND COMMENTS)

1038) 中華台北顯然有許多有效系統可以透過洗錢防制中心和其他國家進行情資交換，但是其他有關機關包括警察則少有情資交換。

1038) Chinese Taipei appears to have effective systems in place to exchange information with other jurisdictions through the MLPC, however, there appears to be little exchange of information by other competent authorities including the police.

1039) 除了洗錢防制中心，其他機關缺乏授權可以和國外對等單位進行情資交換。

1039) Beyond the MLPC, other competent authorities lack legal authority to support information exchange with their foreign counterparts.

1040) 建議中華台北透過立法讓除了洗錢防制中心以外的相關機關可以：

- 有權可以和國外對等單位交換情資並代表國外對等單位查詢資料。
- 界定可以被要求提供資訊

1040) It is recommended that Chinese Taipei introduce legislation pertaining to the respective competent authorities other than the MLPC, that –

- authorises the competent authority to exchange information and conduct enquiries on behalf of foreign counterparts on a

之範圍並建立控制與保全機制以確保有關機關收到之資訊僅用於被授權之範圍。

reciprocal basis;

- identifies the information that can be requested and establishes controls and safeguards to ensure that information received by those competent authorities is used only in an authorised manner.

1041) 雖然統計資料之保存如上所述，但是並未提供統計表，因此評論與評等僅限於所看到之資訊。

1041) Although statistics are kept as indicated above, a table of statistics was not provided and comment and rating is restricted to the information sighted.

6.5.3 建議第 40 項及特別建議第 V 頁評等(COMPLIANCE WITH ECOMMENDATIONS 40 AND SPECIAL RECOMMENDATION V)

建議第32項	LC	● 統計資料未顯示主動向國外提出請求之數量及收到與被拒絕協助之數量。
R. 32	LC	● Statistics do not indicate number of spontaneous requests made by Chinese Taipei to foreign authorities or indicate the number of requests received and refused
建議第40項	PC	● 中華台北運用一些正式與非正式之管道以接收並分送與洗錢、資助恐怖分子及相關前置犯罪之資訊。
R. 40	PC	● Chinese Taipei utilises a number of formal and informal arrangements to receive and disseminate information relevant to Money Laundering, Terrorism Financing and predicate offences.
特別建議第V項	LC	● 資助恐怖分子及恐怖主義犯行尚未予以罪刑化。
SR. V	NC	● Terrorism and FT are yet to be criminalized.

7 其他問題(OTHER ISSUES)
資源與統計(RESOURCES AND STATISTICS)

本報告第 7.1 節僅涵蓋一個表格，顯示評等及其因素，清楚敘明缺陷之本質，並請參照本報告相關章節之說明。

Section 7.1 of the report contains only the box showing the rating and the factors underlying the rating, and the factors should clearly state the nature of the deficiency, and should cross refer to the relevant section and paragraph in the report where this is described.

建議第30項	LC	● 在洗錢起訴統計方面明顯缺乏經濟犯罪以外之其他犯罪如毒品犯罪。這反映出在執法作爲上缺乏重視洗錢調查工作。 ● 毒品犯罪調查員缺乏調查毒品犯罪所得洗錢之人力以及發掘與沒收這些不法所得之能力。 ● 缺乏專責單位追查犯罪資產。 ● 對於邊界管制以執行反洗錢與打擊資助恐怖分子作爲之人力嚴重不足，特別是對於跨國境現金及無記名可轉讓金融商品搬移之查察。 ● 金融檢查局作例行性與特別金融檢查之人力要面對龐大的金融行業以執行任務顯有不足。
R. 30	LC	● There is a noticeable absence of M/L prosecutions that stem from income generating crime other than economic crime (such as narcotics offending). This reflects a lack of focus on the investigation of ML across all law enforcement. ● Narcotics investigators lack the capacity to investigate the laundering of drug related income as part of their investigations and the ability to recover and confiscate that income ● There is a lack of dedicated units to recover proceeds of crime. ● There are significant deficiencies with regards to capacity of border control to implement AML/CFT measures at the border, in particular cross-border movement of currency and bearer negotiable instruments

		● The adequacy of staffing resources of the FEB involved in the routine and special examinations is lacking when compared with the large size of the financial sectors captured under its mandate.
建議第32項	LC	● 洗錢罪起訴及判決之統計數據不一致。 ● 無遵循特別建議第III項之凍結行動。 ● 有關機關未採取具體檢討作爲以確認特定非金融事業體與專業人士面對洗錢與資助恐怖分子所面對之風險。 ● 舉辦過許多研討會以檢討反洗錢與打擊資助恐怖分子系統之成效。 ● 國際合作統計數據（司法互助及引渡等）並未標示請求是與洗錢或前置犯罪有關、何時收到請求及何時回復等。 ● 統計資料未顯示主動向國外提出請求之數量及收到與被拒絕協助之數量。
R. 32	LC	● Discrepancies in recording statistics in relation to penalties arising out of ML prosecutions ● No freezing actions have been taken pursuant to SRIII ● Authorities have yet to undertake a comprehensive review to ascertain the extent to which the DNFBP entities may pose money laundering and terrorist financing risks. ● A number of forums have been held to review the effectiveness of AML/CFT systems ● Statistics for international cooperation (MLA, extradition etc) do not identify wether request relates to ML or predicate offence or when requests were received and when responded to ● Statistics do not indicate number of spontaneous requests made by Chinese Taipei to foreign authorities or indicate the number of requests received and refused

附表(TABLES)

附表 1：FATF 遵循評等(Ratings of Compliance with FATF Recommendations)
附表 2：改善反洗錢與打擊資助恐怖分子之建議行動計畫(Recommended Action Plan to improve the AML/CFT system)
附表 3：有關機關對於評鑑之回應--如有必要(Authorities' Response to the Evaluation -- if necessary)
附表 4：前次相互評鑑後之進展(Table 4: Progress since the last Mutual Evaluation)

附表 1：FATF 遵循評等(Ratings of Compliance with FATF Recommendations)

對於 FATF 建議項目之遵循評等，應依據 2004 年評鑑方法論所定之 4 個等級：完全遵循爲(C)、大部遵循爲(LC)、部分遵循爲(PC)、未遵循爲(NC)或在例外情形下可以註明不適用(NA)。

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (na).

評鑑項目	評等	評鑑團評等理由說明[1]
法律系統(Legal systems)		
第 1 項：洗錢行爲罪刑化	PC	● 洗錢犯罪行爲之認定缺乏維也納公約第 3(1)(b)(c)及巴勒莫公約第 6(1)有關認定洗錢犯罪之部分標準。 ● 重大犯罪之門檻太高。 ● 洗錢犯罪需要有前置犯罪定罪作爲證明。 ● 恐怖主義及資助分子未列爲洗錢前置重大犯罪。
1. ML offence	PC	● The ML offence lacks some of the elements outlined in Article 3(1)(b)(c) of the Vienna Convention and Article 6(1) of the Palermo Convention; ● The threshold for what is a serious offence is too high ● Predicate offence conviction required that a ML

[1] 評等理由只有在評定完全遵循以下才會敘明理由(These factors are only required to be set out when the rating is less than Compliant.)

		offence is proved ● Terrorism and terrorist financing are not predicate offences
第 2 項：考量心裡推論及法人責任	PC	● 目前法律並不允許洗錢犯罪要素的明知、故意或目的可根據客觀實際情況推定。 ● 洗錢防制法之條文可能成爲企業及所屬員工逃避起訴之避風港。
2. ML offence – mental element and corporate liability	PC	● The law does not permit the intentional element of the offence of ML to be inferred from objective factual circumstances ● The penalty provisions legally set out circumstances that could be used as "safe harbours" from prosecution which undermines the otherwise clear liability of corporations and their employees
第 3 項：沒收及暫時性作爲	LC	● 在洗錢防制法中對於財產及財產上利益沒有明確定義以確保洗錢犯罪及於所有類型之財產。 ● 刑法第 38 條對於供犯罪所用或犯罪預備之物之沒收是否及於在第三人名下之物，沒有明確規範。
3. Confiscation and provisional measures	LC	● No definition of "property" or "property interests" in the MLCA to ensure that offence of ML extends to all types of property ● Unclear whether instrumentalities used or intended to be used can be confiscated if they are under the name of a third party given the provisions of Article 38 of the Criminal Code
預防性作爲(Preventive measures)		
第 4 項:秘密法令符合建議之要求	C	本建議完全被遵循。
4. Secrecy laws consistent with the Recommendations	C	The recommendation is fully observed.
第 5 項：客戶審查	PC	● 對於現金交易達一百萬元(大約美金 3 萬元)以上才要進行客戶審查的門檻太高。 ● 並沒有特別要求金融機構採取合理措施核對客戶

		是否代理他人進行交易以及辨識利益擁有人，作爲客戶審查之例行性程序。 ● 金融放款業（financial leasing sector）並未被涵蓋在反洗錢與打擊資助恐怖分子體制內。 ● 只有證券業特別要求須取得業務關係之目的與性質。 ● 對於先前取得之客戶資訊有懷疑而需進行客戶審查之要求僅訂在銀行防制洗錢注意事項中，而證券業及保險業都無此特別要求。。 ● 只有銀行防制洗錢注意事項要求運用可靠資訊確認客戶身分義務，而保險業並無法令對此特別要求。 ● 對於查核交易人是否爲法人授權代表，在銀行業及保險業都無明確法規規範。 ● 並無法律或指引特別針對現有客戶進行審查。
5. Customer due diligence	PC	● The threshold for occasional cash transactions that triggers CDD obligation (NT$1 million, which is approximately US$30,000) is too high. ● There is no explicit requirement for financial institutions to take reasonable measures to check if a customer is acting on behalf of another person and to identify the beneficial owner as part of the routine CDD procedure for all customers. ● The financial leasing sector is not covered by the AML/CFT regime ● Only the securities sector has explicit requirement to obtain information on the purpose and intended nature of the business relationship ● The requirement to perform CDD when the previously obtained customer information is dubious is captured only by the Money Laundering Prevention Guidelines and Procedures for the banking sector, and there is no specific requirement for the securities and

		the insurance sectors. ● The obligation to verify customer identity using reliable information is captured only by the Money Laundering Prevention Guidelines and Procedures and is not clearly captured by a law or a regulation for the insurance sector. ● The obligation to check if a person purporting to act on behalf of a legal person is so authorized is not captured by a law or regulation for the banking sector and the insurance sector. ● There is neither legislation nor any guideline that specifically addresses the treatment of existing customers.
第 6 項:高知名度政治人物	NC	● 沒有特別法律或指引要求金融機構對於高知名度政治人物要有適當之風險管理程序。
6. Politically exposed persons	NC	● There is no specific legislation or guideline that requires financial institutions to have appropriate risk management procedures for PEPs.
第 7 項：代理銀行	LC	● 新銀行防制洗錢注意事項對於代理銀行有所規定，但評鑑團現地評鑑時才施行二個月，尚難判定執行成效。
7. Correspondent banking	LC	● Guidelines were introduced only two months before the Evaluation Team's onsite visit, and therefore, it is too early to form a judgment on the effectiveness or the implementation of the Guidelines.
第 8 項:新技術及非面對面交易	LC	● 銀行缺乏有效措施以監控所有電子化之金融交易。
8. New technologies & non face-to-face business	LC	● Banks lack effective measures to monitor all individual transactions conducted electronically.
第 9 項:第三者及中介引介之交易	C	本建議完全被遵循。
9. Third parties and introducers	C	The recommendation is fully observed.

第 10 項：交易紀錄留存	PC	洗錢防制法對於留存客戶交易紀錄欠缺下列事項： ● 金融機構沒有被要求對非現金交易留存交易紀錄。 ● 對於一百萬元以下之現金交易沒有被要求留存交易紀錄。 ● 法規沒有特別要求金融機構留存之交易紀錄足以重建證據所需之憑證。 ● 交易紀錄留存期限未包括交易完成後 5 年之要求。 ● 國際交易紀錄並未涵蓋在現有交易紀錄保存規定體制內。 ● 金融機構沒有被要求保存帳戶檔案資料。 ● 金融機構沒有被要求留存生意往來資料。 ● 交易紀錄留存期限未涵蓋帳戶結束或中止生意往來後之 5 年。
10. Record-keeping	PC	The requirement to keep transaction records under the MLCA is inadequate in the following areas: ● Financial institutions are not required to keep transaction records for any non-cash transactions; ● Financial institutions are not required to keep transaction records for cash transactions below NT$1,000,000; ● laws and regulations do not specifically require financial institutions to keep transactions records that would allow individual transactions to be reconstructed by the financial institutions for evidentiary purposes; ● retention period exclude the requirement to keep transaction records for five years following the completion of a transaction; ● International transaction records are not captured under the current record-keeping regime; ● Financial institutions are not required to keep

		account files; ● Financial institutions are not required to keep business correspondences; ● retention period exclude the requirement to keep customer records for five years following the termination of an account or business relationship.
第 11 項：不尋常金融交易之監控	PC	● 銀行業之金融機構並無特別義務監控及留存複雜、異常大額交易及顯無經濟或合法目的之異類型態交易。 ● 對於銀行的一些要求都是最近有提出，目前執行成效尚無法判定。 ● 其他行業採行共用且一般用性疑似洗錢申報架構所需之交易監控作爲，與 FATF 的要求尚有不足。
11. Unusual transactions	PC	● With the exception of banking sector there are no specific obligations on financial institutions to monitor and keep record of complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. ● Requirements for the banks are only very recent and implementation and its effectiveness could not be fully determined. ● Other sectors have adopted a common and more general approach to monitoring of transactions that is intended to complement their suspicious transactions reporting framework. This approach falls short of the requirements of FATF.
第 12 項：特定非金融事業體及專業人士第 5、6、8-11 項	NC	● 銀樓業是唯一涵蓋在洗錢防制法內之特定非金融事業體及專業人士。 ● 沒有特別法令要求律師、公證人、不動產經紀商、會計師、信託及公司服務業者及相關事業體防制洗錢義務。 ● 金融機構，包括銀樓業，有關客戶審查及紀錄保存範圍都是以現金交易交易達新台幣一百萬元爲

		門檻，比 FATF 所訂美金或歐元 15000 元爲高。 ● 銀樓業之防制洗錢義務不符建議第 5,6,8-11 及 17 項建議之要求標準，且其他特定非金融事業體及專業人士並未被課以相關義務。 ● 相關機關確保及執行 FATF 對於特定非金融事業體及專業人士要求標準之能力值得關切，包括銀樓業在內。
12. DNFBP – R.5, 6, 8-11	NC	● Dealers in precious metal and stones are the only category of the DNFBP sector covered under MLCA Act. ● There are currently no specific AML requirements that could be imposed on lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses. ● The scope of CDD and record-keeping for all covered financial institutions including the dealers in precious metals and stones is applied for cash transactions above NT$1,000,000 or US$31,000. This amount falls short of the US/€ 15,000 threshold set under the FATF methodology. ● The obligations of dealers in precious metal and stones falls substantially short of the requirements of Recommendations 5, 6, 8-11, & 17. Due to the exclusion of other categories of DNFBPs, these requirements are also not imposed on them. ● There are concerns on capacity of competent authorities to ensure and enforce full compliance with the FATF requirements for all categories of the DNFBP sector, including dealers in precious metal and stones.
第 13 項：可疑交易申報	PC	● 缺乏相關法規課以金融機構申報有可疑但未完成之金融交易。
13. Suspicious	PC	● There is an absence in law that requires a

transaction reporting		financial institution to report attempted transactions that are suspicious in nature.
第 14 項：善意申報之保護及不得告知當事人	C	本項完全遵循。
14. Protection & no tippingoff	C	This rating is fully observed.
第 15 項：內控、遵循與稽核	LC	● 證券業防制洗錢注意事項之相關要求未達到獨立稽核功能之標準。 ● 並無法規、指引或注意事項特別要求金融機構允許洗錢法規遵循主管得以及時取得客戶資訊及交易紀錄。
15. Internal controls, compliance & audit	LC	● The requirements imposed under the AML checklist for the securities sector falls short of meeting the requirement on independent audit function. ● Financial institutions are not specifically required under the regulations, guidelines and checklist to allow the AML compliance officer timely access to customer and transaction records.
第 16 項：特定非金融事業體及專業人士第 13-15、21 項	NC	● 銀樓業是唯一須申報疑似洗錢交易之特定非金融事業體及專業人士，但其成效值得懷疑，因爲迄今無任何申報紀錄。 ● 銀樓業未申報疑似洗錢交易基本原因與較低之客戶審查門檻及其他反洗錢要求有關。 ● 目前對於律師、公證人、不動產經紀商、會計師、信託及公司服務業者及相關事業體並無特別疑似洗錢交易申報義務要求。 ● 一些特定非金融事業體及專業人士表示在遵循 FATF 建議作爲時，缺乏咨詢、警示及指引之管道。
16. DNFBP – R.13-15 & 21	NC	● Dealers in precious metal and stones are the only DNFBP sector that is required to report suspicious transactions, however, the effectiveness is in doubt due to lack of any STR being made to date.

		● The underlying reason for lack of reporting of STRS by the dealers in precious metal and stones is largely correlated with the lower threshold for CDD and other AML requirements. ● There are currently no specific STR reporting obligations that could be imposed on lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses. ● Concerns were noted from some category of DNFBPs who reported lack of consultation, awareness and guidance on the wider need for implementing and complying with FATF recommendations.
第 17 項：制裁	LC	● 金融監督管理委員會對許多未遵循反洗錢與打擊資助恐怖分子之銀行業者的處罰方式與內容有所不足。 ● 有關機關未充分檢討金融機構接到未遵循反洗錢與打擊資助恐怖分子之大量警訊後施以適當制裁之問題。
17. Sanctions	LC	● The type and nature of sanctions actually imposed to date by the FSC is inadequate in view of the many AML/CFT non-compliance findings for the banking sector. ● The authorities have not adequately reviewed the appropriateness of sanctions in light of the large number of warnings issued to financials institutions for AML/CFT non-compliance.
第 18 項：空殼銀行	PC	● 法律並明顯別禁止空殼銀行之建立，但是銀行法對於核發證照要求及政策，間接排除核發證照給空殼銀行之可能性。 ● 中華台北未禁止銀行與空殼銀行建立代理業務關係，或充當國外任何可以被空殼銀行利用之機構的代理銀行角色。
18. Shell banks	PC	● Laws do not explicitly prohibit establishment of shell banks, however, the licensing

		requirements and policies under the Banking Act indirectly preclude the licensing of a shell bank in Chinese Taipei. ● Chinese Taipei does not have a prohibition against its banks establishing correspondent banking relationships with shell banks, or serving as a correspondent bank for any foreign institution that permits its accounts to be used by shell banks.
第 19 項：跨國現金移動申報	C	本建議完全被遵循。
19. Other forms of reporting	C	This rating is fully observed.
第 20 項：其他類別之特定非金融事業體及專業人士	NC	● 無跡象顯示認真考慮將其他類別之特定非金融事業體及專業人士納入反洗錢與打擊資助恐怖分子體制。
20. Other NFBP & secure transaction techniques	NC	● No indication that serious consideration has been given to the possibility of bringing other nonfinancial professions and businesses into the scope of the AML/CFT regime.
第 21 項：特別留意高風險國家	NC	● 未規定金融機構對於未執行或未充分遵循 FATF 建議之國家或地區，須特別注意生意往來關係或交易。 ● 有關機關未採取作爲提供金融機構有關其他國家在執行反洗錢與打擊資助恐怖分子體制之弱點。 ● 現存法規對於處理與不合作國家之交易規定太過狹隘且缺乏 FATF 所列名單，本節之規範目前不適用。
21. Special attention for higher risk countries	NC	● No obligation on financial institutions to give special attention to business relationships and transaction from or in jurisdictions that do not or insufficiently apply the FATF Recommendations. ● Authorities do not have measures in place to advise financial institution of concerns about weaknesses in the AML/CFT systems of other jurisdictions.

		● The existing Regulations that addresses transactions from an NCCT listed jurisdiction is too narrow and in the absence of an FATF list, this section of the regulation is not applicable at present.
第 22 項：國外分支機構及子公司	LC	● 保險業及證券業未特別要求金融機構之分行及分公司位在未遵循 FATF 要求標準或遵循上有重大缺失國家之防制作爲。 ● 金融機構未規定在母國與地主國防制洗錢要求不同且當地法律允許下，在地主國之分行或子公司應適用較高之標準。
22. Foreign branches & subsidiaries	LC	● Insurance and securities sectors do not explicitly require financial institutions to pay particular attention to their branches and subsidiaries in countries which do not or insufficiently apply the FATF recommendations. ● No formal obligation on financial institutions that where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries are required to apply the higher standard, to the extent that local laws and regulations permit
第 23 項：規定、監理與監控	LC	● 保險經紀及代理業目前被排除在反洗錢與打擊資助恐怖分子體制之外。 ● 有關機關剛對外幣收兌處課以反洗錢與打擊資助恐怖分子要求，其執行成效尚無法評估。
23. Regulation, supervision and monitoring	LC	● Insurance agents and brokers are exempted from the current AML/CFT requirements. ● The authorities have only recently extended the AML/CFT requirements to the money changing services sector and its effectiveness could not be established.
第 24 項：對特定非金融事業體及專業人士之規定、監理與監控	NC	● 雖然賭場被禁止，有關機關或許可以考慮對於賭博罪犯處以更重之刑罰。 ● 珠寶行業並未完全納入目前反洗錢與打擊資助恐

		怖分子體制。 ● 監控不動產業者之過渡性作爲與必要準則要求標準在許多地方多有不符。 ● 目前反洗錢與打擊資助恐怖分子體制未涵蓋律師及會計師行業。
24. DNFBP - regulation, supervision and monitoring	NC	● While casinos are prohibited in Chinese Taipei, authorities may consider providing more severe penalties for the offenders. ● The jewellery sector is not fully covered under the current framework. ● The interim measures for monitoring the real estate sector falls short of the essential criteria in many ways. ● Chinese Taipei's AML/CFT regulatory regime does not cover lawyers and accountants sector.
第 25 項：指引與回饋	PC	● 洗錢防制法對於建立防制洗錢注意事項之方式並未清楚規定，且將建立之義務轉嫁金融機構，有關機關僅被要求備查防制洗錢注意事項。 ● 防制洗錢注意事項範本之內容未詳列符合各行業之特殊需求。 ● 洗錢防制中心提供之回饋未納入有關確認收到疑似洗錢交易報告及調查結果之資訊。 ● 權責機關尚未諮詢律師、會計師及不動產業者有關訂定防制洗錢規範指引之事宜。
25. Guidelines & Feedback	PC	● The approach taken to establishing guidelines under the MLCA is not clear and shifts the obligation to issue guidelines to financial institutions. The competent authorities are required to merely "review" the guidelines and procedures. ● Guidelines are not detailed to adequately capture requirements specific to each industry. ● MLPC does not provide feedback on or acknowledgement of the receipt of STRs and STR cases that have been completed.

		● The authorities are yet to undertake consultation on the issuance of regulatory guidelines for lawyers, accountants and the real estate agents
制度上及其他作爲(Institutional and other measures)		
第 26 項：金融情報中心	C	本建議完全被遵循。
26. The FIU	C	This rating is fully observed.
第 27 項：執法機關	LC	● 有特定機關負責洗錢或資助恐怖分子案件調查及犯罪資產追查。 ● 統計資料顯示目前在犯罪資產追查方面只有些許成就。 ● 在調查洗錢可採取之作爲受到限制，例如臥底偵查應該可以積極運用。
27. Law enforcement authorities	LC	● Designated authorities do have responsibility for the investigation of ML or TF and recovery of proceeds of crime. ● Statistics reflect that currently there has only been limited success in the recovery of proceeds of crime. ● There currently exist limitations on measures that can be used to conduct investigations in ML – for example the undercover investigations this is recognised and is actively being worked on by the jurisdiction.
第 28 項：相關機關之權力	C	本建議完全被遵循。
28. Powers of competent authorities	C	This rating is fully observed.
第 29 項：監理權力	LC	● 有關外幣兌換處於 2007 年 1 月才納入反洗錢與打擊資助恐怖分子規範，實際執行情形及成效尚無法評估。 ● 外匯行業監理架構不明。
29. Supervisors	LC	● The actual implementation and its effectiveness could not be established as the AML/CFT requirements for the foreign currency exchange

		sector came into force only recently in January 2007. ● Supervisory framework for the foreign exchange sector unclear.
第 30 項：資源、廉正與訓練	LC	● 對於經濟犯罪外之其他有重大不法收益之犯罪，如毒品犯罪洗錢起訴數量明顯過少，顯示執法機關間對於洗錢犯罪調查缺乏重視。 ● 毒品犯罪調查員未將調查毒品犯罪有關收益作爲整個調查之一部分，以及找到並沒收該收益之能力。 ● 缺乏一個專責單位追查犯罪收益。 ● 有關反洗錢與打擊資助恐怖分子之邊境管制是一個明顯弱點，特別是對於跨國境現金移動及無記名可轉讓金融工具。 ● 金融監督管理委員會檢查局需要有足夠人力資源對金融機構進行例行及特別檢查。
30. Resources, integrity and training	LC	● There is a noticeable absence of M/L prosecutions that stem from income generating crime other than economic crime (such as narcotics offending). This reflects a lack of focus on the investigation of ML across all law enforcement. ● Narcotics investigators lack the focus (at this time) to investigate the laundering of drug related income as part of their investigations and the ability to recover and confiscate that income ● There is a lack of dedicated units to recover proceeds of crime. ● There are significant deficiencies with regards to capacity of border control to implement AML/CFT measures at the border, in particular cross-border movement of currency and bearer negotiable instruments ● The adequacy of staffing resources of the FEB involved in the routine and special examinations

		is lacking when compared with the large size of the financial sectors captured under its mandate.
第 31 項：國內協調合作機制	LC	● 確實存在有全國性協調機制，但執法機關對於發展與執行打擊資助恐怖分子作爲仍存在一些弱點。
31. National co-operation	LC	● There is extensive national cooperation but weaknesses still exist among law enforcement agencies and to support the development and promulgation of CFT measures.
第 32 項：統計數據	LC	● 有關洗錢起訴之處刑統計資料有不一致情形。 ● 對於特別建議第 III 項無任何凍結行動之資料。 ● 有關機關尚無針對特定非金融事業體及專業人士進行有效檢討以確認所面對洗錢及資助恐怖分子之風險。 ● 舉辦多次研討會，檢討反洗錢與打擊資助恐怖分子系統成效。 ● 國際合作統計資料（司法互助及引渡等）未分辨請求是與洗錢或與前置犯罪有關，亦未指出收到及回復時間。 ● 統計資料未指出主動要求國外協助之數量，亦無指出收到請求及拒絕之數量統計。
32. Statistics	LC	● Discrepancies in recording statistics in relation to penalties arising out of ML prosecutions. ● No freezing actions have been taken pursuant to SRIII ● Authorities have yet to undertake a comprehensive review to ascertain the extent to which the DNFBP entities may pose money laundering and terrorist financing risks. ● A number of forums have been held to review the effectiveness of AML/CFT systems ● Statistics for international cooperation (MLA, extradition etc) do not identify whether request relates to ML or predicate offence or when

		requests were received and when responded to ● Statistics do not indicate number of spontaneous requests made by Chinese Taipei to foreign authorities or indicate the number of requests received and refused
第 33 項：法人-利益擁有人	PC	● 未規定法人之利益擁有人之資訊加以保存及提供有關機關查詢。
33. Legal persons – beneficial owners	PC	● There is no obligation to maintain and make available beneficial ownership information for legal persons
第 34 項：法律合意-利益擁有人	PC	● 有關機關只有有限權力可以及時取得信託利益所有權擁有及控制之資訊。
34. Legal arrangements – beneficial owners	PC	● Competent authorities have only limited powers to have timely access to information on the beneficial ownership and control of trusts.
國際合作(International Co-operation)		
第 35 項：簽署並履行國際合作公約	PC	● 中華台北尚未成爲維也納公約、巴勒莫公約及制止資助恐怖分子公約之簽署國。 ● 中華台北未充分執行維也納公約及巴勒莫公約。 ● 中華台北未執行制止資助恐怖分子公約。
35. Conventions	PC	● Chinese Taipei has not become party to the Vienna, Palermo or Terrorist Financing conventions. ● Chinese Taipei has not fully implemented the Vienna and Palermo conventions. ● Chinese Taipei has not implemented the terrorist financing convention.
第 36 項：司法互助	LC	● 和沒有簽署司法互助協定之國家僅能透過外國法院委託事件協助法或請求函方式尋求司法協助。
36. Mutual legal assistance (MLA)	LC	● For jurisdictions with no MLAA with Chinese Taipei, that jurisdiction can only receive MLA through court order or letters rogatory
第 37 項：雙邊可罰性原則	C	本建議完全被遵循。

37. Dual criminality	C	This recommendation is fully observed.
第 38 項：凍結與沒收之國際合作	LC	● 執法尚不能運用控制下交付之法律條款。
38. MLA on confiscation and freezing	LC	● Law enforcement unable to utilize controlled delivery provision.
第 39 項：引渡	LC	● 沒有任何法律程序可以在起訴國人時可以和其他國家進行合作。
39. Extradition	LC	● Chinese Taipei does not have any process in place whereby they will cooperate with another jurisdiction when prosecuting their own nationals.
第 40 項：其他形式之國際合作	PC	● 中華台北運用一些正式及非正式管道以接收及分送有關洗錢、資助恐怖主義及前置犯罪之資訊。
40. Other forms of cooperation	PC	● Chinese Taipei utilises a number of formal and informal arrangements to receive and disseminate information relevant to Money Laundering, Terrorism Financing and predicate offences.
9 項特別建議(Nine Special Recommendations)		
第 I 項特別建議：履行聯合國相關公約及決議案	NC	● 中華台北未執行或簽署制止資助恐怖分子公約。 ● 中華台北缺乏有效之法律與程序以執行聯合國安全理事會第 1267 號及第 1373 號決議案。
SR.I Implement UN instruments	NC	● Chinese Taipei has not implemented or become a party to the Terrorist Financing convention. ● Chinese Taipei lacks effective laws and procedures to implement UNSCR 1267 and 1373.
第 II 項特別建議：資助恐怖分子罪刑化	NC	● 資助恐怖分子尚未罪刑化。
SR.II Criminalise terrorist financing	NC	● FT has not be criminalized.
第 III 項特別建議：凍結、沒收恐怖分子	NC	● 中華台北缺乏有效之法律與程序以凍結恐怖分子資金或其他聯合國1267委員會特定對象之資產或

資產		聯合國安全理事會第1373決議案所特定恐怖分子之資產。
SR.III Freeze and confiscate terrorist assets	NC	● Chinese Taipei lacks effective laws and procedures to freeze terrorist funds or other assets of entities designated by the UN 1267 Committee or to freeze terrorist assets of persons designated in the context of UN SCR 1373.
第 IV 項特別建議：可疑金融交易申報	NC	● 目前洗錢防制法及相關指引對於資助恐怖分子疑似洗錢申報之要求與特別建議第 4 項要求不符。 ● 由於資助恐怖分子尚未罪刑化，所以未列入洗錢前置犯罪之範圍。 ● 在建議第 13 項所指出之缺陷在本項目中之評鑑亦同。
SR.IV Suspicious transaction reporting	NC	● The requirements to report suspicious transaction for terrorist financing under the MLCA Regulations and AML guidelines fall short of the requirements under SR.IV. ● Financing of terrorism is not covered as a serious offence as FT is not yet criminalized in Chinese Taipei. ● Shortcomings and deficiencies identified in R.13 also apply and contribute to the assessment and level of compliance rating of SR.IV.
第 V 項特別建議：國際合作	NC	● 資助恐怖分子尚未罪刑化。
SR.V International cooperation	NC	● FT and other terrorism offences have not been criminalized
第 VI 項特別建議：金錢及有價物品移轉服務	LC	● 除了銀行法第 29 條限制非銀行不得提供國內或國外匯款服務，沒有任何特別法令規範銀行業以外之金錢及有價物品移轉服務提供者。 ● 銀行業以外無任何匯款業者被核准營業，儘管有未受規範之匯款管道存在，有必要在架構及策略上持續增加對利用正常匯款管道之支持作爲。 ● 金管會對於金錢及有價物品移轉服務提供者之管理、監理和遵循應反映在政策架構之中。

		● 對於銀行法第 29 條之執法具有相當成效，然而地下通匯之弱點仍然存在並需要持續加以評估。
SR VI AML requirements for money/value transfer services	LC	● Apart from Article 29 of the Banking Act that bars non-banks from providing domestic or foreign remittance services, Chinese Taipei does not have any specific laws or regulations governing the money or value transfer service providers that operate outside of banking channels. ● No remittance providers are licensed to operate outside of the banking sector, despite the existence of unregulated remittance channels exist, with a continuing need for structures or strategies to support increased uptake of remittance through formal channels; ● The regulation, supervision and compliance framework for money or value transfer service providers that is undertaken by the FSC should be reflected in their policy framework. ● The enforcement of Article 29 of the Banking Act is effective however, underground banking vulnerabilities remain and need to be continuously assessed.
第 VII 項特別建議：電匯規範	LC	● 對銀行未在任何法律或指引中明確要求有關跨境匯入款項未跟隨匯款人資料之處理程序。
SR VII Wire transfer rules	LC	● There is no clear requirement for banks set out in any legislation or a guideline to have in place procedures for handling inward cross-border remittances that do not come with full originator information.
第 VIII 項特別建議:非營利組織規範	LC	● 無特別作爲針對非營利組織被恐怖分子利用之威脅與弱點提出警示。
SR.VIII Non-profit organisations	LC	● Outreach has not been undertaken to raise awareness of specific vulnerabilities in the NPO sector in relation to specific risk of terrorist abuse.

第 IX 項特別建議：跨國現金攜帶	PC	● 對於跨國境現金攜帶申報系統應進行檢討以了解是否海關缺乏人力執行該系統而破壞執行成效。 ● 對於未遵循申報規定之制裁應進行檢討。 ● 對於走私現鈔之特別制裁需要進一步加以履行。
SR.IX Cash Couriers	PC	● There is a lack of resources available to the Customs Service to enforce the declaration which appears to be undermining its effectiveness. ● There is a deficiency in the sanctions available for non-compliance with the declaration system. ● There is a lack of implementation of a specific sanction for the smuggling of cash.

附表 2：改善反洗錢與打擊資助恐怖分子之建議行動計畫(Recommended Action Plan to improve the AML/CFT system)

反洗錢與打擊資助恐怖分子系統(AML/CFT System)	建議行動—依優先順序排列(Recommended Action -- listed in order of priority)
1. 概述 (General)	無敘述內容(No text required)
2. 法律系統與相關制度上作爲(Legal System and Related Institutional Measures)：	
洗錢罪刑化--建議第 1、2 項	Criminalisation of Money Laundering -- R.1 & 2
● 修正洗錢定義以充分回應維也納公約第 3(1)(b)(c)及巴勒莫公約第 6(1)有關認定洗錢犯罪之標準。 ● 增加對「財物」及「財產上利益」識別之法律條文。 ● 修正洗錢防制法讓犯罪資產之舉證不需要有前置犯罪定罪爲前提。 ● 重大犯罪之門檻應該調降至 6 個月。 ● 優先通過恐怖主義罪刑化之立法，包括資助恐怖分子之法案。 ● 修正相關法條以釐清刑法幫助犯適用於洗錢犯罪。 ● 修正洗錢防制法，允許洗錢犯罪意圖可根據客觀實際情況推定。 ● 刪除洗錢防制法第 9 條有關「……法人之代表人或自然人對於犯罪之發生，已盡力監督或爲防止行爲者，不在此限。」之條文。 ● 刪除洗錢防制法第 10 條而將原條文內容列入「洗錢起訴指引」。 ● 改善下列相關統計資料：	● Amend ML definition to reflect Art 3(1)(b)(c) of Vienna Conv and Art 6(1) of Palermo ● Amend legn to include provision identifying 'property' and 'property interests' ● Amend MLCA so that conviction of a predicate offence is not necessary when proving that property is POC ● Amend MLCA to reduce threshold to 6 months. ● Prioritise passing legn to criminalise terrorism including terrorist financing ● Amend legn to clarify that the ancillary offences of the Code apply to the offence of ML ● Amend MLCA to reflect that intention in ML can be inferred from objective factual circumstances ● Delete from Article 9 the provision regarding employees or representatives 'engaging within the scope of his or her employment in ML activities' ● Remove Article 10 and insert it in Prosecution Guidelines on ML ● Improve statistics by o clearly identifying which cases lead to ML convictions as opposed to the convictions for serious crimes; o including or identifying any fines or penalties that may have been imposed on

- 重大犯罪判決中引用洗錢法條之案件數。
- 對於法人因涉及洗錢被處罰金或刑事判決之案件數。
- 受到洗錢刑罰之自然人或法人另受到民事或行政制裁之統計數。
- 由一個機關負責彙整所有有關執法與司法機關之洗錢統計資料，以確保一致性。

legal persons involved in the ML;
- noting for inclusion in the statistics, whether the convicted persons (both natural or legal) were subjected to any civil or administrative sanctions;
- having one body responsible for gathering all ML statistics from the various law enforcement and judicial authorities to ensure consistency and improve reliability for the purposes of assessment as to the effectiveness of the Chinese Taipei AML/CFT regime.

- 爲司法人員舉辦實際案例研討會，增進對於證明構成洗錢法律要件之了解，另警察機關要加強洗錢犯罪案件偵查技巧。

- Provide practical case workshops for the judiciary aimed at improving their understanding of the legal elements required to prove ML, and the Police to improve their ML investigation skills.

資助恐怖分子罪刑化(特別建議第 II 項)

Criminalisation of Terrorist Financing (SR.II)

- 建議有關機關於反恐怖行動法草案送請立法院審議前，重新檢討並重擬，以確保符合聯合國制止資助恐怖分子公約及防制洗錢金融行動工作組織特別建議第 II 項之要求。
- 希望反恐怖行動法儘速完成草案並送請立法院完成立法。

- It is recommended that the authorities review and re-draft the draft Counter-Terrorism Act Bill to ensure that it satisfies the requirements of the UN Terrorist Financing Convention and SR II before submitting it to the Legislative Yuan.
- Chinese Taipei is encouraged to finalise the draft law and have the law passed by the Legislative Yuan as soon as possible.

凍結、扣押及沒收犯罪資產(建議第 3 項)

Confiscation, freezing and seizing of proceeds of crime (R.3)

- 有關機關可以在洗錢防制法中釐清第 2 條、第 4 條及第 12 條所提及之「因重大犯罪所得財物或財產上利益」之明確用語。
- 建議修正洗錢防制法中對於

- authorities may want to clarify the MLCA by ensuring the exact phrase “property or property interests obtained from a serious crime”used in Article 2 is used in Articles 4 and 12.
- it is recommended that the Chinese Taipei amend the MLCA to specifically “property”

「財物」及「財產上利益」明確定義以確保洗錢犯罪及於直接或間接屬於犯罪資產之所有類型財產。

- 建議有關機關考慮修正有關法律以清楚回應涉案當事人在知悉或應知悉有關機關於採取暫時性作爲懷有偏見時之預防與補救作爲。

and "property interests" to ensure that the offence of ML extends to all types of property that directly or indirectly represents proceeds of crime.

- it is recommended that the authorities consider amending the law to clearly reflect the requirement to prevent or void actions, whether contractual or otherwise where persons involved knew or should have known that as a result the authorities would be prejudiced in their ability to recover the property,

凍結被用以資助恐怖分子之資金(特別建議」第 III 項)

中華台北應：

- 應建立清楚之法律條款及程序以凍結恐怖分子資金或其他聯合國安理會第 1267 決議案所提列特定人士之資產。
- 要有足夠的法律與程序可以凍結恐怖分子資金或其他聯合國安理會第 1373 決議案所提列特定人士之資產。
- 依照聯合國安理會第 1267 決議案及第 1373 決議案之凍結方式，應該可以片面而且立即執行。
- 要有足夠法律與程序可以審查並承認由其他司法管轄體凍結機制所發起之相關行動。
- 凍結行動應及於特定人士、恐怖分子、資助主義或組織者所全部擁有或共有或直接、間接控制之資金或其他資產，以及源自或衍生於特定人士、恐怖分子、資助主義或組織者所擁有或直接、

Freezing of funds used for terrorist financing (SR.III)

Chinese Taipei should:

- establish clear legal provisions and procedures to freeze terrorist funds or other assets of persons designated in the list pursuant to UNSCR 1267.
- have effective laws and procedures to freeze terrorist funds or other assets of person designated pursuant to UNSCR 1373.
- The said freezing pursuant to UNSCR 1267 and 1373 should be ex parte and without delay.
- have effective laws and procedures to examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions.
- The freezing actions should extend to funds or other assets wholly or jointly owned or controlled, directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organisations and funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organisation.
- have effective systems for communicating actions taken under the freezing mechanisms to

間接控制之資金或其他資產。
- 具備有效系統可以將凍結機制下所採取的行動傳遞給金融業者。
- 提供清楚指引予金融機構及其他可能持有凍結標的資金或其他資產之人或事業體有關在凍結機制採取行動時應負擔之義務。
- 具備有效且爲大眾所熟悉程序俾便相關之人或團體可以提出解禁或解凍要求。
- 要有法律條款可以讓受到凍結行動影響之人或團體可以取得解除之管道。
- 要有適當程序可以請求法院重新審查凍結行動。

the financial sector.
- provide clear guidance to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms.
- have effectively and publicly-known procedures for considering de-listing requests and for unfreezing the funds or other assets of de-listed person or entities.
- There should be clear provisions for persons or entities affected by the freezing actions to obtain relief.
- There should be procedures to challenge measures with a view to having them reviewed by a court..

金融情報中心及其功能(建議第26、30及32項)
- 洗錢防制中心年報應檢討確認可以分送到適當人士手中。

The Financial Intelligence Unit and its functions (R.26, 30 & 32)
- A review of the distribution list of the MLPC Annual Report may be warranted to ensure the report reaches the right people.

執法、檢察及其他權責機關-負責調查、起訴相關犯罪及沒收與凍結(建議第27、28、30及32項)
- 需要運用更多資源於毒品犯罪有關資產之洗錢犯罪調查。
- 緝毒中心與刑事警察局毒品調查人員要有能力調查毒品犯罪所得及洗錢，統計資料顯示此一部分相當缺乏。
- 建議主要執法機關要建立洗錢及犯罪資產追查專責單位，增加額外資源及配賦會計鑑識能力，針對犯罪資產進行調查並採取行動。

Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)
- There is a need for more resources to be focused on ML investigations that relate to the proceeds of drug trafficking.
- DEC and Drug investigators within the CIB need to have the capacity to investigate the acquisition of assets and the laundering of drug income. Statistics reflect this is not currently occurring.
- It is recommended that key law enforcement agencies establish dedicated money laundering and proceeds of crime units with additional resources and specialist forensic accountancy

- 應檢討執法機關在證明資金源自某一特定犯罪所遭遇之困難及問題，可以考量舉證反置作爲建立民事沒收體制之一部分。

capacity to investigate and take action over criminal proceeds.

- Chinese Taipei should review the problems faced by law enforcement where there is difficulty in proving funds were derived from a specific offence. If the findings warrant it, Chinese Taipei may consider a reverse onus provision as part of a civil forfeiture regime .

跨國境現金攜帶申報或揭露(特別建議」第 IX 項)

Cross-border declaration or disclosures (SR.IX)

- 海關應儘速檢討人力與資源問題。
- 應檢討旅客攜帶大額現金申報系統在海關資源欠缺以致減損執法效果之情形。
- 應建立研判潛在專門從事現金攜帶者系統並確實執行以及增加隨機抽驗旅客之數量。
- 應檢討海關對於發現跨國境現金攜帶可以立即進行調查及採取制止行動之權力及訓練。
- 預防資金跨國境移動之能力，並加強配合其他已採取之有效作爲。
- 應檢討未申報及走私現金之制裁作爲以進行強力遏止，併科沒收超過金額以外之其他制裁，以鼓勵對於申報系統之遵循。
- 對於未遵循申報系統可以運用之制裁應加以檢討，以確保對走私或未申報現金跨國境搬移給予有效且具勸誡性之制裁。
- 對於現金走私要有一個特別之制裁行動。

- An urgent review of customs powers and resources should be undertaken.
- A review of the declaration systems needs to be undertaken to determine if the lack of resources available to the Customs Service to enforce the system is undermining its effectiveness.
- A system of profiling potential cash couriers needs to be established and implemented and the number of random inspections needs to be increased.
- A review of Customs Service powers and training in relation to immediate investigative response to the persons who are discovered at the border with cash needs to be undertaken.
- The capability to prevent the movement of funds over the border needs to be increased to compliment other effective measures in place within the jurisdiction.
- A review of the sanctions available for non-declaration and the smuggling of cash is required. There needs to be a strong deterrent for smuggling or failure to declare currency movements. Sanctions in addition to confiscation of excess funds are required to encourage compliance with the declaration system.
- The available sanctions for non-compliance of the declaration needs to be reviewed to ensure

that effective and dissuasive sanctions are available for smuggling or failure to declare currency movements.

- A specific sanction for the smuggling of cash needs to be implemented.

3. 預防性作爲--金融機構 (Preventive Measures – Financial Institutions)

洗錢與資助恐怖分子風險

Risk of money laundering or terrorist financing

客戶審查，包括強化或刪減之措施(建議第 5-8 項)

中華台北應確保客戶審查原則明定於法律或規定之中，以符合國際要求標準，包括：

- 降低啓動對偶發性交易之客戶審查義務門檻並考量使用更安全及具透通性交易方式。
- 清楚要求金融機構將辨識利益擁有人作爲客戶審查之例行性程序。
- 要求金融機構採取合理措施核對客戶是否代理他人進行交易並辨識最終之利益控制或擁有者。
- 要求金融機構辨識法人或法律合意之最終利益控制或擁有者。
- 要求金融機構對免申報大額通貨交易之大額交易要進行客戶審查及留存交易紀錄。
- 要求金融機構對免申報大額通貨交易之高值交易要進行客戶審查及留存交易紀錄。

Customer due diligence, including enhanced or reduced measures (R.5 to 8)

Chinese Taipei should ensure that key CDD obligations are contained in laws or regulations in keeping with the requirements under the international standards. Chinese Taipei should:

- lower the thresholds that trigger CDD obligations for occasional transactions and consider ways to encourage use of more secure and transparent means of transactions.
- introduce explicit requirements for financial institutions to identify the beneficial ownership as part of the routine CDD procedures.
- require financial institutions to take reasonable measures on all customers to check if the customer is acting on behalf of another person and to identify the natural person who ultimately controls or owns the customer.
- require financial institutions to identify the natural person with ultimate effective control over customers that may be legal person/arrangements.
- require financial institutions to perform customer due diligence and record-keeping for cash transactions of large amount that are exempt from CTR.
- require financial institutions to perform CDD and to keep transaction records on large-value cash transactions even when they are exempt

from CTR filing.

透過仲介或第三者進行部分客戶審查項目（建議第 9 項）（無建議行動）

Third parties and introduced business (R.9)

金融機構秘密法或機密法（建議第 4 項）（無建議行動）

Financial institution secrecy or confidentiality (R.4)

紀錄保存和電匯規則（建議第 10 項及特別建議第 VII 項）

Record-keeping and wire transfer rules (R.10 & SR.VII)

- 金融機構應依洗錢防制法之要求留存交易及客戶紀錄，包括：
  - 所有交易紀錄（包括國際交易紀錄），而非僅止於超過新台幣一百萬門檻之現金交易。
  - 留存之交易紀錄要足以重建證據所需之憑證。
- 金融機構應被要求保存期限：
  - 交易完成後 5 年。
  - 終止帳戶或生意往來之客戶資料 5 年。
- 金融機構應被要求保存帳戶檔案及生意代理關係。
- 洗錢防制法對於紀錄保存條款應擴及所有交易及客戶紀錄，以符合 FATF 建議。
- 要有明確要求使金融機構有清楚程序可以處理匯入款項未跟隨原始匯款人資訊之交易。

- Financial institutions should be required under MLCA to keep transaction and customer records:
  - for all transactions including international transactions and not just for cash transactions above NT$1,000,000;
  - that would allow individual transactions to be reconstructed by the financial institutions for evidentiary purposes;
- Retention period should include the requirement to keep:
  - transaction records for five years following the completion of a transaction;
  - customer records for five years following the termination of an account or business relationship.
- Financial institutions should be required to keep account files and keep business correspondences.
- the record-keeping provisions in the MLCA should be extended and applied to all transactions and customer records as required in the FATF Recommendations.
- Chinese Taipei is advised to introduce explicit requirement for financial institutions to put in place clear procedure to deal with inward remittances that do not come with full originator information.

金融交易與生意往來之監控（建議第 11 及 21 項）

Monitoring of transactions and relationships (R.11 & 21)

- 有關機關應確保洗錢防制法對於持續監控金融交易之要

- Authorities should ensure requirements on monitoring of transactions under the MLCA that would cover the

求涵蓋銀行業及其他所有金融機構並充分遵循。

- 洗錢防制法修正時，相關管理、監理機關及自治團體可以考量將這些要求納入相關指引中。
- 課以金融機構對來自遵循 FATF 建議有所不足之國家的交易及生意往來關係要特別注意之義務。
- 建立有效措施以提醒金融機構有關其他國家在執行反洗錢與打擊資助恐怖分子系統所顯現之弱點。
- 提供指引予所有金融行業，如何監控與來自未遵循 FATF 標準或遵循上顯有不足之國家的客戶。

banking sector and all other covered financial institutions and are fully implemented.

- When the MLCA is amended, the relevant regulatory, supervisory and SROs may consider including these requirements in their respective guidelines.
- Oblige financial institutions to give special attention to business relationships and transaction from or in jurisdictions that do not or insufficiently apply the FATF Recommendations.
- Establish positive measures to advise financial institution of concerns about weaknesses in the AML/CFT systems of other jurisdictions.
- provide guidance to all sectors on how to monitor business relationships with persons from countries not or insufficiently applying the FATF standards, and the various guidance should more specifically deal with this point.

可疑交易報告和其他報告（建議第 13-14、19、25 項及特別建議第 IV 項

- 中華台北應確保：
  - 法規上清楚課以金融機構申報與金額多寡無關之可疑交易之義務。
  - 對於本質上有可疑之未遂交易亦要申報。
- 對於特別建議第 IV 項金融機構應負擔之義務要清楚規範在洗錢防制法中。
- 洗錢防制中心應確保完成調查之疑似洗錢交易報告回饋金融機構並確認收到疑似洗錢交易報告。

Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)

- Chinese Taipei should ensure that:
  - there is a clear obligation in law or regulation that obliges a financial institution to report a transaction that is suspicious irrespective of the amount.
  - There is a requirement in law for a financial institution to report attempted transactions that are suspicious in nature.
- It is recommended that clear obligations incorporating all elements as defined under SR.IV should be expressively adopted in the MLCA.
- The MLPC should ensure that adequate feedback on STRs is provided (STR cases that fhave been completed) and that acknowledgement of the receipt of STRs is provided.

內控、遵循、稽核與國外分支機構（建議第 15 及 22 項）

Internal controls, compliance, audit and foreign branches (R.15 & 22)

- 證券行業應被明確要求建立獨立稽核功能以達到反洗錢與打擊資助恐怖分子之目的。
- 保險及證券行業應：
  - 明確要求所屬金融機構對於分支機構或分公司位在未遵循或未充分遵循 FATF 建議國家與地區內者應予以特別留意。
  - 課以金融機構對於分行及分公司在所處國家法律允許情形下，遵行母國及所在國兩者中防制洗錢要求較高者之義務。

空殼銀行（建議第 18 項）

- 確保境內銀行禁止：(1)建立或維持與任何空殼銀行之代理業務關係；及(2)充當國外任何可以被空殼銀行利用之機構的代理銀行角色。

監理與監督系統--有關機關與自律組織之角色、功能、責任與權力（包括制裁）（建議第 17,23,25,29,30,32 項)

- 建議有關機關應：
  - 修正洗錢防制法相關法條以釐清監理機關使用制裁手段之權力。
  - 釐清外匯交易、電匯及金錢與有價物品移轉服務之監理責任。
  - 對於違反反洗錢與打擊資助恐怖分子有更廣泛之制裁方式。
- 洗錢防制法及相關指引對於

- The securities sector should be clearly required to establish an independent audit function that addresses AML/CFT functions.
- Insurance and securities sectors should:
  - explicitly require financial institutions to pay particular attention to their branches and subsidiaries in countries which do not or insufficiently apply the FATF recommendations.
  - impose obligation on financial institutions that where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries are required to apply the higher standard, to the extent that local laws and regulations permit.

Shell banks (R.18)

- Chinese Taipei should ensure that banks established in Chinese Taipei are prohibited from: (1) establishing or maintaining a correspondent banking relationship with any shell bank; and (2) acting as a correspondent bank for any foreign bank that permits its accounts to be used by shell banks.

The supervisory and oversight system - competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 32 & 25)

- It is recommended that the authorities should:
  - Amend the provisions of the MLCA to clarify the supervisory authorities' ability to use their sanctioning powers to enforce compliance with AML/CFT standards.
  - Clarify AML/CFT supervisory responsibilities over the foreign exchange and wire transfer and MVT service providers.
  - Impose a wider range of sanctions by authorities for AML/CFT violations
- The scope of AML/CFT requirements in the MLCA

反洗錢與打擊資助恐怖分子之要求範圍應擴及保險代理人及經紀人。

- 有關機關應依據洗錢防制法考慮更簡化之方式建立指引。
- 金融檢查局之人力，特別是負責例行及特別檢查者，應重新檢討有足夠人力資源可以應付大量之金融機構。
- 有關機關應檢討提供外幣兌換處所暴露之洗錢與資助恐怖分子風險。
- 有關機關對於最近如納入反洗錢與打擊資助恐怖分子規範之外幣兌換處要特別注意其成效。
- 有關機關應重新檢討中央銀行與台灣銀行在同意、取消及稽核外幣兌換處之法律責任分配。

and the guidelines should be expanded to include insurance agents and brokers.

- Authorities should consider streamlining the approach to establishing guidelines under the MLCA.
- The human resource capacity of the FEB, in particular, staff involved in the routine and special examinations, needs to be reviewed to determine adequacy of staffing resources in line with a substantially large size of the financial institutions that are captured under its mandate.
- Authorities should review ML & FT risk posed by outlets that provide foreign currency exchange services
- The authorities have only recently extended the AML/CFT requirements to the money changing services sector and special attention to this sector should be given to establish its effectiveness.
- Authorities should re-examine the sharing of statutory responsibilities between the CBC and the Bank of Taiwan concerning the approval of the establishment of foreign currency exchange bureaus, cancellation of such approval and performance of operational audits.

金錢或有價物品轉帳服務（MVT服務業者）--特別建議第 VI 項

- 有關金錢或價值轉帳服務（MVT 服務業者）之證照、規範及監理應在洗錢防制法及其他相關法律中予以明定。
- 存在大規模未受規範之匯款管道，要有策略將之導引至正常匯款管道。
- 有關機關應進一步研究地下匯款之本質，並應考量採取額外作爲，以鼓勵使用受到規範之正常匯款管道。
- 地下通匯之弱點仍然存在，

Money value transfer services (SR.VI)

- The licensing, regulation and supervision of money for value transfer service providers should be clearly defined in the MLCA and in regulatory policies.
- Large scale unregulated remittance channels exist, with a continuing need for structures or strategies to support increased uptake of remittance through formal channels;
- The authorities should undertake further study of the nature of informal remittance business carried out from Chinese Taipei and consider additional measures to build incentives that encourage a shift of remittance from informal to regulated channels.
- Underground banking vulnerabilities remain and need

需要持續性之評估。 to be continuously assessed.

4. 預防性措施-「特定非金融事業體與專業人士」(Preventive Measures –Non- Financial Businesses and Professions)

客戶審查和紀錄保存(建議第 12 項 Customer due diligence and record-keeping (R.12)

- 有關機關應降低特定非金融事業體與專業人士對於現金交易啓動客戶審查義務之門檻。
- 有關機關應：
  - 將反洗錢與打擊資助恐怖分子標準與義務擴及尚未被涵蓋之特定非金融事業體與專業人士。
  - 在洗錢防制法中訂定律師、不動產業者、會計師、信託及公司服務業者特別之反洗錢與打擊資助恐怖分子要求。
  - 依據特定非金融事業體與專業人士之業務本質及營業規範，訂定特別規範，詳列相關義務。
  - 針對新納入之特定非金融事業體與專業人士訂定特別的指引。
  - 透過諮詢相關自律組織及業者方式，指定監理機關以監理特定非金融事業體與專業人士之反洗錢與打擊資助恐怖分子作爲。
  - 有關機關應優先檢討相關權力與資源，以確保可以要求特定非金融事業體與專業人士充分遵循 FATF 之相關要求。

- Authorities should lower the threshold that triggers CDD obligation on cash transactions for DNFBP.
- The authorities should:
  - Raise awareness on AML/CFT standards and obligations for the wider non-covered institutions;
  - Provide specific AML/CFT requirements under the MLCA for lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses;
  - Issue separate regulations that detail the obligations of DNFBPs to the nature and size of their operations;
  - Issue sector specific comprehensive guidelines to the newer DNFBPs;
  - Designate appropriate AML/CFT supervisory authorities for the DNFPB sector are thorough consultations with the SROs and the industry;
  - The authorities should, as a matter of priority, examine the capacity and resources of the relevant competent authorities to ensure and enforce full compliance with the FATF requirements for all categories of the DNFBP sector.

可疑交易申報（建議第 16 項並涵蓋第 13-15，17 及 21 項）

- 有關機關應課以所有其他特定非金融事業體與專業人士申報疑似洗錢交易之義務。
- 有關機關配合對銀樓業者教育訓練外，應加強有關反洗錢與打擊資助恐怖分子之檢查。
- 有關機關應提供特定非金融事業體與專業人士對於發掘異常及可疑交易之教育訓練。
- 有關機關應考慮爲特定非金融事業體與專業人士提供有關最新洗錢與資助恐怖分子方式、趨勢及態樣之警示。
- 建議有關機關與會計師研商修正會計師法之同時，應考量將反洗錢與打擊資助恐怖分子義務納入。

Suspicious transaction reporting (R.16) (applying R.13-15, 17 & 21)

- The authorities should urgently impose obligations to report suspicious transactions to all other DNFBP sectors.
- Authorities should focus more AML/CFT inspections along with the education efforts for jewellery shops.
- Authorities should provide training to the DNFBP in detecting unusual and suspicious transactions.
- The authorities should consider launching a progressive awareness campaign on the methods, trends, and typologies on ML and TF for the DNFBP sectors.
- The authorities have advised that there are plans to amend the CPA Act. It is recommended that the authorities engage in consultation with the accountants sector to include AML/CFT obligations in the revised CPA Act as may be appropriate.

規範、監理和監控（建議第 24-25 項）

- 建議經濟部對於非公司形態之法人以隨機抽樣方式進行檢查。
- 考量以更強烈制裁手段確保非法賭場無法營業。
- 建議有關機關（特別是法務部及洗錢防制中心）廣泛檢討特定非金融事業體與專業人士暴露洗錢之風險並決定負責規範與監理之機關。
- 確保有關機關具備足夠資源、能力與適當權力可以執行對特定非金融事業體與專業人士之反洗錢與打擊資助恐怖分子要求，包括寶石業

Regulation, supervision and monitoring (R.24-25)

- It is recommended that the Ministry of Economic Affairs undertake inspection of non-incorporated entities on a random sampling basis.
- Chinese Taipei should consider stronger sanctions to ensure illegal casinos do not operate.
- It is recommended that the authorities (especially MOJ and MLPC) carry out a comprehensive review to ascertain the extent to which the DNFBP entities may pose ML and TF risks and to determine the competent authorities that would be responsible for the AML/CFT regulatory and supervisory regime for DNFBP.
- Ensure that sufficient resources, capacity and suitable powers are available for competent authorities to ensure AML/CFT requirements for all DNFBPs,

者。 including dealers in precious metal and stones.

其他「特定非金融事業體與專業人士」確保交易安全之技術（建議第20項） Other designated non-financial businesses and professions (R.20)

- 中華台北應檢討其他特定非金融事業體與專業人士面對洗錢與資助恐怖分子之脆弱性，諸如藝品古董經銷商。
- Chinese Taipei should reviews the vulnerability of other non-financial businesses and professions that may be vulnerable to ML and TF, for example dealers in arts and antiques.

5. 法人、法律合意及非營利組織（Legal Persons and Arrangements & Non-Profit Organisations）

法人-利益所有權與控制權等資訊之取得（建議第33項） Legal Persons – Access to beneficial ownership and control information (R.33)

- 中華台北應確保法人需要向中央登記機關正確且及時的揭露有關利益擁有人資訊，包括透過法人或法律合意具最終有效控制該利益之人。
- Chinese Taipei should ensure that legal persons are required to disclose in the central registry accurate and up to date information on the beneficial owner, that is those persons who exercise ultimate effective control over a legal person or arrangement.

法律合意-利益所有權與控制權等資訊之取得(建議第34項) Legal Arrangements – Access to beneficial ownership and control information (R.34)

- 中華台北應引進有效程序以確保有關機關可以及時取得有關法律合意利益所有權與控制權等資訊。
- Chinese Taipei, however, should introduce processes to enable competent authorities to access information about the beneficial ownership and control structure of trusts in a more timely manner.

非營利組織(特別建議第VIII項） Non-profit organisations (SR.VIII)

- 應加強對非營利組織被恐怖分子利用之威脅與弱點提出警示作爲。
- Additional outreach should be conducted to raise awareness in the NPO sector in relation to specific risk of terrorist abuse.

6 國內與國際合作（National and International Co-operation）

國內合作與協調（建議第31項） National co-operation and coordination (R.31)

- 有關機關應加強合作以支持執法機關對於反洗錢與打擊資助恐怖分之子作爲，諸如國境管制及緝毒執法。
- Authorities should focus on domestic cooperation to support the implementation of AML/CFT measures by law enforcement agencies in areas such as border control and drug law enforcement.
- 有關機關應加強合作以支持
- Chinese Taipei should enhance cooperation to

打擊資助恐怖分子之執行作為。

國際公約與聯合國特別決議案（建議第 35 及特別建議第 I 項）

- 中華台北應充分執行並認可或簽署維也納公約、巴勒莫公約及制止資助恐怖分子公約。
- 建議有關機關修正並導入相關法律以充分執行這些公約之相關條文。

司法互助（建議第 32、36-38、特別建議第 V 項

建議中華台北應：

- 修正相關法律以釐清在接受請求國提出司法互助請求時不必以請求國已啓動司法訴訟為要件。
- 應考慮設計可行機制以決定在多國國家都可起訴案件情形下之最佳起訴地點。
- 應優先通過臥底偵查法。

引渡（建議第 39、37、39 及特別建議第 V 項）

- 建議中華台北建立一個可以和請求國合作之程序以處理引渡法第 4 條第 2 項有關國人起訴之問題。

其他形式之國際合作（建議第 32、40 項及特別建議第 V 項）

- 建議引進相關法律，讓洗錢防制中心以外之有關機關：
  - 有權可以在平等基礎上與國外對等單位進

support CFT implementation.

The Conventions and UN Special Resolutions (R.35 & SR.I)

- Chinese Taipei should fully implement and ratify or otherwise become party to the Vienna, Palermo and Terrorist Financing conventions.
- It is recommended that the Chinese Taipei authorities amend and introduce legislation to fully implement the relevant provisions of these Conventions.

Mutual Legal Assistance (R.32, 36-38, SR.V)

It is recommended that Chinese Taipei:

- amend the law to ensure or clarify that it is not necessary for judicial proceedings to have been commenced in the requesting jurisdiction for an MLA request to be accepted by Chinese Taipei.
- It is recommended that Chinese Taipei consider devising and applying mechanisms for determining the best venue for prosecution of offenders in cases that are subject to prosecution in more than one country.
- It is recommended that Chinese Taipei give priority to passing the Undercover Investigation Act.

Extradition (R.32, 37 & 39, & SR.V)

- It recommended that Chinese Taipei establish a process whereby it can cooperate with a requesting jurisdiction when it comes to prosecuting its own nationals under Article 4 paragraph 2 of the Extradition Law.

Other Forms of Co-operation (R.32 & 40, & SR.V)

- It is recommended that Chinese Taipei introduce legislation pertaining to the respective competent authorities other than the MLPC, that –
  - authorises the competent authority to

行資訊交換並可以代表對方進行相關之資料查詢。

- 確認可以被請求之資訊範圍並具備保護機制確保收到之資訊只用在被授權之範圍內。

exchange information and conduct enquiries on behalf of foreign counterparts on a reciprocal basis;

- identifies the information that can be requested and establishes controls and safeguards to ensure that information received by those competent authorities is used only in an authorised manner.

附表 3：有關機關對於評鑑之回應--如有必要(Authorities' Response to the Evaluation -- if necessary)

相關章節（Relevant sections and paragraphs）	受評鑑國家有關機關對於評鑑之回應（Country Comments）
建議第 5 項： 中華台北有關機關指出，除了證券業有清楚規定要取得生意生來之目的與本質之資訊外，銀行業在「銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法」第 12 條第 2 項亦有規定。	R5： Chinese Taipei authorities advise that in addition to the Securities Sector having explicit requirements to obtain information on the purpose and intended nature of the business relationship, that the Banking Sector also has such requirements in Paragraph 2 of Article 12 of the Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions.
在第 3.7 節中之建議第 25 項： 中華台北有關機關指出，相對於建議第 25 項彙整表中對於洗錢防制中心未提供回饋金融機構有關收到疑似洗錢交易報告及處理情形之敘述，事實上洗錢防制中心確實在受理申報疑似洗錢交易報告起訴之後，有提供回饋予申報之金融機構。然除此之外，回饋僅限於所說明之範圍。	R25 in part 3.7： Chinese Taipei authorities advise that contrary to the position stated in the summary table of Recommendation 25, (which was that the MLPC does not provide feedback on or acknowledgement of the receipt of STRs and STR cases that have been completed), that in fact the MLPC does provide feedback to the filing FIs as soon as the STRs filed have been prosecuted. However, it is acknowledged that apart from this, feedback is limited to that described in the discussion.
建議第 40 項： 如在 6.5 節之討論，中華台北詳列其他與國外金融監理機關及海關正式交換情資與合作之特別管道，例如金管會與 26 個國家簽署了合作備忘錄，並於 2007 年 4 月 9 日在國際證券業監理組織年會中，列名在該組織多邊合作備忘錄之 B 級會員名單中；海關亦正式成為亞太海關執法申報系統(CAPERS)之正式會員，並於 2001 年與美國、2004 年與菲律賓及 2006 年與澳洲海關簽署資訊交換協定。	R40： discussion at Part 6.5, Chinese Taipei authorities have detailed other specific arrangements for the formal exchange of information and cooperation with foreign financial supervisory authorities and Customs. For example, the FSC has entered into 29 MOUs with 26 countries. Furthermore, the FSC has been listed in Annex B of the IOSCO MMOU, as announced at the IOSCO annual meeting on 9 April 2007. The Customs service has officially become a member of Customs Asia Pacific Enforcement Reporting System (CAPERS). In addition agreements for exchange of Customs information have been signed with the US (2001), Philippines (2004) and Australian Customs Service (2006).

特別建議第 IV 項：
有關洗錢洗錢防制法第 8 條授權規定事項第 1 點第 2 項第 4 款在提供評鑑團之原始翻譯有誤，該款內容應爲：
金融機構發現交易最終受益人或交易人爲行政院金融監督管理委員會函轉外國政府所提供之恐怖分子或團體者；或交易資金疑似或有合理理由懷疑與恐怖活動、恐怖組織或資助恐怖主義有關聯時，被要求申報疑似洗錢交易報告。

SRIV:
The original translation provided to the Evaluation Team of subparagraph 4 of paragraph 2 of the Regulations regarding Article 8 of the MLCA was deficient. The sub paragraph should read (with highlighted addition)
"Financial institutions are required to file STRs where the ultimate beneficiary or transaction party is a terrorist or terrorist group as listed by the FSC based on information provided by foreign governments, or where the transaction is suspected or bears reasonable reason to suspect to have been linked with a terrorist activity, terrorist organisation or financing of terrorism

附表 4：前次相互評鑑後之進展(Table 4: Progress since the last Mutual Evaluation)

1）中華台北於 2001 年 5 月接受第一輪相互評鑑，評鑑團列出一些詳細之建議，對於這些建議之改善進展情形如附表 4。	1）The first mutual evaluation report of Chinese Taipei (of May 2001) listed some detailed recommendations. Progress against those recommendations is outlined and discussed in detail at Table 4.
洗錢防制法及相關問題（Money Laundering Control Act and related matters）	
洗錢防制法應詳細說明構成洗錢罪的犯罪故意	The MLCA could be enhanced by clearly stating what criminal intent is necessary to violate the law.
2）洗錢在 2003 年新修正洗錢防制法中重新定義爲” 掩飾或隱匿因自己重大犯罪所得財物或財產上利益者，或者掩飾、收受、搬運、寄藏、故買或牙保他人因重大犯罪所得財物或財產上利益者” 。	2）The definitions of “money laundering” has been redefined in the new MLCA, amended in 2003, as “knowingly disguises or conceals the property or property interests obtained from a serious crime committed by themselves or knowingly conceals, accepts, transports, stores, intentionally buys, or acts as a broker to manage the property or property interests obtained from a serious crime committed by others.”
權責機關應考慮納入行政、民事、刑事扣押與沒收洗錢財產與工具之法律條文以及執法機關、檢察機關及法院執行之相關程序、證明與責任。	Authorities should consider including statutory provisions for administrative, civil and criminal seizure and forfeiture of the proceeds and instrumentalities of money laundering with clearly defined rules of procedure, proof, duties of law enforcement, the prosecutor, and the courts.
3)刑事訴訟法已明定有關扣押之程序，另外，新修正洗錢防制法第 8 之 1 條、第 12 條及第 12 之 1 條已清楚定義執法機關、檢察署及法院在凍結、扣押、沒收與分享洗錢犯罪資產之程序與責任。	3）The Criminal Procedure Code provides clear guidelines for seizures. In addition, §8-1, §12, §12-1of the new MLCA clearly define the procedures and duties of law enforcement agencies, prosecutor offices and courts for freezing, seizing, confiscating and sharing the proceeds of crime related to money laundering.
移轉沒收物權利予政府之處理程序應考慮善意第三人之權利	Procedures for the transfer of title to the government upon confiscation should be addressed, along with consideration of the rights of innocent owners.
4）刑法第 38 條清楚定義在刑事案件中得沒收之物，而洗錢防制法第12條之1規定沒收財產	4)§38 of the Criminal Code defines the objects that can be confiscated in criminal cases. §12-1 of the MLCA stipulates the sharing regulations of confiscated

之分享準則。對於沒收程序，則規範於刑事訴訟法第470條第1項，對於沒收之裁判，應依檢察官之命令執行之。而對於善意第三人之利益保護，則規範在民法第801條及第948條中。

assets. In terms of forfeiture procedure, §470.1 of the Criminal Procedure Code defines the confiscating orders can only be issued by prosecutors and the regulations for safeguarding the interest of bona fide third parties can be found in §801 and §948 of the Civil Code.

應考慮成立“財產沒收基金”並限制其用途，例如僅供執法之用。

Consideration should be given to the creation of an "assets forfeiture fund" into which confiscated funds are deposited, and to restrict the funds to certain uses, such as for law enforcement.

5）依照預算法規定，目前並無法源依據可以成立“財產沒收基金”，但洗錢防制法第12之1條提供一個類似功能，規定沒收之犯罪所得財物或財產上利益爲現金或有價證券以外之財物者，得由法務部撥交檢察機關、司法警察機關或其他協助查緝洗錢犯罪之機關作公務上使用。有關「洗錢犯罪沒收財產管理撥交及使用辦法」，已經在2004年7月28日由法務部訂定完成。

5）According to the Budget Law, there is no legal basis to establish an assets forfeiture fund. Nevertheless, §12-1 of the MLCA provides similar functions by stipulating that the property or property interests confiscated, other than cash, investment securities or negotiable instruments, may be distributed by the MOJ to the prosecutor offices, the police departments, or other government agencies for official use to assist with the investigation of money laundering. The “Regulations Governing the Management, Delivery and Reasonable Uses of Property Confiscated for Being Used in an Offense.” has been stipulated by the MOJ and promulgated on July 28, 2004.

應訂定允許外國請求凍結財產之條款，協助依外國沒收法律之財產沒收，以及執行價額基礎之沒收命令。有關此一沒收資產之分享、收受等法律與實務問題應予發展。

Provisions should be introduced which allow for the freezing of assets at the request of another jurisdiction, facilitate the confiscation of property subject to confiscation in another jurisdiction and enforce value-based confiscation order obtained in another jurisdiction. Laws or practices regarding the issue of sharing or receiving confiscated assets should be developed.

6) 洗錢防制法第12之1條第2項規定：「外國政府、機構或國際組織依第十四條所簽訂之條約或協定協助中華台北執行沒收犯罪所得財物或財

6) §12-1 of the new MLCA stipulates “The MOJ may distribute the confiscated property or property interests in whole or in part to a foreign government, foreign institution or international organization which enters a treaty or agreement in accordance with

產上利益者，法務部得將該沒收財產之全部或一部撥交該外國政府、機構或國際組織」。中華台北得將沒收財產之全部或一部分撥交提出請求之相關外國政府、機構或國際組織，但以雙方具有司法互助條約或協定爲前提要件。

Article 14 of this Act to assist this government in confiscating the property or property interests obtained by an offender from his or her commission of a crime or crimes". Chinese Taipei may appropriate all or part of the forfeited property to the requesting governments, agencies, or international organizations after the forfeiture, but it needs MLAT or MLAA as premise.

洗錢防制法第八條允許金融機構向指定機構申報疑似洗錢交易報告時，得告知當事人之規定，明顯違反 FATF 之精神及建議，應加以刪除。

Article 8 of the MCLA, which allows for "tipping off" of the customer when a financial institution files a suspicious transaction report with the designated agency, is in clear breech of the spirit and letter of FATF Recommendation 17 and should be removed.

7) 有關「得告知當事人」乙節，已在 2003 年新修正洗錢防制中予以刪除。

7) The "tipping off" clause had been abolished in the amended MLCA in 2003.

洗錢防制法第九條有關法人及自然人之免責規定，將形成法人及其受僱人卸責之漏洞

§9 of the Act ("…. the preceding provision does not apply to the representative of a legal person or a natural person who has made best efforts to prevent the commission of offence") might provide a loophole for enterprises or employees to avoid criminal liabilities.

8) 當法人之代表人或自然人抗辯對於犯罪之發生已盡力監督或爲防止行爲時，法院會審視全案，考量所有客觀環境以決定：1)被告是否已盡最大努力監督所屬或預防洗錢之發生；2)被告對犯罪之發生是否有認知警覺；3)被告是否有犯罪意圖。換言之，法院不能僅憑被告之論述，即免除其應負之責任，而新修正刑事訴訟法要求刑事訴訟必須經過交互詰問，任何證據未經爭訟雙方交互驗證並經承審法官認可，在法庭上並不被接受。

8) When the representative of a legal person or a natural person is the defendant in a case, and the said person claims best effort to oversee (its subordinates) or prevent money laundering from happening. The court, upon reviewing the case, shall take into account all objective circumstances and determine the following: (1) whether or not the defendant has exercised best effort to oversee (his subordinates) or prevent such crime; (2) whether or not the defendant was aware of the crime; and (3) whether or not the defendant had the criminal intention to commit such crime. In other words, the court cannot exempt the defendant from liability based solely on the defendants' claims. Moreover, as the revised Criminal Procedure Code requires criminal litigation proceedings to be adversary

system, any evidence cannot be admissible in court without a cross-examination process by both parties and an approval by the judges presiding over the case.

洗錢防制法對金融機構善意申報疑似洗錢交易報告之免除民、刑事免責條款應予增訂。

The Act fails to provide a safe harbor from civil or criminal liability for financial institutions which file suspicious transactions reports in good faith. The Evaluation Team recommends that this be added to the legislation.

9) 洗錢防制法第八條第二項明文規定：「依前項規定爲申報者，免除其業務上應保守秘密之義務」。

9) Paragraph 2 of Article 8 of the amended MLCA stipulates "The reporting financial institution will be discharged from its confidentiality obligation to the customer if the institution can provide proof that it was acting in good faith when reporting the suspect financial transaction to the designated authority in compliance with the preceding paragraph of this Article."

評鑑團認知洗錢防制法第十條係基於社會環境理由，規定涉及血親及其他親屬之洗錢，減輕或免除其刑，認爲這一條文將削弱本法之成效。

The Evaluation Team recognizes the societal reasons behind Article 10 of the MCLA, which provides for a reduction of sentence for money laundering involving blood and other relatives, but believes that this provision undercuts the effectiveness of the law.

10) 洗錢防制法第10條得減輕或免除其刑之條件，在2003年已作修正，是否因血親或同財共居親屬而減輕或免除其刑，將由法官依犯罪意圖、犯罪手段與結果等因素加以衡量後決定，換言之，減輕或免除其刑並非適用每一個案子。

10) The condition of "reduction of sentence" in Article 10 of the MLCA had been revised in 2003. Whether reducing the penalty of blood and other relatives as an accomplice in money laundering offence depends on judge's decision after considering the criminal intention, balancing of means and ends of the criminal activity, and related factors. In other words, a reduction of penalty is not applicable to every case.

洗錢防制法第十四條應予修正以明訂司法互助請求與受理程序，以及執法及監理機關與國外對口單位交換資訊之機制(參閱FATF建議第33-35及37、38、39、

§14 of the MLCA should be amended to spell out the procedures necessary to provide the mechanisms to make and receive mutual legal assistance requests and, in appropriate circumstances, to exchange information with law

40 項)。

11) 洗錢防制法第 14 條規定，為防制國際洗錢活動，政府依互惠原則，得與外國政府、機構或國際組織簽訂防制洗錢之合作條約或其他國際書面協定，而外國法院委託事件協助法詳細規定有關提供司法協助之必要程序與文書資料。另於 2002 年，中華台北與美國簽署司法互助協定，提供雙方在司法互助請求與提供一個合宜機制，鼓勵有關機關積極與國際社會對口單位進行情資交換。

enforcement and regulatory authorities (see FATF Recommendations 33-35 and 37, 38, 39, 40).

11) §14 of the MLCA stipulates that the government, based on the principle of reciprocity, can sign treaties or other international written agreements with foreign governments, institutions or international organizations on AML/CFT, and the Law in Supporting Foreign Courts on Consigned Cases has detailed the procedures and needed documents for providing mutual legal assistance requests. In addition, Chinese Taipei signed MLAA with US in 2002, which also provide appropriate mechanism for both Parties making and receiving mutual legal assistance requests. It encourages the authorities to actively exchange information with counterparts from international community.

執法與起訴之協調(Co-ordination of Law Enforcement and Prosecution☺

有關結合金融情報蒐與金融機關間之合作機制

In regard to the cooperation mechanism combining financial intelligence agencies and financial institutions.

12) 法務部為中華台北洗錢防制之主政機關，法務部調查局則為中華台北之金融情報中心，負責彙整國內各執法機關、金融監理機關及海關等相關機關之執法績效與追訴成果。法務部為確保中華台北符合 FATF、APG 之建議，均經常召集各相關部會，協調各機關之業務，以達成國際建議之洗錢防制標準。

12) The MOJ is the competent authority of the MLCA, whereas its Investigation Bureau acts as the Financial Intelligence Unit which is in charge of coordinating and evaluating the operations of the law-enforcement agencies, financial supervisory agencies, and the Customs. To meet the standards proposed by the FATF and APG, the MOJ regularly calls the related government agencies into meetings to coordinate the operations on AML/CFT.

13) 洗錢防制中心透過下列方式與金融機構保持密切互動：1) 舉辦「銀行洗錢防制負責

13) The MLPC maintains close cooperation with financial institutions through following measures: 1) hosting “Forum for Compliance

人研討會」；2) 分送洗錢防制中心出版品；3) 協助金融機構教育所屬員工遵循「反洗錢與打擊資助恐怖分子」之要求；4) 建置維護「反洗錢與打擊資助恐怖分子」資訊網站，提供最新訊息給相關機關及金融機構；5) 提供金融機構有關「反洗錢與打擊資助恐怖分子」之線上諮詢。

Officers of banks"; 2) delivering the prints which published by the MLPC; 3) assisting financial institutions to educate employees to comply with the AML/CFT requirements; 4) maintaining an updated website for providing the newest information to financial institutions; 5) providing online consultations to financial institutions for AML/CFT compliance.

執法機關應定期舉辦會議以檢討是否所有涉及洗錢活動及得予沒收財產之案件都有進行調查。

Law enforcement agencies should hold regular meetings to review whether cases that are currently under investigation involve money laundering activities and/or properties that may be subjected to forfeiture.

14) 洗錢防制法第12條規定:「犯第9條之罪者，其因犯罪所得財物或財產上利益，除應發還被害人或第三人者外，不問屬於犯人與否，沒收之。如全部或一部不能沒收時，追徵其價額或以其財產抵償之。為保全前項財物或財產上利益追徵或財產之抵償，必要時，得酌量扣押其財產」。另外，法務部調查局經濟犯罪防制中心已成立一個定期會議機制，名為「經濟犯罪防制會報」，由來自司法、執法、移民、金融監理、國際貿易與商業管理等部門之相關機關代表參加，主要任務是協調打擊經濟犯罪、追緝外逃及「反洗錢與打擊資助恐怖分子」等之實際作為，當然涵蓋檢討所有涉及洗錢活動及得予沒收財產之

14) Article 12 of the MLCA stipulates "The property or property interests obtained from the commission of a crime by an offender violating the provisions set forth in Article 9 of this Act, other than that which should be returned to the injured party or bona fide party, shall be confiscated, regardless of whether the property or property interests belong to the offender or not. Whenever the above property or property interests can not be confiscated in whole or in part, the value thereof shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender. The offender's property may be seized, if necessary, to protect the property or property interests obtained from the commission of a crime by an offender violating of the provisions set forth in Article 9 of this Act". In addition, there is a specific forum called "Economic Crime Prevention Forum" which is organized by the

案件。

Investigation Bureau and attended by the representatives from judicial, law enforcement, financial supervisory, immigration, international trade and intelligence agencies. In the forum, all operational problems on economic crimes and money laundering will be discussed and seek solutions as possible including the review of investigation of money laundering activities and/or properties that may be subjected to forfeiture.

執法機關、金融監理機關和銀行公會應定期檢討洗錢防制作爲並參考臨近國家及世界之最新發展。

Law enforcement agencies, financial supervisory agencies, and bank unions shall review, on a regular basis, the latest money laundering prevention patterns and trends in neighboring countries and the world at large.

15) 洗錢防制中心經常舉辦「反洗錢與打擊資助恐怖分子」研討會，邀請學者、法官、立法委員、執法人員、金融監理人員及銀行業代表共同研商洗錢／資助恐怖分子之最新趨勢與防制對策。另外，有關機關及銀行公會亦提供許多訓練計畫及研討會，邀請國外專家學者講授有關「反洗錢與打擊資助恐怖分子」。

15) The MLPC has periodically held AML/CFT seminars which inviting scholars, judges, legislators, prosecutors, law enforcement agents, financial supervisors and private sector representatives to get together for researching the emerging trends of money laundering and terrorism financing and countering measures. In addition, the authorities and bank unions have offered a lot of training programs, seminars and workshops which invite speakers from other countries to deliver lectures on AML/CFT.

透過協調機制建立中華台北在查緝洗錢犯罪活動之能力。

Utilizing coordination mechanism to build and strengthen Chinese Taipei's abilities to conduct investigation and crackdown on money laundering activities.

16) 法務部檢察司於 2002 年 11 月設立一個「金融犯罪調查監督小組」，協助各地方檢察署、執法機關及金融監理機關，共同戮力調查重要金融犯罪及相關洗錢犯罪活動。

16) The Prosecutors' Office of the MOJ established the "Financial Crimes Investigation and Supervision Team" in November 2002 to assist District Prosecutors Offices, law enforcement agencies and financial supervisory agencies in their efforts

to investigate major financial crimes and money laundering activities related to such crimes.

17) 此外，爲有效打擊金融犯罪及維護金融秩序，金融監督管理委員會積極與法務部建立聯繫機制，於 94 年 5 月 11 日成立「法務部駐金管會檢察官辦公室」，以有效結合金融專業與司法專業，共同打擊金融犯罪之外，並於檢查局成立「機動小組」，專責金融犯罪之調查與蒐證工作，期能對金融檢查發現疑似不法之案件進行查核及證據保全。另於 94.3.16 與司法院研商成立「法院審理重大金融犯罪案件諮詢小組」，由本會檢查局指派 12 名金融專業人員擔任諮詢委員，協助司法機關視偵審需要，提供核對帳證、解讀財務報表、查核資金流向及整理相關資料等金融專業協助。

17) In addition, for effective enforcement on combating financial crimes and maintaining financial market order, the FSC is working with the MOJ to establish an interagency communications mechanism. On 11 May 2005, for example, the resident prosecutors' office of MOJ at the FSC was set up for integrating the expertise from justice and finance on deterring financial crimes. The FSC also established a special investigation unit under the Examination Bureau, which is dedicated to investigate and collect evidences of financial crimes. On March 16, 2005, the FSC and the Judicial Yuan established a Consulting Group for trials on major financial crime cases. The Consulting Group is composed of 12 financial professionals dispatched by the FSC to help judges examine account books, interpret financial statements, audit money flows, and process other relevant information.

臥底調查(Undercover Operations)

應修正相關法律以提供權責機關在從事洗錢犯罪偵查時可以使用臥底偵查及控制下交付等作爲，而法律上的豁免及認罪協商等機制亦應考量。

Legislative amendments that would provide the necessary authority to conduct undercover operations and controlled deliveries in money laundering matters should be introduced. Legislative immunity and plea agreements and the guidelines for the conduct of undercover operations including the use of controlled deliveries should also be considered.

18) 關於臥底調查機制，法務部已擬定臥底偵查法草案，中華台北立法院正在審查該草案有關臥底調查員之犯罪豁

18) In terms of undercover investigation mechanism, the Legislative Yuan of Chinese Taipei is still reviewing the draft proposals on criminal immunity and the assessment of

免及相關評估。至於控制下交付程序及執法機關權責，已在毒品危害防制條例中增加第 32 之 1 條，並於 2004 年 1 月 7 日另訂偵辦跨國性毒品犯罪入出境協調管制作業辦法作爲執行指引。

undercover investigators. As to the legislation of controlled delivery, §32-1 of the Statute for Narcotics Hazard Control is the dedicated legislation for the operation, and the guideline called "Coordination and Operation Guideline for Detecting and Controlling Transnational Narcotics Cross-border Movement" has been stipulated on January 7, 2004 to provide the detailed guidance for authorities.

地下通匯(Underground Banking)

政府應該對於仍然活動猖獗的地下通匯黑市進行全面性的調查。

The governments should conduct thorough investigation on underground banking Activities because black market currency exchanges are still rampantly unabated.

19) 依據銀行法第 29 條規定，除法律另有規定者外，非銀行不得經營收受存款、受託經理信託資金、公眾財產或辦理國內外匯兌業務。違反前項規定者，由主管機關或目的事業主管機關會同司法警察機關取締，並移送法辦；如屬法人組織，其負責人對有關債務，應負連帶清償責任。

19) According to the regulation of Article 29 of the Banking Act, unless otherwise provided by law, any organization other than a Bank shall not Accept Deposits, manage Trust Funds or public property under mandate or handle domestic or foreign remittances. Upon a violation of paragraph 1 of this Article, remedial action shall be taken by the Competent Authority or the competent authority in charge of the particular enterprise, together with the juridical police authority, and the case shall be referred to the court for action. If the organization concerned is a juridical person, the responsible person shall be jointly and severally liable for repayment of the relevant obligations.

20) 中華台北已於 2003 年將過去最多兼營地下通匯的銀樓業納入洗錢防制法規範，適用該法有關金融機構之規定。鑑於地下通匯業者經常利用專人攜帶外幣入出國境方式

20) The government has added jewellery stores, a type of business most frequently associated with black market currency exchange, into the category of financial institutions regulated by the amended MLCA (2003). Furthermore, as black market currency exchangers usually

進行營業，關稅總局從2003年9月開始，按月將旅客攜帶外幣單筆等值達新台幣150萬元入出境之資料以電磁紀錄通報洗錢防制中心，並自2006年7月1日起，取消通報門檻，只要旅客有申報，即應通報洗錢防制中心。有關攜帶現鈔出入國境之規範如下：

a) 自2003年1月1日起，中央銀行規定旅客攜帶新台幣出入國境之限額各爲60,000元。
b) 自2003年3月21日起，財政部規定旅客或隨交通工具服務之人員攜帶外幣應向海關申報之金額爲10,000美元以上或等值外幣。
c) 自2005年9月28日起，旅客或隨交通工具服務之人員，攜帶人民幣入出境超過人民幣20,000元者，應自動向海關申報；超過部分，由旅客自行封存於海關，出境時准予攜出。

use couriers to carry foreign currencies cross-border for conducting business, starting from September 2003 and on a monthly basis, the Directorate General of Customs provides the declaration records of passengers carrying foreign currency exceed NT$1.5 million equivalent in a single trip in/out of the country to MLPC by using electronic files. The threshold of forwarding declaration records has been revoked. Since July 1, 2006, all declaration records have to be forwarded to the MLPC. Regulations governing the cross-border currency transportation are as follows:

a) On 1 January 2003, the Central Bank set NT$60,000 as the maximum amount of passengers to carry in or out of the country.
b) On 21 March 2003, the Ministry of Finance regulated that passengers or members of transportation crews are required to make a customs declaration when carrying the equivalence of US$10,000 in foreign currency in or out of the country.
c) Since 28 September 2005, passengers or members of transportation crews have been required to declare to customs when carrying RMB 20,000 in or out of the country. Any amount over RMB 20,000 shall be kept in custody by customs and returned to the passengers when leave the country.

21) 中央銀行爲外匯業務主管機關，金融機構從事外滙交易資料，均應報中央銀行輸入電腦資料庫，該行若發現資金進出有異常情形，將主動將相關匯款明細資料送檢調單位進一步查明有無不法情事，另司法檢調單位若查緝

21) The CBC is the competent authority for supervising foreign exchange operations in Chinese Taipei. All foreign exchange transactions operated by financial institutions shall be reported to the CBC for keying into the computer database. If any irregular crossborder currency movement is found, the CBC will send the remittance information to

金融犯罪案件，該行亦配合辦理。	law enforcement agencies for further investigation and will lend its cooperation with authorities to investigate financial crimes.
22) 中央銀行對非法從事外匯買賣、匯兌及兩岸地下通匯涉及洗錢犯罪等案件，前曾兩次提案高檢署偵查經濟犯罪中心諮詢協調委員會議，建請檢警單位加強查緝，並建請法院對金融、外匯不法案件，速審速結，予以重懲。	22) The CBC has contacted the Consulting and Coordination Committee of the Taiwan High Prosecutors Office Economic Crimes Investigation Center twice to suggest that prosecutors and police should step up efforts to crack down illegal exchange transactions and remittances as well as underground cross-strait banking activities that involve money laundering. The Central Bank has also urged the courts to speed the trials of financial and foreign exchange criminal cases and mete out heavy punishments.
23) 中央銀行於2002年將上述建議提送「行政院金融改革專案小組」金融犯罪查緝工作小組」列爲改革議題辦理事項，並經法務部及內政部警政署發函所屬加強查緝及取締非法從事外匯買賣、匯兌、兩岸地下通匯及洗錢犯罪案件。	23) The CBC submitted the aforementioned suggestions to the Executive Yuan Financial Reform Task Force and the Financial Crimes Investigation Unit in 2002, and the MOJ and the NPA of MOI subsequently sent out circulars instructing their subordinate agencies to crack down harder on illegal foreign exchange and remittance operations as well as underground cross-strait money laundering cases.
24) 調查局洗錢防制中心特別於2006年5月特別撰寫「銀行防制地下通匯指引」，函請金融監督管理委員會轉送各金融機構參考。	24) The MLPC has published the Guidelines for Banks to Prevent Underground Banking and delivered to financial institutions for reference.

金融行業有關規定及注意事項(Regulations/Guidelines for the Financial Sector)

評鑑團對於銀行公會制訂之「防制洗錢注意事項範本」所提之相關建議，已有許多改善，包括加強客戶審查、認識客戶、監控異常金融交易、可疑交易表徵及申報機制等，在本報告其他部分都	The Evaluation Team makes some recommendations regarding the sample set of guidelines issued by the Bankers Association. Responding to the recommendations, many improvements have been taken, including enhancement of CDD, know-yourcustomers,

有詳細說明。

25) 銀行公會依據行政院金融監督管理委員會之指示，並參考「遵循防制洗錢金融行動工作組織」（FATF）及「亞太洗錢防制組織」（APG）所訂準則，分別於2004年3月及2005年1月大幅修正「銀行防制洗錢注意事項範本」，以期與國際接軌。修正重點如下：

a)金融機構受理開戶(包括個人戶及非個人戶)，應實施雙重身分證明文件及留存該身分證明文件。個人戶部分，除身分證外，並應徵取其他可資證明身分之文件，如健保卡、護照、駕照或學生證等；非個人帳戶，除登記證照外，並應徵取董事會紀錄、公司章程或財務報表等。

b)對同一帳戶於同一營業日之現金存、提款交易，分別累計新台幣100萬元以上(含等值外幣)，且該交易與客戶身分、收入顯不相當或與本身營業性質無關者，視爲疑似洗錢應行申報之範圍，以防利用化整爲零或小額分散存提方式進行洗錢。

c)對疑似使用假名、人頭、虛設行號、虛設法人團體開設帳戶、或提供文件資料可疑、模糊不清等情形，應予以婉拒開戶。

monitoring unusual financial transactions, suspicious financial transaction indicators and reporting mechanism which will be described more detail in the related parts of this document.

25) Upon the instruction of the FSC, the Bankers Association introduced major amendments to the Checklist of Money Laundering Prevention Guidelines and Procedures for Banks in March 2004 and again in January 2005. Drafted with reference to the criteria adopted by FATF and APG, key amendments to the Checklist include the following:

a) When opening an account (either individual or non-individual), a financial institution must ask for two identification documents and keep copies. When opening an individual account, in addition to a national ID card, the institution must also ask for other proof of identity, such as a health insurance card, passport, driver's license, or student ID. When opening a non-individual account, the institution, in addition to an incorporation certificate, the financial institution must also obtain the minutes of board meetings, the articles of incorporation, financial statements, and the like.

b) When the aggregate same-day deposits and/or withdrawals in a single account top NT$1 million (or its equivalent in foreign currency) and the amount involved is clearly out of keeping with the customer's status or income level, or with the nature of the customer's business, it must be reported as suspected money laundering.

c) If a customer is suspected of using false name, nominee, or shell organization to open account, or if its documentation appears

d)增列「疑似洗錢態樣」，包括將多張本票、支票存入同一帳戶、大量出售金融債券卻要求支付現金之交易、頻繁利用旅行支票或外幣支票之大額交易而無正當原因、大額開發信用狀交易而數量與價格無法提供合理資訊之交易、或以巨額（數千萬）金融同業支票開戶等情形納入。

e)增訂確認客戶身分應遵循之事項，包括應對委託帳戶、由專業中間人代爲處理交易及對銀行商譽具有高風險之個人或團體，要特別加強確認客戶身分之作爲；特別留意非具地緣性之客戶，了解這些客戶選擇在國外開設帳戶之原因；應加強審查私人理財金融業務客戶；應加強審查被其他銀行拒絕金融業務往來之客戶等。

f)增訂對具較高風險之客戶加強審查條件等有關「帳戶及交易持續之監控」事項，包括銀行應逐步利用資訊系統，輔助發現可疑交易；對較高風險帳戶加強監控；銀行應特別注意沒有明顯經濟目的或合法目的之所有複雜、不尋常大額交易或所有不尋常型態交易；銀行應儘可能審視上述交易之背景及目的，並就所發現建立書面資料；該書面資料至少保留五年。

g)對於意圖說服行員免去完成

suspicious or vague, the financial institution must not open an account for the customer.

d) Some new suspicious financial transaction indicators have been added to the Checklist, such as depositing multiple promissory notes or checks to a single account, selling large quantities of financial bonds and demanding payment in cash, frequently using traveler's cheques or foreign currency for big-ticket transactions without any reasonable grounds, opening letters of credit for high amounts without giving plausible data on quantities or prices, or attempting to open an account using an interbank cheque for a high amount (tens of millions of New Taiwan Dollars).

e) Know-your-customer provisions have been added to the Checklist. Financial institutions are required to: (1) take special care to confirm the identity of an individual or organization that opens a brokerage account, conducts transactions via a professional intermediary, or poses high risk to a bank's reputation; (2) deal extra cautiously with non-local customers and understand why they have chosen to set up an account outside their home country; (3) conduct more thorough background checks on customers seeking personal wealth management services; and (4) check more closely on customers that have been blacklisted by other financial institutions.

f) The amended Checklist includes new provisions regarding tighter scrutiny of high risk customers and other matters pertaining to "ongoing monitoring of accounts and transactions." Financial institutions are required, for example, to make use of information systems to discover suspicious

該交易應填報之資料；探詢逃避申報之可能性；客戶之描述與交易本身顯不吻合等情形，應婉拒服務並報告直接主管。

h)增訂對於已結清帳戶者之相關資料至少保存五年之規定。

i) 增列定期舉辦或參加防制洗錢之訓練等規定。

j) 金融機構應每年檢討其「防制洗錢注意事項」。

k)對於疑似洗錢之交易，不管金額多寡，金融機構應於發現疑似洗錢交易之日起十個營業日內向法務部調查局完成申報。

transactions, and exercise closer monitoring of high risk customers. Financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings should be established in writing, and be kept on file for at least five years.

g) Bank employees are required to refuse service and report to their immediate superior when customers attempt to persuade them to waive the reporting forms that must be filled out upon completion of the transactions, when customers ask about the possibility of evading reporting requirements, or when customer's description is clearly different from the actual transaction.

h) A provision has been added requiring that records on closed accounts be kept on file for at least five years.

i) A provision has been added requiring that banks regularly hold or arrange for employees to participate in anti-money laundering training programs.

j) Financial institutions are required to conduct annual reviews of their money laundering prevention guidelines and procedures.

k) Financial institutions are required to report to the MLPC within ten days of discovering a suspicious money laundering transaction, no matter how large or small the amount.

可疑交易(Suspicious Transaction)

檢討法律保密規定，去除妨礙洗錢犯罪調查之保密條款，包括應

Review the secrecy provisions in Chinese Taipei law and amend laws where the secrecy provisions

刪除可能妨礙金融機構於申報疑似洗錢交易之保密規定。

inhibit effective investigation of money laundering offences. The review of secrecy provisions should also include removal of any signage in Financial Institutions that may draw attention to potential reporting.

26) 銀行法第 48 條第 2 項規定：”銀行對於顧客之存款、放款或匯款等有關資料，除其他法律或中央主管機關另有規定者外，應保守秘密”。因此，有關亦資訊揭露在銀行法規定中限於”其他法律”或”中央主管機關”另有規定者，而新修正洗錢防制法第 8 條第 2 項即明文規定:” 依前項規定爲申報者，免除其業務上應保守秘密之義務”。所以在中華台北領域內並無法律上的保密規定足以妨礙洗錢犯罪調查。

26) Article 48 of the Banking Act stipulates, “A Bank shall keep confidential all information regarding deposits, loans or remittances of its customers unless otherwise required by law or by order of the Central Competent Authority.” Therefore, information disclosure is allowed under the Banking Act where it is provided for by “other law” and “other regulations of the Central Competent Authority (i.e. the FSC)” Furthermore, Article 8.2 of the amended MLCA (2003) stipulates “When financial institutions report (suspicious transactions) according to the preceding section, such financial institutions shall be exempted from their obligations under the confidentiality agreements.” There should be no law on confidentiality privileges that might hamper the investigation of money laundering activities in this jurisdiction.

中央銀行和洗錢防制中心的角色(Role of Central Bank and MLPC)

所有金融檢查計畫應涵蓋檢查定期、新進及年度在職訓練，而金檢人員應特別注意金融機構疑似洗錢申報義務和開戶相關規定，且應注意疑似洗錢交易申報的質與量。

All financial monitoring programs should include reviewing the regular, newcomer, and annual on-the-job training programs. Also, the financial monitoring personnel should pay extra attention to related regulations concerning the report status of suspicious money laundering activities and opening of accounts. Lastly, the financial monitoring personnel should also pay attention to the quality and quantity of suspicious transactions reported.

27) 從 2004 年 7 月 1 日金融監督管理委員會成立之後，中央

27) After the establishment of the FSC, the Central Bank of China no longer conducts the

銀行不再對個別金融機構進行金融檢查。關於金融稽核人員應特別注意疑似洗錢交易活動及開設帳戶之相關規定，金融監督管理委員會已經採取作爲，藉由金融檢查機制監督金融機構遵循。洗錢防制中心爲中華台北的金融情報中心，於1997年4月23日創立並開始運作。洗錢防制中心主要任務包括：1）「反洗錢與打擊資助恐怖分子」策略研究；2）受理疑似洗錢交易、大額通貨交易及旅客攜帶大額外幣入出境之申報或通報；3）分析及分送「洗錢與資助恐怖分子」相關資訊；4）協助有關調查「洗錢與資助恐怖分子」案件；5）國際合作；6）建立並維護相關電腦資料庫。

general bank examination of individual financial institutions. The FSC has measures in place to monitor financial institutions through financial examination. The MLPC plays the role of Financial Intelligence Unit in Chinese Taipei. It was established and began to operate on April 23, 1997. The main functions of MLPC include: 1) Researching AML/CFT strategies; 2) Receiving STRs, CTRs and cross-border currency movement declaration reports; 3) Analyzing and disseminating ML/FT information; 4) Assisting authorities to investigate ML/FT cases and coordinating related matters; 5) International cooperation on ML/FT information exchange and related matters; 6) Creating and Maintaining ML/FT computer database.

稽核人員的角色(Role of auditors)

金融機構內部稽核機制應確認各項訓練的合宜性，包括新進人員和年度在職訓練，稽核人員對新進人員要有適當之考核作業，並對金融機構疑似洗錢申報義務和開戶相關規定要特別注意

The internal auditing mechanism of financial institutions should be able to ensure the appropriateness of various training programs; inspection procedures should be applicable to newcomers and annual on-the-job trainings; and auditing personnel should make sure appropriate newcomer evaluation standards are in place for financial institutions and pay extra attention to related regulations on reporting suspicious money laundering activities and opening bank accounts.

28) 依照洗錢防制法第6條規定，金融機構應訂定防制洗錢注意事項，內容涵蓋定期舉辦或參加防制洗錢之在職訓練，對客戶開戶有一定之

28) Article 6 of the MLCA requires financial institutions to formulate their own money laundering prevention guidelines and procedures, and to hold or arrange for their employees to participate in regular

審查程序並對疑似洗錢交易之申報程序亦有規範，稽核單位應對上揭事項列入定期查核項目。

anti-money laundering training programs focusing on the guidelines. Procedures are set out for the review of account opening, and there are provisions regarding reporting procedures for suspected money laundering transactions. In addition, audit units are required to include the aforementioned matters among items subject to periodic audits.

29) 另財政部於 2004 年 2 月函告金融機構，爲落實洗錢防制規定與法令遵循制度，重申各金融機構應加強防制洗錢內部作業控制程序、金融從業人員洗錢防制教育訓練。

29) Also, in a letter sent out in February 2004, the MOF reminded financial institutions to bolster their AML-related internal control procedures, and to step up their AML training and awareness programs for financial services personnel.

30) 前揭執行情形並已列爲主管機關對於金融機構之稽核重點，金管會檢查局亦已於檢查手冊中增訂有關洗錢之查核重點及程序。

30) In future audits of financial institutions, the competent authority is to pay close attention to how well the items listed above are being implemented, and the FSC's Financial Examination Bureau has revised its financial examination handbooks to include key points and procedures for financial examinations regarding money laundering matters.

大額通貨交易(Significant Currency Reporting)

降低申報門檻爲新台幣一百萬元，並在限期內以電子方式向洗錢防制中心申報，另應定期檢討／調整申報門檻，以符合國際標準並確保所有非銀行業之金融機構遵循義務。

Lower the threshold of transactions to be reported to NT$1 million. Such reports shall be directed to the Money Laundering Prevention Center, made within the time limit, and done electronically. The aforementioned threshold should be regularly reviewed/adjusted to comply with international standards and ensure that all non-bank financial institutions to honor their obligation.

31) 依據行政院金融監督管理委員會 2003 年 11 月 18 日修正「洗錢防制法第 7 條授權規定事項」，大額通貨交易申報門檻已由新台幣 150 萬元降

31) The Ministry of Finance on 18 November 2003 issued an amendment to the Regulations Regarding Article 7 of The Money Laundering Control Act (Cash Transactions), lowering the reporting threshold from NT$1.5 million to

低爲 100 萬元，並且要在交易完成後 5 個營業日內完成申報，目前大約 99.9%是使用電子方式進行申報。

NT$1 million. Within five business days of a significant currency transaction, the financial institution is required to report it to the MLPC. Currently, about 99.9% of the reports are transmitted to the MLPC through electronic means.

32) 所謂金融機構包括銀行、信託投資公司、信用合作社、農會信用部、漁會信用部、辦理儲金匯兌之郵政機構、票券金融公司、信用卡公司、保險公司、證券商、證券投資信託事業、證券金融事業、證券投資顧問事業、證券集中保管事業、期貨商、銀樓業、信託業等，都必須履行申報義務。

32) The term "financial institution" is defined to include banks, trust investment companies, credit cooperatives, farmers' association credit departments, fishermen's association credit departments, bills finance companies, credit card companies, postal organizations that operate saving and remittance services, trust enterprises, securities firms, securities investment trust enterprises, securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, futures commission merchants, and insurance companies.

海關資訊／跨國境現金攜帶申報(Customs Information / cross-border reporting)

海關通報洗錢防制中心「跨國境現金攜帶資料」之適法性問題應予解決，所有資訊應整合到金融資料庫，以協助洗錢及相關犯罪之偵查，另對於跨國境的非法活動如能採取制裁措施，將有助打擊洗錢犯罪

Legal concerns about the validity under the MLCA of cross-border reports collected by the Customs Service being forwarded to the MLPC should be addressed. All information should form part of a financial database to assist in detecting money laundering and related illegal activity. It would also be advantageous if sanctions could be applied for illegal cross-border activity so as to complement efforts to combat money laundering.

33) 經財政部檢討相關法令之後，於民國 92 年 7 月 23 日宣布海關人員得提供資訊予洗錢防制中心，惟僅限於旅客攜帶等值超過新台幣 150 萬元之跨國境現金攜帶申報資料，而本資料應由關稅總局每月以電子方式通報洗錢

33) The Ministry of Finance reviewed the relevant laws and regulations and made an announcement on July 23, 2003 that customs staff may provide information to the MLPC which is limited to the records of carrying over NT$1.5 million or equivalent foreign currency by an individual passenger and such information shall be provided by the

防制中心。該通報門檻自2006年7月1日起取消，改爲旅客申報攜帶大額外幣入出境之資料，應全部通報洗錢防制中心。有關跨國境現金攜帶申報機制之法源，將在新修正洗錢防制法中訂定。另關稅總局通報之資料都會輸入洗錢防制中心電腦資料庫，提供有關機關爲「反洗錢與打擊資助恐怖分子」目的之查詢，對於跨國境現金攜帶之旅客故意漏報及申報不實，可以依管理外匯條例加以處罰。

Directorate General of Customs every month through electronic means. The legal issues of cross-border currency reporting mechanism will be defined in the coming MLCA amendment. All cross-border currency movement declaration records which are forwarded by the Directorate General of Customs have been integrated into the computer database in MLPC, and the database can be accessed by authorities for AML/CFT purposes. Anyone who fails to declare or falsely declares to Customs Service will face the all or excess portion of carried foreign currency being confiscated according with the regulations of the Foreign Exchange Control Act.

附錄

附錄 1—縮寫表

Annex 1 - List of Abbreviations

BOAF 農委會農業金融局	BOAF Bureau of Agriculture Finance
CIB 刑事警察局	CIB Criminal Investigation Bureau
CTR 大額通貨交易報告	CTR Currency Transaction Report
DLA 內政部地政司	DLA Department of Land Administration, Ministry of Interior
DOC 經濟部商業司	DOC Department of Commerce, Ministry of Economic Affairs
DOSA 內政部社會司	DOSA Department of Social Affairs, Ministry of Interior
FSC 金融監督管理委員會	FSC Financial Supervisory Commission
MJIB 法務部調查局	MJIB Investigation Bureau, Ministry of Justice
MLAA 司法互助協定	MLAA Mutual Legal Assistance Agreement
MLAT 司法互助條約	MLAT Mutual Legal Assistance Treaty
MLCA 洗錢防制法	MLCA Money Laundering Control Act
MLPC 洗錢防制中心	MLPC Money Laundering Prevention Center, FIU of Chinese Taipei
MOEA 經濟部	MOEA Ministry of Economic Affairs
MOFA 外交部	MOFA Ministry of Foreign Affairs
MOI 內政部	MOI Ministry of Interior
MOJ 法務部	MOJ Ministry of Justice
NPA 警政署	NPA National Police Administration, Ministry of Interior
DCA 內政部民政司	DCA Department of Civil Affairs, Ministry of Interior

附錄 2—相互評鑑受訪機關	Annex 2 – Ministries / Agencies met during the Mutual Evaluation
法務部	Ministry of Justice
法務部調查局	Ministry of Justice Investigation Bureau (MJIB)
洗錢防制中心	Money Laundering Prevention Center (MLPC)
金融監督管理委員會	Financial Supervisory Commission
中央銀行	Central Bank
外交部	Ministry of Foreign Affairs
農委會金融局	Bureau of Agriculture Finance
經濟部商業司	Department of Commerce, Ministry of Economic Affairs
關政司	Department of Customs Administration
海關總署	Directorate General of Customs
內政部社會司	Department of Social Affairs, Ministry of Interior
內政部民政司	Department of Civil Affairs, Ministry of Interior
內政部地政司	Department of Land Administration, Ministry of Interior
刑事警察局	Criminal Investigation Bureau, Ministry of Interior
台灣高等法院檢察署	Prosecutors Office, Taiwan High Court
	Ministry of Foreign Affairs
台北地方法院檢察署	Prosecutor's Office, Taipei District Court
律師公會	Taiwan Bar Association
	Criminal Investigation Bureau, National Police Administration
金管會銀行局	Banking Bureau, FSC
	Bureau of Agriculture Finance
銀行公會	Bankers Association
中信銀行	Chinatrust Bank
中華郵政公司代表	Representatives of Chunghwa Posts Co., Ltd.
花旗銀行代表	Representatives of Citibank
中華票券代表	Representatives of China bills Finance Corporation
國泰世華銀行國際金融業務處	Representatives of Cathay United Bank - International Banking Department
壽險公會	Life Insurance Association
安泰人壽公司代表	Representatives of ING
會計師公會	CPA Association
台灣證券公會	Taiwan Securities Association
元大證券	Representatives of Yuanta Core Pacific Securities
銀樓公會	Jewellery Shops Association

國家圖書館出版品預行編目資料

中華臺北接受亞太防制洗錢組織相互評鑑報告.
2007 年 ／ 法務部調查局編；藍家瑞譯. --
臺北縣新店市：洗錢防制中心， 民 96. 12
面； 公分
中英對照
參考書目：面
ISBN 978-986-01-2796-6（精裝）

1. 洗錢防制法 2. 經濟犯罪

561. 2 97000118

2007 年中華臺北接受亞太防制洗錢組織相互評鑑報告

中華民國 96 年

編 印 者：法務部調查局
地址：臺北縣新店市中華路 74 號
電話： (02) 29112241
發 行 人：葉盛茂
譯 者：藍家瑞
發 行 所：法務部調查局洗錢防制中心
地址：臺北縣新店市中華路 74 號
電話： (02) 29112241
網址：http://www.mjib.gov.tw
電子信箱：mlpc@mjib.gov.tw
承 印 者：財政部印刷廠
地址：臺中縣大里市中興路 1 段 288 號
電話： (04) 24953126

版權所有，如有引用，請詳載出處

中華民國 96 年 12 月出版