



EURASIAN GROUP  
on combating money laundering  
and financing of terrorism

ЕВРАЗИЙСКАЯ ГРУППА  
по противодействию легализации преступных доходов  
и финансированию терроризма

English – Or. Russian



## FIRST MUTUAL EVALUATION OF THE REPUBLIC OF TAJIKISTAN

### 11<sup>TH</sup> FOLLOW-UP REPORT

# FIRST MUTUAL EVALUATION OF THE REPUBLIC OF TAJIKISTAN

## The eleventh Follow-up Report on the Implementation of the EAG

### Mutual Evaluation Recommendations

#### I. INTRODUCTION

1. The purpose of this document is to present to the EAG Plenary the tenth follow-up report of Tajikistan, detailing the measures taken by this country to correct the deficiencies identified during the mutual evaluation and containing an analysis of progress on key and core recommendations rated as "partially compliant" (PC) and "non-compliant" (NC).

The evaluation was conducted by an expert group composed of representatives of the EAG member-states Kenenbaev Chyngyz Toktobekovich (legal expert), Artamonova Tatiana Aliaksandrovna (financial expert), Shirokih Sergey Valerievich (law enforcement). Experts have studied all the materials (laws, regulations, rules and other documents) provided by the Republic of Tajikistan.

2. The Plenary heard the first progress report in June 2009, the second in December 2009, the third in June 2010, the fourth in December 2010, the fifth in June 2011, the sixth in November 2011, the seventh in May 2012 and the eighth in November 2012, the ninth in May 2013, the tenth in November 2013 and asked Tajikistan to submit the next report by June 2014.

3. In respect of the FATF Core and Key Recommendations, Tajikistan was given a rating of "partially compliant" for Recommendation 3 (Confiscation and provisional measures), Recommendation 4 (Banking secrecy), Recommendation 10 (Record keeping), and a rating of "non-compliant" for Recommendation 1 (Criminalization of money laundering), Recommendation 5 (Customer due diligence), Recommendation 13 (Suspicious transaction reporting), Recommendation 23 (Regulation, supervision and monitoring), Recommendation 26 (FIU), Recommendation 35 (Conventions), Recommendation 36 (Mutual legal assistance), Recommendation 40 (Other forms of cooperation), Special Recommendation I (Implementation of UN instruments), Special Recommendation II (Criminalizing the financing of terrorism), Special Recommendation III (Freezing and confiscating terrorist assets), Special Recommendation IV (Suspicious transaction reporting) and Special Recommendation V (International cooperation). Based on these ratings and in accordance with paragraph 46 of the EAG Mutual Evaluation Procedures (EAG / PLEN (2007) 4, ver. 4), Tajikistan was placed under enhanced follow-up procedure<sup>1</sup> and is required to submit progress reports at intervals specified by the Plenary. Tajikistan was rated "partially compliant" and "non-compliant" in respect of 44 Recommendations, as shown below.

Partially Compliant (PC)	Non-Compliant (NC)
R.2 (ML Offence – Mental Element and Corporate Liability)	R.1 (ML Offence) R.5 (Customer Due Diligence)
R.3 (Confiscation and Provisional Measures)	R.6 (Politically Exposed Persons)
R.4 (Banking Secrecy)	R.8 (New Technologies and Non Face-to-Face Business)

<sup>1</sup> In line with these procedures, the following measures were adopted: 1. Following the adoption of the MER, a letter containing the mutual evaluation results was sent to the Prime Minister of Tajikistan; 2. the EAG issued a public statement regarding the AML/CFT situation in Tajikistan; 3. a high-level mission was dispatched to Tajikistan in June 2009 and June 2011; 4. a technical mission to gather information on the progress of Tajikistan was dispatched to the country in June 2009; 5. In March 2012, an expert team of EAG evaluators visited the country on a mission to assess progress achieved with respect to the FATF Core and Key Recommendations since the MER adoption.

<p>R.10 (Record Keeping)</p> <p>R.18 (Shell Banks)</p>	<p>R.11 (Unusual Transactions)</p> <p>R.12 (DNFBP – P.5, 6, 8-11)</p> <p>R.13 (Suspicious Transaction Reporting)</p> <p>R.14 (Protection and Tipping-off)</p> <p>R.15 (Internal Control, Compliance and Audit)</p> <p>R.16 (DNFBP – P.13-15 and 21)</p> <p>R.17 (Sanctions)</p> <p>R.19 (Other Forms of Reporting)</p> <p>R.20 (Other NFBP)</p> <p>R.21 (Special Attention to Higher Risk Countries)</p> <p>R.23 (Regulation, Supervision and Monitoring)</p> <p>R.24 (DNFBP – Regulation, Supervision and Monitoring)</p> <p>R.25 (Guidelines and Feedback)</p> <p>R.26 (FIU)</p> <p>R.29 (Supervisory Authorities)</p> <p>R.30 (Resources, Integrity and Training)</p> <p>R.31 (National Cooperation)</p> <p>R.32 (Statistics)</p> <p>R.33 (Legal Entities – Beneficial Owners (Beneficiaries))</p> <p>R.35 (Conventions)</p> <p>R.36 (Mutual Legal Assistance)</p> <p>R.37 (Dual Criminality)</p> <p>R.38 (Mutual Legal Assistance on Confiscation and Freezing)</p> <p>R.39 (Extradition)</p> <p>R.40 (Other Forms of Cooperation)</p> <p>SR.I (Implementation of the UN Instruments)</p> <p>SR.II (Criminalization of Terrorist Financing)</p> <p>SR.III (Freezing and Confiscation of Terrorist Assets)</p> <p>SR.IV (Suspicious Transaction Reporting)</p> <p>SR.V (International Cooperation)</p>
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	SR.VI (AML/CFT Requirements for Money/Value Transfer Services)
	SR.VII (Wire Transfer Rules)
	SR.VIII (Non-Profit Organizations)
	SR.IX (Cross-Border Declaration and Disclosure)

4. The eleventh Follow-Up Report covers a period from December 2008 till June 2014. The regulations adopted by Tajikistan during that period are aimed at bringing its legislation in line with international standards on AML/CFT.

5. The discussion of the ninth follow-up report in November 2013 highlighted some progress achieved by Tajikistan in improving its AML/CFT regime. In particular, the country adopted:

- the Laws of the Republic of Tajikistan No. 967, 968 of June 13, 2013 "On amendments and supplements to the Law of the Republic of Tajikistan 'On combating legalization (laundering) of proceeds from crime and financing of terrorism";
- the Law of the Republic of Tajikistan No. 969 of June 13, 2013 "On amendments and supplements to the Law of the Republic of Tajikistan 'On combating terrorism";
- the Law of the Republic of Tajikistan No. 970 of June 13, 2013 "On amendments and supplements to the Law of the Republic of Tajikistan 'On Notaries Public";
- Decree of the Board of the National Bank of Tajikistan No. 63 of April 10, 2013 on the approval of the Instruction No. 200 "On the identification and verification of customers and beneficial owners (beneficiaries)" and other.

In connection with Tajikistan's expressed willingness to exit the follow-up process and its current status as a country subject to enhanced follow-up process, the EAG Plenary requested Tajikistan to present its follow-up report in accordance with the procedures for ending the first round of evaluations.

## **II. REVIEW OF TAJIKISTAN'S PROGRESS FROM DECEMBER 2008 TO JUNE 2014**

6. This section highlights the most significant actions taken by Tajikistan to correct the deficiencies identified in the mutual evaluation report.

### *General context*

7. The following regulations were adopted by Tajikistan in the reporting period:

The Laws of the Republic of Tajikistan No. 965 and No. 966 of June 13, 2013 "On amendments to the Criminal Code of the Republic of Tajikistan";

The Laws of the Republic of Tajikistan No. 967 and No. 968 of June 13, 2013 "On amendments to the Law of the Republic of Tajikistan 'On combating money laundering and terrorist financing";

The Law of the Republic of Tajikistan No. 964 of June 13, 2013 "On currency regulation and currency control";

The Law of the Republic of Tajikistan No. 782 of December 26, 2011 "On banking";

Order of the Chairman of the National Bank of Tajikistan No. 204 dated August 7, 2013 and Chairman of the State National Security Committee of the Republic of Tajikistan No. 14/2-4169 dated August 12, 2013 concerning the approval of the Regulations "On the procedure for freezing and unfreezing assets (property) belonging to persons known to be involved in terrorism";

The Board of the National Bank of Tajikistan Decree No. 236 of September 26, 2013 concerning the approval of the Guidelines No. 200 "On the identification and verification of clients and beneficial owners (beneficiaries)", and others.

*Core recommendations (R.1, R.5, R.10, R.13, SR.II, SR.IV)*

*Recommendation 1*

8. Tajikistan presented the Law No. 966 "On amendments to the Criminal Code of the Republic of Tajikistan", which came into force on June 13, 2013. According to paragraph 5 of this Law, disposition of Article 262 "Laundering of money or other property obtained by criminal means" was amended to read:

"Conducting financial transactions or other transactions with money, securities or other property if such property is known in advance to constitute the proceeds of crime in order to conceal or disguise the source of such property or to assist any person involved in committing a crime in evading responsibility for their action, as well as the concealment or disguise of the true nature, location, disposition, movement, or rights with respect to, or ownership of, property, as well as acquisition, possession, use or disposition of such property".

The above definition is consistent with the requirements of the Vienna and Palermo Conventions.

9. Criminal liability under Article 262 of the Criminal Code of the Republic of Tajikistan was increased to imprisonment for a term of two to six years. Given the established liability, a person guilty of money laundering who attempts to commit a crime will be subject to criminal liability.

10. The Law of the Republic of Tajikistan No. 965 "On amendments to the Criminal Code of the Republic of Tajikistan" provides that criminal liability under Article 262 is incurred regardless of whether the person had been prosecuted for the underlying crimes as a result of which criminal income was obtained or not. The category of principal money laundering offences includes offences covered by the Criminal Code of the Republic of Tajikistan that result in criminal income.

**11. It should be noted that the recommendation of experts for inclusion in the Criminal Code of the definitions of "property", "transaction" and "other operations" are not reflected in Tajik legislation.**

12. Statistics on open and examined criminal cases show an annual rise in the number of ML and FT cases, which confirms the possibility of practical application of Articles 262 and 179.2 of the Criminal Code (Annex 5).

**13. The presence of paragraph 1 of the Note to Article 262, according to which the person involved in money laundering must be released from criminal liability for this act if he/she, following the commission thereof, voluntarily turns him/herself in, actively contributes to solving the crime, and (or) voluntarily surrenders the proceeds acquired by criminal means, may affect the effectiveness of anti-money laundering measures.**

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- inclusion in the Criminal Code of the definitions of "property", "transaction" and "other operations";
- the possibility of deleting paragraph 1 of the Note to Article 262 of the Criminal Code should be considered.

*Recommendation 5*

14. Paragraph 6 of Article 7 of the Law of the Republic of Tajikistan "On combating money laundering and terrorist financing" (hereinafter the "Framework Law") prohibits the opening of new, or maintenance of existing, accounts (deposits) for anonymous owners and on fictitious

names, i.e. without submission by the individual or legal entity opening the account (deposit) of the documents necessary for its identification.

The said provision is in line with international requirements.

**15. The Republic of Tajikistan has provided information on the requirement to close all previously opened anonymous accounts. At the same time, it is recommended to align at the legislative level Article 863 (bearer bank-books) of the Civil Code of the Republic of Tajikistan with the AML/CFT Law.**

16. With the aim of harmonizing its legislation, Tajikistan amended on June 13, 2013 the Framework Law, outlining in paragraph 2 of Article 5 the responsibilities of organizations carrying out transactions with monetary funds and other assets. In accordance with these amendments, the authorized body is responsible for implementing the requirement for customer due diligence in accordance with the guidelines adopted by such authorized body.

17. Pursuant to the Framework Law, paragraph 3, Article 5, measures to identify and verify the identity of the customer and beneficial owner, as well as to obtain information about the purpose and intended nature of the business relationship, shall also be undertaken in the course of carrying out one-off transactions in excess of the established threshold.

**18. The threshold amount for electronic transactions carried out by individuals is set at 14,000 soms, which is equivalent to about \$2898.25, meaning that it exceeds the threshold provided for in the FATF Recommendations. Tajikistan has provided Decision of the National Bank №144 as of 12.06.2014 “on amendments and additions to Instruction № 200 “on identification and verification of clients’ identity and the beneficial owner”, which hasn’t yet come into force. According to Item 40 of this Decision the designated threshold had been decreased to 5000 samoni.**

19. The Board of the National Bank of Tajikistan Decree No. 236 of September 26, 2013 approved the revised version of Guidelines No. 200 "On the identification and verification of customers and beneficial owners (beneficiaries)", hereinafter the "Identification and Verification Guidelines". The Identification and Verification Guidelines provide for a simplified procedure for the identification and verification of the identity of the customer (agent) and the beneficial owner during one-time transactions and transactions involving exchange of foreign currency and transfer of funds by individuals without opening an account (based on identity documents). The simplified procedure cannot be used when ML or FT is suspected or with transactions subject to mandatory controls. In all other cases, identification and verification of the identity of the customer (agent) and the beneficial owner is based on risk assessment.

**20. It is recommended to introduce an obligation to verify, if necessary, the provided documents and information during the course of establishing a business relationship with clients and conducting occasional transactions.**

21. Pursuant to paragraph 14 of the Identification and Verification Guidelines, the use of additional sources of information for the identification and verification of customers is optional and not intended as a means of verification.

22. The Identification and Verification Guidelines provide for a new, revised definition of the "beneficial owner". *Beneficial Owner* refers to the natural person (s) who ultimately owns property rights or controls a customer and/or the person on whose behalf a transaction is being conducted. This definition also covers the persons who ultimately control the legal entity or establishment.

When viewed in light of the new modifications, the definition is now in line with international standards.

**23. It is recommended to clarify the scope of information (documents) on the beneficial owner to be provided.**

24. It should be noted that the potential of the Framework Law requirements for the identification of the beneficial owner is reduced by the Identification and Verification Guidelines. Thus, in order to consider the requirement for the identification of the beneficial owner to be fulfilled, it is sufficient for the organization to confirm on the basis of the relevant data that it has taken reasonable and available under the given circumstances measures to identify the beneficial owner.

25. Pursuant to the Framework Law, paragraph 2 of Article 5, and paragraph 5 of the Identification and Verification Guidelines, organizations carrying out transactions with monetary funds or other assets shall obtain information on the intended nature of the business relationship. If the organization is unable to obtain information about the purpose and nature of the business relationship, it may not open bank accounts, establish business relations or carry out the transaction, in addition to being required to terminate the business relationship.

26. The Framework Law and bylaws provide that information on the purpose and nature of the business relationship shall be updated at least once every three years. Pursuant to paragraph 28 of the Identification and Verification Guidelines, only information obtained as a result of the identification of the customer and beneficial owner, and not about the purpose and nature of the business relationship, shall be updated.

27. Decision of the National Bank of Tajikistan No. 121 of June 20, 2011 approved the Guidelines for the identification and reporting of suspicious transactions during risk assessment. Organizations carrying out transactions with monetary funds or other assets received instructions on ways to determine the nature of risks, identify factors influencing such determination and analyze the level of risks. Organizations are recommended to use different criteria to identify high-risk customers, i.e. based on customer profile, type of transaction and geographical factor.

28. In order to ensure effective application of a risk-based approach, including with regard to supervision and monitoring, organizations carrying out transactions with monetary funds or other assets are encouraged to develop and apply a special methodology which provides for the application of CDD measures based on the level of risk. When the customer is assigned a high-risk level, it becomes necessary to identify the activity that generated most funds.

29. Organizations carrying out transactions with monetary funds and other assets are also expected to apply adequate CDD measures in respect of high-risk customers and conduct supervision to reduce potential risks of ML and FT.

**30. It should be noted that the proposed enhanced CDD measures with respect to high risk clients (transactions) are not obligatory. Recommendations on detection and reporting of suspicious transactions during the risk assessment are not obligatory in nature.**

31. The Identification and Verification Guidelines contain a list of low-risk categories. These include state and local authorities, budgetary and public service payments to the budget and government institutions.

32. The low-risk designation mechanism contained in the Guidelines is too broad and vaguely worded, meaning that customers can wrongly be assigned to a low-risk category. A low-risk category includes "organizations that are subject to AML/CFT supervision". However, Tajik legislation contains no mechanisms for identifying such organizations or their characteristics.

33. Pursuant to paragraph 4 of Article 5 of the Framework Law, the requirement to apply CDD measures applies in Tajikistan to all new and existing customers.

#### **Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress on this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- provide legal consistency between Article 863 of the Civil Code of the Republic of Tajikistan and the Basic Law;
- to introduce an obligation to verify the provided documents and information during the course of establishing a business relationship with clients and conducting occasional transactions;
- set out procedures to obtain detailed information on the beneficial owner;
- make enhanced CDD requirements for high-risk clients (transactions) obligatory.

#### *Recommendation 10*

34. Pursuant to paragraph 6 of Article 6 of the Framework Law, organizations carrying out transactions with monetary funds or other assets shall record and retain data for at least five years from the date of termination of the relationship with the customer, as well as provide upon demand such data to law enforcement agencies, only in respect of transactions (when these transactions have no apparent economic or visible lawful purpose) involving persons, including companies and credit institutions, from countries which do not or insufficiently apply international AML/CFT standards.

35. Paragraph 1 of Article 38 of the Law of the Republic of Tajikistan No. 782 of December 26, 2011 "On banking" establishes a list of documents and transaction data to be retained by credit institutions for at least five years. Pursuant to paragraph 3 of Article 38 of the said Act, the National Bank of Tajikistan may adopt regulations governing the retention of documents. **However, no such regulations were provided.**

36. **The Framework Law contains no requirement for organizations carrying out financial transactions with monetary funds or other assets to provide information and customer transaction data upon request of law enforcement and other competent authorities (except the FIU).**

#### **Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- The National Bank of Tajikistan should adopt a legal instrument that will govern retention of documents.

#### *Recommendation 13*

37. Pursuant to paragraph 3 of Article 6 of the Framework Law, all suspicious transactions have the status of transactions subject to mandatory controls, regardless of the amounts involved, and, as such, shall be reported to the authorized body.

Thus, in accordance with international standards, Tajikistan has established the obligation for the reporting of suspicious transactions to the authorized body, regardless of the amounts involved.

38. The Board of the National Bank of Tajikistan Decree No. 60 of March 14, 2014 approved the Reporting Form No. 101, to be used by banks for submission of information about suspicious transactions or business relationships.

39. The above procedure is a requirement for the immediate submission of STRs (within 24 hours of identifying a suspicious transaction, within 3 hours of completing the suspicious transaction if it has not been possible to suspend it).

40. The credit organization's internal control rules contain indicators on the basis of which the operation (transaction) may be considered suspicious.



41. There is an obligation on the part of financial institutions to report suspected terrorist financing to the authorized body, regardless of the amount of the transaction.

42. Chairman of the National Bank of Tajikistan Order No. 306/FF dated December 27, 2013 approved FATF guidance for credit institutions (private sector) to assist in identifying methods and mechanisms used to combat the financing of terrorism. The FATF guidance is a scientific paper containing a description of individual cases that may constitute grounds for further investigation. The requirements contained in the guidance are advisory in their nature.

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC).

*Special Recommendation II*

43. The Law of the Republic of Tajikistan No. 965 of June 13, 2013 "On amendments to the Criminal Code of the Republic of Tajikistan" amends Article 179.2 "Financing of terrorist crimes" by criminalizing the financing of a single terrorist or terrorist group (organization) even if this activity (financing) is not linked to (a) specific terrorist act (s), as required by international standards. The article specifies entities for the provision of funds to which offenders incur criminal liability, among them are terrorists and terrorist organizations.

44. The section of the Law of the Republic of Tajikistan No. 969 of June 13, 2013 "On combating terrorism" related to the prevention of terrorist activities has been amended to include an additional ban on the direct or indirect provision or collection of funds with the goal of allowing all or part of them to be used to carry out terrorist activities, and (or) in the knowledge that these funds will be used to carry out terrorist activities.

Currently, the issue of sufficient criminalization of the terrorist financing offence has been addressed at the level of a criminal law.

45. Article 27 of the Law of the Republic of Tajikistan "On combating terrorism" introduces liability of legal entities for terrorist activities, i.e. if a court finds a legal entity guilty of terrorism, such legal entity must be wound up and its property seized and appropriated by the state.

**46. Due to the fundamental principles of law, criminal liability of legal persons is absent. That said, nether the Code of the Republic of Tajikistan "On administrative offences" nor the Civil Code contains provisions establishing liability of legal persons for participation in the commission of FT.**

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- adopt appropriate regulations providing for civil or administrative liability.

*Special Recommendation IV*

47. Irrespective of the value of the suspicious transaction, all financial institutions operating in Tajikistan are obliged to provide information to the authorized body if they suspect terrorist financing activities.

48. Chairman of the National Bank of Tajikistan Order No. 306/FF dated December 27, 2013 approved the FATF guidance for credit institutions (private sector) to assist in identifying methods and mechanisms used to combat the financing of terrorism. The FATF guidance is a scientific paper containing a description of individual cases that may constitute grounds for further investigation. The requirements contained in the guidance are advisory in their nature.

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC).

*Key Recommendations (R.3, R.4, R.23, R.26, R.35, R.36, R.40, SR. I, SR.III)*

**Recommendation 3**

49. Tajikistan presented the Laws No. 966 and 965 of June 13, 2013 "On amendments to the Criminal Code of the Republic of Tajikistan", amending the wording of Article 57 "Confiscation of property." The article provides for the confiscation of indirect proceeds, property of corresponding value and instrumentalities, as well as taking into account other requirements of the Vienna and Palermo Conventions.

**50. The MER contained a recommendation in favor of confiscation of property constituting criminal proceeds intended to be used in the commission of crimes related to money laundering, terrorist financing and other major offences. This recommendation is not reflected in the relevant regulations.**

51. Notes to the new disposition of Article 262 "Money laundering" addressed deficiencies related to confiscation which are listed in the mutual evaluation report.

52. Pursuant to paragraph 3 of Article 116 of the Criminal Procedure Code, seizure of property is the notification of the property owner or holder of the ban on the property disposal and, where necessary, use, or its confiscation and transfer for safe-keeping.

**53. Pursuant to paragraphs 7 and 8 of Article 116 of the Criminal Procedure Code, actions performed under a contract, or without it, may be prevented or terminated if the parties knew or should have known that such actions would hamper the efforts of the relevant authorities to identify the property subject to confiscation. No information with respect to the fulfillment of the EAG recommendation concerning the establishment of a competent authority was provided.**

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- provide for the confiscation of property constituting criminal proceeds intended to be used in the commission of crimes related to money laundering and other major offences.

**Recommendation 4**

54. Tajikistan has taken additional steps to bring its legislation into line with international standards. The Framework Law, the Law of RT No. 782 of December 26, 2011 "On banking", the Law of RT No. 816 of April 6, 2012 "On microfinance organizations", the Law of RT No. 810 of April 16, 2012 "On notaries public", and the Law RT No. 964 of June 13, 2013 "On currency regulation and currency control" contain requirements for non-disclosure of trade, banking and official secrets. Violation of the above requirement by officials performing their duties in the area related to AML/CFT does not constitute an offence.

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- amend the law governing the securities business to ensure that the provision on financial institution secrecy does not impede the implementation of the Framework Law.

### *Recommendation 23*

55. Article 12 of the Framework Law stipulates that the responsibility for supervising and coordinating the activities of oversight agencies lies with the authorized anti-money laundering and terrorist financing body ("authorized body"), to be appointed by the President of the Republic of Tajikistan. Oversight authorities are required to draft guidelines, while the authorized body must provide feedback to assist in the application of the national AML/CFT law, in particular in detecting suspicious transactions and submission of STRs.

**56. These statistics do not allow to conclude that there is sufficient control on AML / CFT over the mail service and professional participants of the securities market. The country has not presented monitoring data on organizations that provide services to transfer funds, exchanges, etc. Monitoring data on microfinance institutions has not been separately presented.**

57. Information on legislative restrictions against criminals and criminal capital getting access to the ownership and management of financial institutions, is presented only for credit institutions. Current law requires a certificate of no criminal record to be presented by executives and controlling stake owners; legal documents about the source of funds invested in the share capital, and documents confirming the integrity of each executive. The information provided does not contain separate (special) instructions to limit the access of persons associated with criminals and criminal capital to the ownership and management of financial institutions.

**58. There is no proof of legal prohibition (restriction) for criminals, persons associated with them, and criminal capital to obtain access to the ownership and management of other financial institutions.**

59. The data on the implementation of supervisory control on AML / CFT suggests that such control exists for banks and currency exchange offices.

**60. Entities providing money transfer (exchange) services, including mail service, are not covered by the monitoring of the Tajik government. Data on the monitoring of such financial institutions has not been presented for 2012-2013.**

**61. Tajikistan has provided no information on the obligation to exercise and procedure for exercising ongoing AML/CFT supervision over money and value transfer service providers or cash exchange services.**

**62. The statistics contains no information on desk-based audits of financial institutions for 2011 and 2013.**

63. Information on oversight activities shows that AML/CFT-related supervision is carried out in respect of financial institutions such as banks, exchange offices and insurance companies. **The information regarding other financial institutions for the 2013 year is not enough.**

### **Recommendation conclusion:**

In view of the measures taken, the country has achieved partial progress on this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- adopt appropriate AML/CFT-related regulations governing the implementation of supervisory and monitoring functions in respect of all financial institutions;
- establish criteria preventing criminals and criminal capital from entering the ownership and management of all financial institutions;

- conduct ongoing monitoring of all money and value transfer service providers, and address the issue of the licensing of leasing companies.

#### *Recommendation 26*

64. Paragraph 2 of Article 8 of the Framework Law stipulates that the procedure for the submission to the authorized body of information by organizations carrying out transactions with monetary funds or other assets shall be established by the authorized body.

65. The National Bank approved the following documents: The Suspicious Transaction Indicator Registry (Board of the National Bank of the Republic of Tajikistan Decree No. 87 dated April 28, 2011); the Suspicious Transaction Identification and Reporting Guidelines (Board of the National Bank of the Republic of Tajikistan Decree No. 121 dated June 20, 2011); and the Terrorist Financing Detection Manual for credit institutions (private sector) (Chairman of the National Bank of the Republic of Tajikistan Order No. 306/FF of December 27, 2013).

66. Pursuant to subparagraph 2 of paragraph 2 of Article 13 of the Framework Law, the authorized body shall ensure the proper storage, protection and safety of the submitted information constituting official, trade, banking or any other protected by law secret.

67. Pursuant to subparagraph 4 of paragraph 2 of Article 13 and Article 15 of the Framework Law, the authorized body may, upon request or on its own initiative, share information with a foreign anti-money money laundering and terrorist financing authority.

68. Tajikistan enacted the Law of the Republic of Tajikistan No. 968 of June 13, 2013 "On amendments to the Law of the Republic of Tajikistan 'On combating money laundering and terrorist financing'", setting up a permanent interagency committee. The main purpose of the committee is to coordinate the activities of the relevant government agencies aimed at the implementation of anti-money laundering and counter-terrorism financing standards.

69. The Government of RT Decree No. 443 dated October 4, 2013 approved the Regulations "On the permanent Interagency Committee for the implementation of anti-money laundering and terrorist financing standards".

70. Tajikistan presented the following STR statistics. During 2013, the FIU received 46 STRs and 38,499 reports on transactions above the threshold amount (Annex 4).

#### **Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- amend the Framework Law, defining the procedure and grounds for the transfer to law enforcement or other competent authorities of information available to the FIU.

#### *Recommendation 35*

71. In 1996, Tajikistan acceded to the UN Convention of December 20, 1988 "On the Fight against Illicit Traffic in Narcotic Drugs and Psychotropic Substances" (the Vienna Convention), as well as ratifying in 2002 the UN Convention of November 15, 2000 "Against Transnational Organized Crime" (the Palermo Convention) and, also in 2004, the International Convention of December 9, 1999 "On the Suppression of the Financing of Terrorism".

**72. However, no detailed information concerning the implementation of Articles 3 - 11, 15, 17 and 19 of the Vienna Convention; Articles 5 - 7, 10 - 16, 18 - 20, 24 - 27, 29 - 31 and 34 of the Palermo Convention; Articles 2 - 18 of the Convention "On Combating the Financing of Terrorism" was provided.**

#### **Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). The country needs to provide additional information.

#### *Recommendation 36*

73. Tajikistan is a party to the main treaties on international legal assistance in criminal matters. Within the CIS, mutual legal assistance is provided in accordance with the Convention on Legal Assistance and Legal Relations in Civil, Domestic and Criminal Proceedings (Minsk) and Convention of October 7, 2002 (Kishinev).

74. **No other information about the existing international treaties on mutual legal assistance was provided.**

75. Section XII of the Framework Law contains articles dedicated to information sharing and legal assistance, as well as international cooperation in combating money laundering and terrorist financing.

76. The Criminal Procedure Code is a key regulatory act governing the issues of mutual legal assistance in Tajikistan. International legal assistance in criminal matters includes:

- presentation of procedural acts and other documents;
- implementation of proceeding;
- transfer of material evidence related to criminal cases and other types of legal proceedings that meet international standards. Requirements for the seizure of documents, including financial, are covered by legal assistance classified as "implementation of proceedings".

77. The Criminal Procedure Code provides a fairly detailed description of the procedures governing the provision of various types of MLA, resulting in timely, meaningful and effective measures. In accordance with the Criminal Procedure Code, the General Prosecutor's Office, the Council of Justice and the Ministry of Foreign Affairs shall oversee the provision of MLA.

78. Tajik law contains no provisions unduly restricting the provision of MLA. The CPC establishes the conditions for the provision of MLA, which are mostly technical in nature. Due to the fact that the CPC provides no grounds for refusal of MLA in tax crimes, requests for this type of MLA can be fulfilled.

79. CPC provisions covering MLA do not set conditions for accessing the documents constituting a financial secret that are different from the CPC general requirements related to this issue.

#### **Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). However, it needs to provide additional information:

- no details of the existing international treaties on mutual legal assistance were provided.

#### *Recommendation 40*

80. Article 15 of the Framework Law makes it possible for the authorized body and other public authorities of the Republic of Tajikistan responsible for combating money laundering and terrorist financing to provide relevant information to the competent authorities of foreign countries upon request or on its own initiative based on the principals of data protection.

81. **However, Tajik law does not allow the country's law enforcement agencies to engage in international cooperation even if the country has signed a relevant international agreement to this effect. Nor does it allow oversight agencies to engage in AML/CFT-related cooperation.**

82. Pursuant to paragraph 4 of Article 473 of the Criminal Procedure Code, requests from foreign agencies and government officials for investigative or judicial action shall be rejected if their performance is likely to prejudice the sovereignty or security of Tajikistan or contradicts its legislation.

83. Pursuant to paragraph 6 of Article 16 of the Framework Law, the authorized body may refuse to disclose information that could damage the criminal investigation conducted by the competent authorities of the Republic of Tajikistan, or, in exceptional circumstances, clearly violate the legitimate interests of a natural or legal person of the Republic of Tajikistan, or otherwise runs contrarily to the basic legal principles. Such a refusal, however, must be properly substantiated to the requesting party.

**84. The above provisions do not contain the specific grounds for refusal to comply with requests for mutual assistance, casting doubt on the implementation of the essential criteria of the appropriate recommendation.**

85. Tajikistan presented the following statistics on information sharing with other FIUs in 2013. It sent 8 requests and received 13 (Annex 6).

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- there is no possibility for law enforcement agencies to engage in international cooperation regardless of the existence of a relevant international agreement;
- there is no possibility for oversight authorities to engage in AML/CFT-related international cooperation;
- regulatory acts contain no specific grounds for refusal to comply with requests for cooperation, casting doubt on the implementation of the essential criteria of the appropriate recommendation.

*Special Recommendation I*

86. In order to implement the ratified UN Security Council conventions and resolutions on combating terrorist financing, as well as in furtherance of the Law "On combating terrorism", the Order of the Chairman of the National Bank of Tajikistan No. 204 of August 7, 2013 and the Chairman of the National Security Committee No. 14/2-4169 of August 12, 2013 approved the Regulation "On the procedure for freezing and unfreezing assets (property) belonging to persons known to be involved in terrorism" (hereinafter the "Regulation on Freezing").

87. Tajikistan ratified in 2004 the International Convention of December 9, 1999 "On the Suppression of the Financing of Terrorism".

**88. However, no information was provided on the implementation of Articles 2 - 6, 17 and 18 (of SR. II), Article 8 (of SR. III), Articles 7, 9 - 18 (of SR. V).**

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). However, it should provide additional information on the implementation of the relevant provisions of the Convention "On the Suppression of the Financing of Terrorism".

*Special Recommendation III*

89. The Regulation on Freezing improved procedures for the distribution of, and compliance by legal and natural persons of the Republic of Tajikistan with, the lists (combined, national and international) of persons involved in terrorism, and established the procedure for freezing and

unfreezing of property belonging to these persons. The Regulation has largely succeeded in establishing a detailed procedure for implementing international UN Security Council Conventions and Resolutions in Tajikistan, as well as for interaction between the authorized body and other government agencies (institutions) in combating the financing of terrorism.

90. **However, the Regulation on Freezing does not contain a requirement for the freezing of assets without advance notification of the designated persons.**

91. **Issues concerning application of the measures referred to in the best practice paper for SR.II and the procedure for granting access to funds or other assets frozen in accordance with the UN Resolutions require additional clarification.**

92. Tajikistan provided statistics on 5 instances of transaction suspension occurring in 2013 carried out in accordance with the UNSC Resolutions.

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). Legislation in this area requires further improvement:

- introduce a requirement for the freezing of assets without advance notification of designated persons;
- finalize the relevant regulations referred to in the best practice paper for SR.II and the procedure for granting access to funds or other assets frozen in accordance with the UN Resolutions.

*Special Recommendation V*

93. The procedure for the provision of mutual legal assistance in criminal matters of ML and FT is sufficiently detailed in the Criminal Procedure Code and is generally in line with international standards.

94. **However, regulatory acts contain no specific grounds for refusal to comply with requests for cooperation, casting doubt on the implementation of the essential criteria of the appropriate recommendation.**

**Recommendation conclusion:**

In view of the measures taken, the country has achieved considerable progress to this recommendation. The compliance rating for this recommendation can be considered as equivalent to the level of "largely compliant" (LC). However, the country's legislation needs to be improved further:

- there is no possibility for law enforcement agencies to engage in international cooperation regardless of the existence of a relevant international agreement;
- regulatory acts contain no specific grounds for refusal to comply with requests for cooperation, casting doubt on the implementation of the essential criteria of the appropriate recommendation.

### **III. RECOMMENDATIONS AND CONCLUSIONS**

95. In the period under review, the Republic of Tajikistan continued to strengthen its AML/CFT system. Tajikistan has made considerable progress in respect of Recommendations (1, 3, 4, 5, 10, 13, 23, 26, 35, 36, 40, SR I, SR II, SR III, SR IV, SR V) due to the adoption of amendments to the Criminal Code of the Republic of Tajikistan and the Law "On combating money laundering and terrorist financing" and other regulations. According to the experts' conclusion, the compliance rating for these recommendations can be considered as equivalent to the level of "largely compliant" (LC).

96. In view of the progress achieved, remove the country from enhanced follow-up and place it under regular follow-up.

97. Recommend to the Republic of Tajikistan to report the results of its ICRG review to the Plenary for the latter to make a decision on whether the country could be placed under the basic monitoring procedure.



