



Mutual Evaluation Report

On Anti-Money Laundering and Combating the Financing of
Terrorism

JUNE 2011

TURKMENISTAN

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PREFACE – INFORMATION AND METHODOLOGY USED TO EVALUATE THE REPUBLIC OF TURKMENISTAN

1. The evaluation of the regime for anti-money laundering (AML)¹ and combating the financing of terrorism (CFT) of Turkmenistan is based on the Forty Recommendations of 2003 and Nine Special Recommendations for Financing of Terrorism of 2001 issued by the Financial Action Task Force (FATF) and prepared using the AML/CFT Methodology of 2004² recognized by the EAG. The evaluation was based on laws, regulations and other materials, as well as information received by the evaluation team during its on-site mission in Turkmenistan in November 6-14, 2010 and thereafter. During the mission, the evaluation team met with officials and representatives from all relevant government bodies of Turkmenistan and the private sector. The list of authorities meetings were held with is given in Annex 1 hereto.

2. The evaluation was conducted by a group of evaluators made up of the EAG's law, finance and law-enforcement experts. The evaluating team consisted of the following experts: T. Kropivnaya – Deputy Head of the Directorate for Anti-Money Laundering of the Federal Financial Monitoring Service of the Russian Federation (law enforcement expert); I. Alexeev – Deputy Head of the Directorate for International Relations of the Federal Financial Monitoring Service of the Russian Federation (law enforcement expert); T. Shadykanova – Chief Inspector of the Office for Combating Money Laundering of the State Financial Intelligence Service of the Kyrgyz Republic (law enforcement expert); T. Artamonova – Head of the Directorate for Coordination of Cooperation with Competent Authorities and International Organizations of the Russian Central Bank (financial expert); E. Balmahaev – representative of the Agency for Regulation of and Supervision over Financial Market and Financial Institutions of the Republic of Kazakhstan (financial expert); A. Sochneva – Head of the Office for Coordination of Work with FIUs of the Financial Investigation Department of the GOSFINMONITORING of Ukraine (legal expert); and D. Costin from the EAG Secretariat. The experts reviewed the institutional structure, existing laws on AML / CFT, instructions, guidelines and other requirements along with the regulatory and other systems used for combating money laundering (ML) and financing of terrorism (FT) through financial institutions, designated non-financial businesses and professions (DNFBP), and studied the implementation and effectiveness of these systems.

3. This report presents a summary of the existing in Turkmenistan at the time of the on-site mission AML / CFT measures, or immediately thereafter. It describes and analyzes these measures and makes recommendations on how certain aspects of the system could be strengthened (see Table 2). It also reveals levels of conformity of Turkmenistan to the FATF 40+9 Recommendations (see Table 1).

¹ See Annex 1 containing a full list of abbreviations and acronyms

² With February 2009 updates.

EXECUTIVE SUMMARY

1. Background

4. This report represents a summary of existing measures for combating money laundering (AML) and the financing of terrorism (CFT) in Turkmenistan as of November 2010 (i.e. during the on-site mission and immediately thereafter). It describes and analyzes these measures and makes recommendations on how certain aspects of the system could be strengthened (see Table 2). It also reveals the levels of conformity of Turkmenistan to the FATF 40+9 Recommendations (see enclosed Rating Table of Compliance with the FATF Recommendations).

5. The foundation of Turkmenistan's AML / CFT system was laid in 2009, when both ML and FT were criminalized. Law of the Republic of Turkmenistan "On Combating Money Laundering and Terrorist Financing" (AML/CFT Law) came into force on August 28, 2009. This Law on AML / CFT required all financial institutions to report suspicious transactions, implement CDD measures and establish an internal control system and other mechanisms for the purpose of AML / CFT. At present, the oversight and law enforcement agencies are carrying out the necessary resource and structure-related reforms and stepping up work on AML / CFT as it pertains to refinement of the regulatory framework. There are concerns about the existence of certain deficiencies in the system of preventive measures (customer due diligence, internal controls, etc.) applicable to designated financial institutions and non-financial businesses and professions (DNFBPs).

6. The main source of criminal revenues in Turkmenistan is drug trafficking. This is due to the fact that Turkmenistan is used as a transit country for shipment of drugs from Afghanistan.

7. Turkmenistan is a constitutional, secular and democratic republic with a presidential form of government. Turkmenistan's GDP is roughly US\$16 billion (2009). The banking system, which includes 11 banks, is the most developed part of the financial sector. The country's securities market is still in its infancy. There is also only one state insurance company (Turkmengosstah) in the country, and no non-banking credit institutions present. The money and value remittance services may only be provided by banks and a postal service operator represented by the state postal service company Turkmenpost (hereinafter the "SPSC Turkmenpost"). The DNFBPs are represented by companies organizing lotteries and other risk-based games; persons carrying out operations with precious metals and stones; persons providing services and participating in operations involving purchase and sale of real estate property; as well as notary offices (notaries), lawyers' groups (lawyers) and audit firms.

2. Legal System and Institutional Measures

8. Turkmenistan criminalized ML as "Legalization of Monetary Funds or other Assets Acquired by Illegal Means" in Art. 242 of the Criminal Code. Pursuant to this Article, execution of financial transactions and other operations with monetary funds or other assets knowingly acquired by illegal means, as well as the use of these funds or assets for entrepreneurial or other economic activities, as well as the concealment of these actions constitute a criminal offence. At the same time, the definition of the ML offence does not cover, in particular, the indirect revenue

from crimes, as required by the Vienna and Palermo Conventions. The Criminal Code does not cover all categories of predicate offences listed in the FATF 40 Recommendations. In particular, it does not cover such offences as insider trading and market manipulation. The money laundering offence may be applied to persons who committed a predicate offence (self-laundering). Although, the criminal liability applies only to natural persons, the Turkmen Law contains a provision ensuring ML liability for legal entities too. The penalties applicable to natural persons are largely well proportioned (up to 8 years of imprisonment), with no guilty verdicts passed in the 2006-2010 period. For this reason, it is not possible to assess the effectiveness of application of this article.

9. Financing of terrorism in Turkmenistan is criminalized in Art. 271 "Financing of Terrorism" of the Criminal Code. Pursuant to this Article, any activity involving collection or provision of funds, material, technical and other resources, or provision of financial services with the knowledge that they are intended to fund the preparation or commission of terrorism, as well as to support the activities of an organized group, illegal armed formation or criminal association established to achieve these goals constitutes a criminal offence. Criminal liability applies only to natural persons, with penalties being largely proportionate (from 4 to 15 years of imprisonment). There were no convictions on charges of terrorism or financing of terrorism in the 2006-2010 period. The Law on Combating Terrorism, which was adopted in 2003, provides liability in the form of liquidation for organizations recognized as terrorist.

10. Confiscation of property for ML-related offences in Turkmenistan is provided for as part of the criminal procedure legislation in Art. 130, 169 of Criminal Procedure Code, as well as in Art. 44 and 52 of CC. In view of the fact that one out of the necessary twenty types of predicate offences is not criminalized, confiscation in respect of this offence is not possible. Law enforcement and other competent authorities have necessary powers allowing them to identify and search for property subject to forfeiture, or in the even of suspicions that such property constitutes the proceeds from crime.

11. The AML / CFT Law contains provisions allowing for freezing (up to 5 working days) of transactions conducted by persons suspected of being involved in terrorist activities. Pursuant to the Regulations on Implementation of UN Conventions and Resolutions approved by the Minister of Finance, the procedures for implementation of UN Resolutions and Conventions have been established, in particular, the procedures for freezing of terrorist assets, as well as ways to implement such procedures in accordance with the requirements of UN Security Council resolutions 1267 and 1373. Also, pursuant to the same Regulations, all public institutions and entities of financial monitoring shall be guided by par. 3 of Article 5 of the Law "On Combating Terrorism". Under this Article, Turkmenistan shall prevent and suppress financing of terrorist activities and promptly freeze funds and other financial assets, deposits, economic resources and material values of the persons committing or attempting to commit terrorist acts or facilitate the commission thereof. At the same time, the necessary mechanisms for analyzing and using the data received from foreign states and pertaining to the subjects of freezing, along with procedures for review of requests for de-listing of individuals are absent.

12. The FIU of Turkmenistan (Directorate of Financial Monitoring of the Ministry of Finance of Turkmenistan), hereinafter the "DFM", was set up pursuant to Presidential Decree No. 10798 of January 15, 2010. The DFM is responsible for gathering, analysis and transfer of information on suspicious transactions for further investigations.

13. Pursuant to Art. 224 of CPC, investigations into ML-related offences are carried out by investigators of the Prosecutor's Office, and into FT offences by investigators of the Ministry of National Security of Turkmenistan. It appears that the law enforcement authorities are not well aware of their responsibilities in the area of AML / CFT-related investigations. The need for the staff to receive additional training on techniques for conducting ML/FT-related investigations also exists. General powers of law-enforcement agencies related to confiscation of documents, searches, arrests and other similar actions are in line with Recommendation 28.

14. Pursuant to the existing law, Turkmenistan has a combined system of declaration for the movement of cash and payment instruments. At the same time, this system was not originally established for the purposes of AML / CFT. For this reason, the Special Recommendation IX is largely not complied with. At the same time, according to the information received from the Turkmen side, the customs authorities have the powers to freeze or seize monetary funds in case of suspected money laundering or terrorism financing.

3. Preventive Measures – Financial Institutions

15. With the state regulation of matters concerning combating money laundering and terrorist financing (hereinafter "AML / CFT"), the approach based on risk assessment is not used in Turkmenistan. This tool is partly used by some subjects of financial monitoring (persons submitting information) in their local regulations, i.e. the adopted in pursuance of the laws of Turkmenistan of Internal Control Rules for Combating Money Laundering and Terrorist Financing (hereinafter the ICR).

16. Financial institutions in Turkmenistan are not allowed to open and maintain anonymous accounts. Pursuant to the Law on AML / CFT, all persons submitting information are required to carry out identification and implement other CDD measures when establishing business relations, executing any one-off transactions that equal the established threshold amount, as well as in cases of suspected money laundering or terrorist financing and upon existence of doubts as to the authenticity and / or accuracy of the client's identity data supplied earlier. The Decision of the Minister of Finance of Turkmenistan set the threshold amount for transactions in foreign or national currency that must be subject to mandatory AML / CFT controls at 570,000 manats (about US\$200,000) for transactions in monetary funds, and at 1.425 million mantas (US\$500,000) for transactions involving other assets.

17. The requirement to identify the representative of a natural or legal person is contained in the Law on AML /CFT. There are specific rules governing the procedure for identification of beneficial owners. There are still certain gaps in the requirements concerning the verification of and identification of purposes and nature of business relations with the client, as well as the on-going monitoring of relations with the client. Also, there is no requirement for detection and

monitoring of high-risk clients or for identification of customers who were clients prior to the entry into force of the law on AML / CFT

18. Turkmenistan has not accepted the required by the FATF Recommendations measures regarding politically exposed persons (PEPs). The regulation of the bank correspondent relations is performed by the Central Bank. However, certain requirements, i.e. for assignment of AML/CFT-related responsibilities between it and correspondent banks and collection of data on correspondent banks are still absent. There is no regulation of AML / CFT issues concerning "transit accounts" in Turkmenistan. The regulation of transactions involving the use of new technologies for financial institutions of the non-banking sector, as well as the requirement for ML /FT risks management when using new technologies and conducting operations without direct contact for non-banking financial institutions are absent..

19. Financial institutions are not allowed to transfer CDD-related responsibilities to third parties or businesses and, for this reason, R.9 is not applicable to Turkmenistan.

20. The law on banking and trade secrets as a whole does not preclude the implementation of the FATF Recommendations.

21. There exist general requirements for financial institutions concerning the storage of client identification and transaction history data for a period of five years after the relationship termination date. There is no explicit requirement for financial institutions to store data in volumes sufficient to be used as evidence in administrative or criminal proceedings. The Turkmen banks are not required to consider limiting or terminating relations with financial institutions that fail to comply with the SR.VII requirements. Also absent are the specific measures to monitor the compliance by financial institutions with the requirements for wire transfer, as well as mechanisms to monitor implementation of the requirements and sanctions for violations.

22. The Law on AML / CFT makes it mandatory for financial institutions, depending on circumstances, to record in writing the factually established circumstances of complex and unusual large transactions, as well as transactions and money transfers of unusual execution pattern and containing no economic purpose (paragraph 3 of Article 4). At the same time, the Law provides for no interpretation of the contained therein terms, i.e. the terms of a "complex transaction" and an "unusual pattern", what their criteria are and what an "unusually large size" means. It is not specified depending on what "circumstances" the information on unusual transactions should be recorded.

23. The anti-laundering law contains preset data and specific measures in respect of countries with weak a AML / CFT regime. The appropriate mechanism is established to a sufficient extent, but the practice of implementation is lacking. Thus, financial institutions should pay special attention to business relations and transactions with persons (including legal entities and other financial institutions) from or in countries that do not comply, or do not fully comply with the FATF Recommendations. Yet, the list of non-cooperating countries was not provided.

24. There is a system of mandatory controls established in Turkmenistan (art. 4 and 5 of the Law on AML / CFT), pursuant to which financial institutions are required to submit to the DFM not only reports on suspicious transactions but also on all large transactions (the threshold amount for monetary transactions executed by legal entities is US\$200,000 and US\$500,000 for transactions with other assets). However, this system contains no requirement for reporting attempts to carry out transactions suspected to be linked to ML and FT. As for Recommendation 14, the law contains no express prohibition on the disclosure by financial institutions of the fact that an STR or related thereto information is being or has been submitted to the FIU. Given the existence of the regime for mandatory controls, Recommendation 19 is fully observed. The feedback link to financial institutions is not adequately maintained; neither are there any guidelines or recommendations for organizations executing transactions with monetary funds or other assets describing the methods and techniques of ML / FT available.

25. The Turkmen Law on AML / CFT contains a definition of the term "internal controls". More detailed requirements for each of the sectors are specified by the relevant rules of internal controls (RIC). Such a definition makes the concept of "internal controls" too narrow, by limiting it to submission of information to the authorized body on transactions involving monetary funds and other assets. It contains neither the application of CDD measures, nor the control over complex and very large transactions, etc. Financial institutions of Turkmenistan do not have branches or subsidiaries abroad, yet their establishment is legal under the Turkmen law. In this regard, Turkmenistan has adopted all necessary legislative measures required by Recommendation 22 governing foreign country subsidiaries and branches.

26. No shell banks can legally be established in Turkmenistan. Banks are not allowed to establish or maintain correspondent relations with shell banks. All financial institutions must also refrain from executing any transactions with foreign correspondent banks that allow shell banks to use their accounts

27. The Turkmen system for regulation of and supervision over financial institutions in the sphere of AML / CFT is based on the country's Law on AML / CFT and, in part, on industry laws and regulatory legal acts governing their activities. The responsibility for monitoring compliance by individuals and legal entities with this Law lies with the relevant supervisory authorities (Central Bank, Ministry of Finance and Ministry of Communications) within their scope of competence and in accordance with the procedure established in the Turkmen law, as well as with the authorized body, the Department of Financial Monitoring, in the absence of oversight bodies in the area of activities of certain organizations executing transactions with monetary funds or other assets. The mechanism for control and application of AML /CFT-related sanctions in Turkmenistan is at the development stage. The only exception is the banking sector, where there is a supervisory mechanism containing a procedure for identification of violations of the law and a set of sanctions which can also be applied in the context of AML / CFT.

28. The regime of sanctions for non-compliance with the law on AML / CFT in Turkmenistan is not established in all sectors. Except for the banking sector, the potential for applying a wide range of sanctions against all other types of financial institutions for violations in the area of AML / CFT is not clearly regulated. In addition to industry-specific sanctions, a dedicated article

of the Administrative Code also provides for certain liability. The practice of sanctions application is limited. Financial institutions are not obliged to apply the Basic Principles for AML / CFT. The staff strength and structure of oversight agencies are not yet fully adjusted for successful AML/CFT supervision, while the oversight agencies have not been trained in the area of oversight techniques used for AML / CFT. Besides, not all oversight agencies are authorized to conduct such supervision. The special guidelines for the private sector, which would facilitate more effective performance by financial institutions of their duties, including descriptions of new ML/FT trends and typologies, have not been issued.

29. The government-regulated financial system of Turkmenistan permits money remittances only through banks or postal service operators. However, both banks and postal services are already subject to the requirements of the AML / CFT Law, and, all the AML / CFT-related deficiencies identified in the banking system are applicable to banks in the context of remittances. At the same time, Turkmenistan has failed to demonstrate the effectiveness of its legislative and other measures used against individuals engaged in transfers of money or values (TMV).

4. Preventive Measures – Designated Non-Financial Businesses and Professions

30. Pursuant to the Law on AML / CFT, virtually all categories of DNFBPs required by the FATF are covered by appropriate measures, except for trusts and organizations establishing and providing service to legal entities. There are no organizations in Turkmenistan offering trust services. The registration of legal entities is carried out by the Ministry of Economy and Development. In addition to the established list of DNFBPs, the AML / CFT requirements also apply to organizations responsible for state registration of immovable property (registrars), as well as agencies that provide services related to state registration of immovable property rights. Pursuant to the Law on AML / CFT, the accountable DNFBPs are subject to the same standards and requirements as financial institutions.

31. The deficiencies in fulfillment of Recommendations 5, 6, and 8-11 in respect of DNFBPs, as well as Recommendations 13-15 and 21 are similar to the deficiencies identified in respect of financial institutions, with the low level of awareness among DNFBPs of their AML / CFT-related responsibilities contributing to greater risk of money laundering and terrorist financing in this sector.

32. The casino activities in Turkmenistan are subject to licensing by the State Committee for Tourism and Sport. Besides the State Committee of Turkmenistan, the control over compliance with the law by institutions conducting activities in this area is also implemented by the Ministry of Internal Affairs and the Main Tax Service of Turkmenistan. The activities of business entities in the area of online casinos are not covered by the existing law. The regulatory legal framework of Turkmenistan contains no requirement as to the ownership structure of newly established and operating casinos.

33. The Ministry of Justice is responsible for licensing of and control over the activities of lawyers, legal entities and independent legal professionals providing legal services, as well as notaries public offering services related to state registration of immovable property rights.

Although this ministry possesses general powers, the law contains no requirement for application of sanctions for AML / CFT-related violations.

34. The Central Bank of Turkmenistan is responsible for licensing of and control over the activities of traders in precious metals and stones in accordance with the Internal Controls Regulations.

35. No information guidelines designed for the use by DNFBPs have been issued by the competent authorities yet. The same feedback mechanisms apply to DNFBPs as to financial institutions.

36. In addition to financial institutions and DNFBPs, AML / CFT-related measures are also applied to pawnshops, as well as institutions running lotteries and other risk-based games. Turkmenistan is taking active steps and has developed an appropriate program to reduce the overall turnover of cash.

5. Legal Entities and Formations, Non-Profit Organizations

37. The body responsible for state registration of legal entities and their accounting in the Unified State Register of Legal Entities is the Department for State Registration of Legal Entities and Investment Projects under the Ministry of Economic Affairs and Development of Turkmenistan. All businesses (their branches and representative offices) and other entities (except for unincorporated individual entrepreneurs and entities subject to a separate procedure for registration and accounting) with the established by Turkmen law legal capacity to have rights and duties and operating in Turkmenistan are subject to state registration and accounting in the Register. However, there are no measures to ensure adequate transparency of ownership structure of legal entities. Issuance of bearer shares in Turkmenistan is prohibited.

38. No legal entities, including trusts, in the sense in which these terms are used in the FATF Recommendations may be established in Turkmenistan.

39. Turkmenistan has established a comprehensive system for control over and monitoring of the NPO (non-profit organization) sector; however, it does not cover the issues related to AML / CFT. At the same time, it can be argued that vulnerability of this sector to ML or FT is limited due to strict regulation procedures. However, Turkmenistan has not analyzed this sector as a whole to identify risks related to financing of terrorism. State registration of non-governmental non-profit organizations is the responsibility of judicial authorities. Additionally, NPOs must be registered with tax and state statistics authorities. The statistical data related to application of oversight measures is absent, making it impossible to assess the effectiveness of preventive measures in this sector.

6. National and International Cooperation

40. No coordinating body tasked with coordinating the activities of public authorities in the area of AML / CFT has been established in Turkmenistan. There is the State Committee for Combating Terrorism operating in the country, but it does not devote sufficient attention to the

issues of AML / CFT. In general, the political coordination in the area of AML / CFT requires considerable attention.

41. Turkmenistan is a party to the Vienna and Palermo Conventions. It joined the 1999 UN International Convention for the Suppression of the Financing of Terrorism on January 7, 2005. Effective implementation of the Convention is negatively impacted by insufficient criminalization of ML. There are some deficiencies in respect of implementation of the UNSCR 1267 and 1373 and other resolutions.

42. Turkmenistan is capable of providing various types of MLA in accordance with the requirements of Recommendation 36. In the absence of dual criminality, MLA can be provided to the maximum extent possible, while the technical discrepancies between the law of the requesting and requested countries do not serve as an obstacle in provision of MLA. There are clear procedures to ensure timely execution of all MLA requests. There is a common fund of confiscated property in Turkmenistan, the proceeds from which are used for law enforcement, healthcare, education and other related purposes. However, there is no mechanism governing the distribution of confiscated assets among countries in the case when confiscation is a direct or indirect result of coordinated law enforcement measures.

43. Pursuant to the CC and CPC of Turkmenistan, all foreign citizens and stateless persons who have committed crimes outside of Turkmenistan but who are located on the territory of Turkmenistan may be extradited to a foreign state for prosecution. The said provisions also cover ML offences and other predicate offenses, except for those that are not criminalized in Turkmenistan. The existing mechanisms for international cooperation are not sufficiently used by the FIU as evidenced by the low statistics. Additionally, there is virtually no cooperation between oversight agencies and their colleagues abroad.

MUTUAL EVALUATION REPORT

1. GENERAL ISSUES

1.1. General Information about Turkmenistan

44. Turkmenistan is located in the western part of Central Asia, north of Kopetdaga Mountains and between the Caspian Sea to the west and the Amu Darya River to the east. The territory of Turkmenistan is 491,200 sq km. Turkmenistan borders Kazakhstan in the north, Uzbekistan in the east and north-east, Islamic public of Iran in the south, Afghanistan in the south-east, with the Caspian Sea in the west. The country comprises 5 velayats (regions), with the city of Ashkhabad as its capital having the status of a velayat. There are 25 other town and cities, 50 etraps (districts), as well as settlements and villages. The majority of the county comprises sparsely populated deserted areas of land.

45. As of end of 2008, the population of Turkmenistan stood at more than 6.2 million. The state language of Turkmenistan is Turkmen.

State System

46. Turkmenistan is a democratic, constitutional and secular state with a form of state governance as a presidential republic.

47. Turkmenistan became an independent and sovereign state in 1991. At a referendum held in the country, Turkmen people unanimously expressed their will to live in an independent state.

48. The political structure of Turkmenistan is established in accordance with the Constitution of Turkmenistan adopted on May 18, 1992 (with September 26, 2008 amendments).

49. The Constitution of Turkmenistan is the Basic Law of the State, with the enshrined therein rules and regulations having a direct effect. All laws and other legal acts that contradict the Constitution have no legal force.

50. The supreme state power and control in Turkmenistan are exercised by the President of Turkmenistan, the Mejlis of Turkmenistan (Parliament), Cabinet of Ministers of Turkmenistan and Supreme Court of Turkmenistan.

51. The President of Turkmenistan is the head of state and executive power, the highest official of the state, the guarantor of national independence and neutrality of Turkmenistan, its territorial integrity and of respect for the Constitution and international obligations.

52. The Mejlis of Turkmenistan is the supreme representative body exercising legislative powers.

53. The Cabinet of Ministers (Government) plays the role of an executive and administrative body. The Chairman of the Cabinet of Ministers of Turkmenistan is the President of Turkmenistan.

54. The judicial power in Turkmenistan belongs only to courts. The judiciary is intended to protect the rights and freedoms of citizens, as well as the state and public interests protected by law.

Economy

55. The 2009 gross domestic product (GDP) of Turkmenistan at current prices reached 52.7 billion manats (about US\$16 billion), with the rate of its growth at comparable prices compared with 2008 standing at 106.1 percent. Manufacturing sector accounts for a significant portion of the GDP structure. In 2008-2009, this figure reached almost 72 percent.

56. The 2009 GDP per capita adjusted for purchasing power parity increased by 27.4 percent to reach US\$13,500.

Foreign Affairs

57. Turkmenistan is a member of the United Nations and a number of other international organizations. It is a member of the EAG since 2010.

Legal Framework and Hierarchy of Laws

58. The legal system of Turkmenistan is based on the continental legal tradition. The principal legal authority in Turkmenistan is derived from the following regulatory legal acts:

a) legislative acts:

- Constitution of Turkmenistan;
- Laws of Turkmenistan;
- resolutions of the Mejlis of Turkmenistan.

b) subordinate legislation:

- Decrees of the President of Turkmenistan;
- decisions of the Cabinet of Ministers of Turkmenistan;
- regulatory legal acts of ministries, state committees and agencies, decisions of local public authorities.

59. Pursuant to the Constitution of Turkmenistan, the Majlis is responsible for passing laws, introduction of amendments to the Constitution and laws of Turkmenistan and control over their implementation and interpretation. President of Turkmenistan issues, on the basis and in fulfillment of the Constitution, decrees, decisions and orders, which are binding throughout the territory of the republic. The Cabinet of Ministers of Turkmenistan is responsible, pursuant to the Constitution, for enforcement of the laws of Turkmenistan, the acts of the President of Turkmenistan and the Turkmen Mejlis.

60. Ministries, state committees and departments adopt within their jurisdiction regulatory legal acts in the form of orders and resolutions. All regulatory legal acts adopted in the form of regulations, rules and instructions must be approved by orders or resolutions of ministries, state committees and departments.

61. Pursuant to its Constitution, Turkmenistan recognizes the primacy of generally recognized norms of international law. In the even of any discrepancy between international agreements signed by Turkmenistan and the country's domestic legislation, the former shall prevail.

Transparency, Good Governance, Anti-Corruption Measures

62. In Turkmenistan, "corruption" has a collective rather than legal concept, defining an offense of various kinds: from disciplinary to criminal. For this reason, the country's anti-corruption norms share the same category with the dispositions of articles of CC of Turkmenistan located in chapters "Crimes against the Interests of State", "Crimes Against Property", i.e. the so-called "malfeasance in office".

63. Turkmenistan is a signatory to the UN Convention against Corruption (dated October 31, 2003) and is implementing a set of measures to fulfill its provisions.

1.2. General Situation with Money Laundering and Terrorist Financing

64. One of the country's main areas of activity in recent years has been the establishment of the system for combating money laundering and terrorist financing inside the country and expansion of international cooperation based on common international standards that provide for combining criminal and civil prosecution of such acts with financial monitoring. In this regard, the adopted in the country basic Law "On Combating Money Laundering and Terrorist Financing" dated May 2009 and the Law "On Amendments to Certain Legislative Acts of Turkmenistan" dated July 2009 contributed to the establishment of the institutional and legal foundation for the national AML / CFT system.

65. The crimes that constitute a major source of illicit proceeds include crimes against property and abuse of the rules for conducting business (Section 11 of the Criminal Code of Turkmenistan).

66. No cases connected with financing of terrorism (Art. 271-1 of CC of Turkmenistan) or cases connected with laundering of monetary or other criminal proceeds (Art. 242 of CC of Turkmenistan) were reviewed by Turkmen courts in the 2006 through 2009 period (there were no cases falling under this definition).

67. During the period from 2006 through 2009, no legal proceedings involving freezing and seizing of terrorist assets were carried out by Turkmen courts.

1.3. Summary of the Financial Sector and DNFBPs

1.3.1. Summary of Financial Sector

68. The following table compares the types of financial institutions existing in Turkmenistan with the types of financial activities to which FATF Recommendations should apply.

Financial Activities and Types of Financial Institutions

Type of activity of financial institution (see Glossary to 40 FATF Recommendations)	Types of financial institutions engaged in such activities	Whether they are covered by AML / CFT requirements	Supervisory/ regulatory body for AML / CFT
1. Acceptance of deposits and other repayable funds from the public	Banks	Yes	The Central Bank
2. Lending	Banks	Yes	The Central Bank
3. Capital Leasing	Banks	Yes	The Central Bank
	Leasing companies	Yes	The Central Bank
4. Money & value transfers	Banks	Yes	The Central Bank
	Postal service operators	Yes	Ministry of Communications
5. Issuance and management of payment instruments (e.g. credit and debit cards, cheques, traveler's cheques, money orders and bank drafts).	Banks	Yes	The Central Bank
6. Financial guarantees & liabilities	Banks	Yes	The Central Bank
	Insurance companies	Yes	Ministry of Finance
7. Transactions involving: (a) money market instruments (cheques, bills of exchange, deposit certificates, derivative securities, etc.); (b) exchange of foreign currency; (c) instruments linked to the currency exchange rate, interest rates and indices; (d) transferable securities; (e) commodity futures trading.	Banks for transactions referred to in sub. par. (a), (b), (c), (d) and (e)	Yes	The Central Bank
	Intermediaries (financial brokers) in securities for transactions referred to in sub. par. (d) and (e).	Yes	Ministry of Finance
8. Participation in emissions of securities and provision of financial services related to such emissions	Banks	Yes	The Central Bank
	Investment Institutions	Yes	Ministry of Finance
9. Management of individual and collective portfolios	Banks, Investment Institutions	Yes	The Central Bank, Ministry of Finance

10. Storage and disposal of cash or marketable securities on behalf of third parties.	Banks	Yes	The Central Bank
11. Other types of investment, disposal or management of assets or monetary funds on behalf of third parties.	Investment Institutions	Yes	Ministry of Finance
12. Underwriting and placement of life insurance policies and other investment-related insurance policies.	Insurance companies	Yes	Ministry of Finance
13. Exchange of funds and cash	Banks	Yes	The Central Bank

Banking Sector

69. Turkmenistan uses a two-tier ***banking system***, in which the Central Bank of Turkmenistan is a regulatory and supervisory authority, while commercial banks operate under license from the Central Bank of Turkmenistan. Foreign banks and their affiliates are required to register and obtain license from the Central Bank of Turkmenistan.

70. Banking activities are carried out in accordance with the laws of Turkmenistan "On Central Bank of Turkmenistan" dated October 8, 1993, "On Commercial Banks and Banking" dated October 8, 1993, "On Currency Regulation" dated October 8, 1993 and "On Amendments to Certain Legislative Acts of Turkmenistan" dated July 2, 2009.

71. The activities and transactions carried out by commercial banks are governed by other laws, e.g. the Law of Turkmenistan "On Currency Regulation" and "On Securities and Stock Exchanges in Turkmenistan", a well as subordinate acts in the form of Presidential Decrees and regulations of the Central Bank of Turkmenistan.

72. Only commercial banks are entitled to execute banking transactions in Turkmenistan. The list of banking transactions is specified in the Law of Turkmenistan "On Commercial Banks and Banking" and is not restricted (Article 13). Thus, in addition to attracting and investing funds, opening accounts (deposits), carrying out settlements and secured transactions, as well as transactions involving securities and precious metals, etc., commercial banks have the right to carry out other transactions not prohibited by the Turkmen law as long they have an appropriate license for it.

73. As of August 1, 2010, the banking system comprises of the Central Bank of Turkmenistan and 11 banks with 129 branches. Three of them are banks with foreign capital, including two where it reaches 100 percent. Banks and their branches have separate subdivisions: agencies that provide certain banking operations, exchange offices and pension issuance outlets.

74. There are also two representative offices of foreign banks (Deutsche Bank and Commerzbank) operating in Turkmenistan. There are no non-banking credit institutions present in the country.

Exchanges

75. The Interbank Currency Exchange of Turkmenistan is operating pursuant to the Regulations on Interbank Currency Exchange of Turkmenistan and the Rules for Exchange Trade approved by Presidential Decree No. 9847 of May 13, 2008 "On Main Measures for Currency Regulation and Maintenance of a Uniform Rate of the National Currency" (hereinafter the "Regulations on Interbank Currency Exchange and Rules for Exchange Trade"). The Interbank Currency Exchange is a subdivision of the Central Bank of Turkmenistan. To conduct settlement and clearing services, the Interbank Currency Exchange has bank accounts on the balance sheet of the Central Bank. All other economic activities of the Interbank Currency Exchange related to exchange trading must be authorized by the Central Bank of Turkmenistan.

76. The Interbank Currency Exchange enjoys considerable independence. So, for example, the Interbank Currency Exchange organizes and conducts exchange trading (paragraph 8); holds national and foreign currency accounts with the Central Bank of Turkmenistan; has a seal bearing its name (paragraph 5); drafts and approves internal documents and supervises their implementation (paragraphs 8, 9); posts quotations for foreign currencies (paragraph 8); independently establishes the minimum requirements and a list of documents necessary to obtain a membership of the exchange; as well as decides on granting and termination of exchange membership (paragraphs 12 - 14). Both authorized banks and resident legal entities with export proceeds in foreign currency may become members of the Exchange. The Interbank Currency Exchange also has its own (in addition to contributions from the Turkmen Central Bank) funding sources such as members' contributions, transaction commissions and fees for services authorized by the Exchange.

77. With regard to commodity exchanges, there is currently only one commodity exchange (the State Commodity Exchange of Turkmenistan) operating in the country. However, establishment of commodity exchanges is not illegal under Turkmen law. The main law governing the activities of commodity exchanges is the Law of Turkmenistan "On Commodity Exchanges" (hereinafter the "Law on Commodity Exchanges"). The main activities of the exchange (Article 6) are dedicated to arranging trade in goods (contracts). Trading in securities is allowed pursuant to the law on securities trading. Transactions are executed in clearance centers, whose functions may also be performed by any financial lending institutions (Article 20).

Insurance Sector

78. Insurance activities are carried out in accordance with the Law of Turkmenistan "On Insurance" dated November 24, 1995, which governs the activities of insurance companies in the country.

79. There is one State Insurance Company, "Turkmengosstrah", operating in the country, which has 40 subdivisions. The 2009 volume of insurance payments totaled 129.94 million manats (or US\$45.6 million). The control over reinsurance operations involving foreign insurance brokers and insurance and reinsurance companies is carried out by the Ministry of Finance of Turkmenistan.

80. Insurance companies are subject to mandatory annual auditing. Furthermore, they are subject to regular (once in three years) inspections by the Audit Office of the Ministry of Finance of Turkmenistan.

81. Insurance companies must operate in accordance with their charters and are subject to state registration in accordance with the laws of Turkmenistan. It should be noted that the activities of foreign insurance companies and provision of intermediary activities on behalf of foreign insurance companies are prohibited in Turkmenistan.

Securities Sector

82. The Securities Market of Turkmenistan is still in its infancy and very small in size. As of April 1, 2010, there was no organized securities market. . Turkmenistan does not issue public securities. There is a corporate securities market in the country (mostly closed joint stock companies) where shares are distributed directly by issuers.

83. August 2009 saw the adoption of the Regulations on Licensing of Securities Market Activities, which provides for control over the activities of legal entities and individuals operating in this sector.

84. The securities market activities connected with issuance and circulation of securities, as well as with the activities of securities market and stock exchange participants are governed by the Laws of Turkmenistan "On Securities and Stock Exchanges in Turkmenistan" dated December 28, 1993 and "On Joint Stock Companies" dated November 23, 1999.

85. Issuance and circulation of securities in Turkmenistan are permitted after registration with the Ministry of Finance of Turkmenistan.

86. State registration of securities issued by commercial banks is carried out by the Central Bank of Turkmenistan, which is required to submit, within a week, information on registered securities to the Ministry of Finance of Turkmenistan for inclusion in the Unified State Register.

87. The Holder of the Unified State Register for the registered in Turkmenistan securities is the Ministry of Finance of Turkmenistan, which is responsible for regular (at least once a month) publication of the list of newly registered securities.

88. The issuance of unregistered securities is illegal and entails their seizure from the owners by the registration authorities, to be preceded by a notice of the upcoming seizure posted in the media and to be followed by recovery of funds at the expense of the issuer.

89. The professional securities market participants' activities are licensed by the Ministry of Finance of Turkmenistan in accordance with Presidential Decree No. 10595 of August 14, 2009.

Professional activities in the securities market may be carried out by legal entities acting as securities market participants who are licensed and registered in the uniform register for professional securities market participants.

90. A professional securities market participant is a licensee and a business legal entity of Turkmenistan, regardless of its form of incorporation, for whom the licensed activity is statutory.

91. Among the activities classified as professional securities market activities are as follows: brokerage, dealer activities, securities management, clearing activities, custody business, custodian activities, securities holder register maintenance and securities market trading.

92. The Ministry of Finance of Turkmenistan monitors the activities of professional securities market participants and takes decisions connected with revocation of the issued license in the event of violation of Turkmenistan's law on securities.

Entities Providing Services of Money and Value Transfers (TMV) Another type of financial activity is money remittance (postal, telegraphic, wire). The institution authorized to carry out the above activity is a postal service operator represented by a state postal service company "Turkmenpost" (hereinafter the SPSC "Turkmenpost").

94. Pursuant to the Guidelines for Provision of Postal Services approved by decision of the Cabinet of Ministers of Turkmenistan No. 2 of January 13, 1994, there are two types of money remittances: domestic and international.

95. Exchange of international money transfers is carried out on the basis of the Agreement on Postal Payment Services adopted at the XXIII World Postal Congress in Bucharest in 2004. In furtherance of this Agreement, contracts are concluded between the SPSC "Turkmenpost" and postal operators of other countries. The maximum amount of a single international money transfer is specified in agreements.

96. Decree of the Ministry of Communications of Turkmenistan No. 76 of June 11, 1998 approves the Standard Rules of Internal Controls for postal service operators conducting financial transactions subject to special control.

97. According to the information made available by representatives of SPSC "Turkmenpost", domestic remittances can be carried out only in national currency, within Turkmenistan and are not limited in size. International remittances directed outside Turkmenistan must be either of social nature or authorized by court, or be to a CIS member country. International transfers may be made in foreign currency but their size should not exceed US\$5000 or its equivalent.

1.3.2. Summary of Designated Non-Financial Businesses and Professions (DNFBP)

Dealers in Precious Metal and Stones

98. Pursuant to the Regulations on Licensing of Activities Connected with Precious Metals and Precious Stones approved by Presidential Decree No. 11010 of March 26, 2010, transactions in precious metals and precious stones are actions resulting in the transfer of ownership or other

proprietary rights to precious metals and precious stones (circulation of precious metals and precious stones), including their use as collateral; alteration of physical condition or contents of precious metals and precious stones and products therefrom, including transportation of precious metals and precious stones and products therefrom into storage, funds and stocks, as well as their storage and exhibition; export from Turkmenistan of precious metals and stones, and scrap with their content.

99. The subjects of legal relations in the sphere of activity involving precious metals and precious stones are the state represented by appropriate government bodies, other legal entities and individuals of Turkmenistan, including individual entrepreneurs, as well as foreign legal entities and individuals engaged in activities connected with precious metals and precious stones on the territory of Turkmenistan.

100. The Committee on Precious Metals and Precious Stones at the Central Bank of Turkmenistan (Regulation approved by Presidential Decree No. 11022 of April 1, 2010) is responsible, within the scope of its competence, for issuance of licenses to carry out activities connected with precious metals and precious stones, and control over the activities of licensees to ensure their compliance with licensing requirements and conditions.

101. As of July 31, 2010, there were two business entities in Turkmenistan engaged in wholesale trade in precious metals and stones; 6 entities engaged in the retail trade in products made of precious metals and precious stones, including items accepted from the public under commission agreements; 6 institutions (banks) that accept precious metals and precious stones as collateral and for storage.

Real Estate Activities

102. Real estate companies may carry out real estate activities under a license issued by the Ministry of Economy and Development of Turkmenistan. A license to engage in real estate activity gives the licensee the right to provide the above services as part of its business activity.

103. The licensee may not act as a real estate company when executing transactions in which he participates as a performer of evaluation (unless otherwise is provided for in the contracts concluded with the consumer of real estate services and the customer who ordered such evaluation).

104. Three real estate companies were issued licenses to engage in real estate activities by the Ministry of Economy and Development of Turkmenistan as of August 1, 2010.

Notaries and Advocacy

Notaries

105. Pursuant to the Law of Turkmenistan on "On Notaries Public" of April 30, 1999, notaries public are authorized to perform on behalf of Turkmenistan notarial acts provided for by this law, other country's law and international treaties concluded by Turkmenistan.

106. All notarial acts in Turkmenistan are executed by public notaries working in public notary offices. The provision of notarial services provided for by this Law to Turkmen citizens located abroad is the responsibility of consular offices of Turkmenistan.

107. Pursuant to the Regulations of the Ministry of Justice of Turkmenistan approved by Presidential Decree No. 9944 of August 6, 2008, the ministry is responsible, within its scope of competence, for control over the activities of notaries.

The Bar & Advocacy

108. Pursuant to the Law of Turkmenistan "On the Bar and Advocacy in Turkmenistan" adopted May 10, 2010, the Bar is a professional association of lawyers operating on the principles of self-government, established for the purpose of engaging in advocacy and having a status of a legal institution of civil society outside the system of state power and control. Advocacy is a type of professional legal assistance provided by a lawyer in the manner established by law and for the purposes of defending the rights and freedoms of the individual and legitimate interests of legal entities, as well as with the goal of upholding and strengthening the rule of law in society.

109. Pursuant to the Law of Turkmenistan "On Licensing of Certain Activities" adopted June 25, 2008, all activities connected with provision of legal assistance to businesses and individuals must be licensed.

110. Pursuant to the Regulations on State Licensing of Activities Connected with Provision of Legal Assistance to Legal Entities and Individuals approved by Presidential Decree No. 10638 of September 18, 2009, only individuals and legal entities of Turkmenistan providing professional services under a license issued by the licensing authority and meeting the requirements of these Regulations are permitted to engage in activities connected with provision of legal assistance. Licenses to engage in activities connected with provision of legal assistance are issued by the Ministry of Justice of Turkmenistan. No information on the number of active lawyers was provided.

Gambling Business

111. Gambling business in Turkmenistan is carried out in accordance with the Presidential Decree No. 2395 dated November 5, 1995 "On Procedure for State Licensing of Gambling Business in Turkmenistan". Gambling business is an activity carried out by a gambling establishment and aimed at deriving income in the form of winnings in and fees for organizing and holding games of luck.

112. The term "gambling business" stands for operation of casinos, racetracks, slot machine parlors, as well as establishments that are used for holding games, amusement activities and accepting bets with declared cash or non-cash prizes. Pursuant to Presidential Decree No. 2395 of November 15, 1995 "On State Licensing of Gambling Business in Turkmenistan", the State Committee of Turkmenistan for Tourism and Sports is responsible for licensing of the gambling business and control over the activities of licensees. In the event of any violation of licensing requirements and conditions for carrying out the licensed activities, the State Committee for

Tourism and Sport may, within the scope of its competence, issue an order to remedy the identified deficiencies, suspend the license for up to one month or revoke it.

113. So far, the State Committee of Turkmenistan has issued two licenses to engage in the gambling business: to state enterprise "Kumush Ai" (casino, slot machine parlor) and to subsidiary company "Tursen Tourism" (casino, slot machine parlor and sports betting). Thus, as of August 1, 2010, there were two business establishments operating in the gambling business.

114. The monitoring of compliance by businesses operating in this sector with the law is also carried out by the Ministry of Internal Affairs and the Main Tax Service of Turkmenistan.

115. No information on the activities of accountants was provided.

1.4. Summary of Commercial Laws and Mechanisms Governing Legal Entities and Formations

116. The issues related to state registration and liquidation of commercial and non-profit organizations are addressed in the Presidential Decree No. 8054 of September 8, 2006 "On Improving the State Registration of Legal Entities and Investment Projects".

117. The body responsible for state registration of legal entities and their accounting in the Unified State Register of Legal Entities (hereinafter the "Register") is the Department for State Registration of Legal Entities and Investment Projects under the Ministry of Economic Affairs and Development of Turkmenistan (hereinafter the "Registration Office").

118. The Turkmen Law "On Enterprises" dated 2000, establishes the procedure for registration and liquidation of enterprises; requirements for the statutory fund; documents required for submission to the registering authority; as well as the grounds for denial of state registration.

119. All applicants (hereinafter referred to as the "subjects of registration") wishing to be issued a state registration of a legal entity (legal entity's subsidiary or representative office) are required to present the required documents in the Turkmen and Russian languages (or any other language) to the Registration Office in person together with the documents specified in regulatory legal acts of Turkmenistan and Regulations. All documents submitted in any other foreign language must be accompanied by duly certified Turkmen and Russian language translations.

120. Currently, there are the following types of enterprises existing in Turkmenistan: state-owned enterprises, sole proprietorships, cooperative enterprises, public associations, business associations and joint stock companies.

121. Public associations in Turkmenistan may be established in one of the following legal forms: non-government organizations, public movement, public fund and the body of public initiative. The management and organizational structure of public associations are governed by statute.

122. The establishment and operation of public associations that pursue the goals of forcibly changing the constitutional system, undermining the country' security, accepting violence, opposing constitutional rights and freedoms of citizens, advocating war, racial, ethnic, social and religious enmity, threatening the health and public morals of its people and establishing paramilitary groups are prohibited in Turkmenistan.

123. The responsibility for monitoring compliance with the Turkmen law on public associations lies with the Prosecutor General of Turkmenistan and subordinate to it prosecutors.

1.5. Brief Summary of the Strategy for Combating Money Laundering and Terrorist Financing

a. Strategies and Priorities of AML / CFT

124. Turkmenistan has no strategy in the area of AML / CFT. Nevertheless, Turkmenistan has stated that the priorities of the national system for combating money laundering and terrorist financing are as follows:

- a) reducing the extent of criminal and illegal business activities;
- b) eliminating the conditions conducive to the creation and regeneration of financial resource base that supports terrorism, crime, drug trafficking and corruption;
- c) preventing illegal withdrawal of funds and revenues from Turkmenistan;
- d) creating conditions for successful repatriation of funds and proceeds of crime illegally channeled out Turkmenistan;
- e) ensuring effective implementation of the powers of state bodies and organizations involved in combating money laundering and terrorist financing, as well as optimization of mechanisms for coordination of their activities and cooperation between them

125. The achievement of strategic goals is carried out in the following main areas:

- a) regulatory and legal support for the national system, which includes the following:
 - developing mechanisms aimed at narrowing the sphere of the unaccounted for economy, including improving the system of financial control;
 - developing and improving the system of secondary regulatory legal acts that ensure effective implementation of the provisions of the law in this area;
 - developing and improving regulatory legal mechanisms responsible for ensuring legal accountability of legal persons involved in money laundering and terrorist financing; seizure of money, valuables and other property acquired by criminal means or used to finance terrorism or perpetrate other offences; as well as improving the practical application of these mechanisms;
 - strengthening international cooperation in the area pertaining to the search for, confiscation and repatriation of funds and proceeds of crime illegally channeled out of the country;
 - increasing responsibility for financing of terrorism, as well as for crimes committed by criminal groups, corruption crimes, fraud, trafficking in drugs, weapons, nuclear, chemical and other highly hazardous materials associated with the legalization (laundering) of proceeds obtained as a result of these crimes;
 - better defining the list of entities required to implement measures aimed at combating money

laundering and terrorist financing, with account for the FATF Recommendations;

- drafting regulations in the field of supervision, exercised in accordance with the law on combating money laundering and terrorist financing, over transactions carried out by natural persons with monetary funds or other assets with the goal of preventing, identifying and suppressing acts linked to money laundering and terrorist financing in the event of any inconsistencies between the levels of the incurred by them expenses and officially derived income.

b) improving the techniques used to study and identify the clients of organizations executing operations with monetary funds or other assets, which include:

- differentiated approach to the identification and study of clients depending on their affiliation to the relevant group of risk;
- developing mechanisms that allow organizations executing transactions with monetary funds or other assets to obtain information needed to establish and identify the beneficiaries.

c) increasing the effectiveness of oversight activities that provide for the following:

- optimization of the frequency of inspections by oversight bodies of institutions executing transactions with monetary funds or other assets aimed at ensuring their compliance with the requirements of the regulatory legal acts in this area;
- strengthening control over the ownership structure of the institutions executing transactions with monetary funds or other property as it pertains to identification of beneficiaries and the real owners;
- accumulation by oversight bodies of information on the founders (participants) and the real owners of organizations executing transactions with monetary funds or other assets, as well as their affiliates.

d) improving the performance of the directorate of financial monitoring and other state bodies involved in combating money laundering and terrorist financing, as well as providing better logistics and supply support, including through the following:

- expansion of technical capabilities for gathering, processing, storing and providing the necessary information at the federal, regional and international levels;
- establishment of a unified information system of databases in the field of combating money laundering and terrorist financing, which should include the databases of registration authorities.

e) improving enforcement practices of law enforcement agencies and courts in cases related to money laundering and terrorist financing, including:

- improving the techniques used to identify, uncover and investigate criminal cases belonging to this category;
- introducing a specialization for investigators, prosecutors and judges that focuses on investigations of criminal cases of this category;
- developing and, if necessary, implementing appropriate measures of state protection for government officials involved in combating money laundering and terrorist financing, as well as participants in criminal proceedings related to criminal cases of this category.

f) enhancing cooperation between the directorate of financial monitoring and law

enforcement agencies, as well as between law enforcement and supervisory authorities themselves and supervised organizations executing transactions with monetary funds and other assets, including in the following areas:

- ensuring cooperation between the directorate of financial monitoring and operational and investigative units;
- exchanging information on institutions ignoring the requirements of the law in this area;
- joint development of the methodology for combating money laundering and terrorist financing, as well as common approaches to the qualification of such crimes.

g) strengthening international cooperation in the area of combating money laundering and terrorist financing, including through:

- participation in international treaties and the work of specialized international organizations;
- conclusion of interstate agreements on exchange of information on the owners of organizations located under the jurisdiction of other states, including in offshore jurisdictions;
- development of effective forms of cooperation with financial intelligence units, law enforcement agencies, special forces and other competent bodies of foreign states and international organizations;
- participating in the work of the EAG (FATF-style Regional Group) and contributing to its successful operation;

h) raising the level of professional training received by specialists when it comes to organizing and taking part in the measures aimed at combating money laundering and terrorist financing, including through:

- establishment of a national system for training specialists in the sphere of combating money laundering and terrorist financing;
- development of various forms of additional training for public officials and employees of organizations involved in combating money laundering and terrorist financing.

i) establishing a system for evaluating the effectiveness of measures used to combat money laundering and terrorist financing, which include:

- development of scientifically sound quantitative and qualitative evaluation criteria in this field that reflect international standards and requirements;
- establishment of a comprehensive system of statistical reporting by law enforcement and other authorities on prevention, identification, detection, investigation and review of crimes belonging to this category, as well as on the persecution of the perpetrators.

b. Institutional Structure for Combating Money Laundering and Terrorist Financing

126. The principal laws of Turkmenistan governing combating money laundering and terrorist financing are as follows: Law "On Combating Terrorism"; Criminal Code of Turkmenistan; Law "On Commercial Banks and Banking"; Law "On Narcotic Drugs, Psychotropic Substances, Precursors and Measures to Combat Illicit Trafficking therein"; Law "On Combating Human Trafficking"; Criminal Procedure Code of Turkmenistan; Code of Administrative Offences of Turkmenistan; Law "On Combating Money Laundering and Terrorist Financing"; etc.

Specially Authorized Government Body in the Area of AML / CFT

127. The Directorate of Financial Monitoring under the Ministry of Finance of Turkmenistan (hereinafter the "DFM") was established within the structure of the Ministry of Finance of the Republic of Turkmenistan pursuant to Presidential Decree No. 10798 of January 15, 2010 concerning the approval of the Regulations "**On the Directorate of Financial Monitoring under the Ministry of Finance of Turkmenistan**".

128. Pursuant to par. 2 of Article 6 of the Law on AML / CFT, the FIU of Turkmenistan shall, within its scope of competence:

- gather and analyze data on transactions subject to mandatory controls;
- demand that persons submitting information adopt measures to combat money laundering and terrorist financing pursuant to this Law and other legislative acts of Turkmenistan;
- develop and implement measures aimed at improving the system for prevention, detection and suppression of suspicious transactions, as well as transactions connected with ML / FT;
- submit to the court (judge), the prosecutor's office, investigation and inquiry bodies the documents and other materials related to ML / FT on the basis of formal written requests therefor connected with initiated criminal proceedings pursuant to the laws of the Republic of Turkmenistan. The above information may also be provided to law enforcement agencies and courts by the authorized government body on its own initiative.

Financial Sector Bodies

129. ***The Central Bank.*** Pursuant to the Law "On Central Bank of Turkmenistan", one of the main tasks of the Central Bank of Turkmenistan is the licensing of and supervision over banks and the banking system, as well as the stable functioning of the banking system of Turkmenistan. The same Law stipulates that it is the responsibility of the Central Bank of Turkmenistan to oversee the activities of the licensed by it banks with the goal of combating terrorism financing. It should be noted that the CB also oversees the activities of leasing companies and securities market participants.

Ministries

130. ***The Ministry of Finance of Turkmenistan*** is authorized to exercise general supervision over the insurance and securities markets; however, its powers of oversight in the area of AML / CFT in the context of these markets are not clearly defined in the Laws of RK "On Insurance" and "On Securities and Stock Exchanges in Turkmenistan", and are based only on the Law of RK "On AML / CFT".

131. The Ministry of Adalat (Justice) of Turkmenistan oversees the activities of notaries, organizations providing legal services, attorneys executing in the name or at the request of their client financial transactions associated with buying or selling real estate property; management of monetary resources, securities or other assets; administration of bank and (or) deposit accounts; setting up companies or their separate divisions or involvement in their management; acquisition or sale of a company as a portfolio of assets. However, the powers of the ministry to carry out supervision in the area of AML / CFT are not clearly defined in the law.

132. *The Ministry of Communications of Turkmenistan* oversees and monitors the activities of postal service operators. However, the powers of the ministry to carry out supervision in the area of AML / CFT are not clearly defined in the law.

133. *The Committee of Sports and Tourism of Turkmenistan* is responsible, within its scope of competence, for supervision over the activities of casinos, bookmakers and other gambling establishments that use slot machines and other devices for running games of chance. However, the powers of the ministry to carry out supervision in the area of AML / CFT are not clearly defined in the law.

Criminal Justice Bodies and Operational Authorities

134. *The Ministry of National Security of Turkmenistan* fights terrorism through prevention, detection and suppression of terrorist crimes, including crimes that pursue political goals, as well as prevention, detection and suppression of international terrorist activities, provision of security to institutions of Turkmenistan; gathers information on the activities of foreign and international terrorist organizations.

135. *The Ministry of Internal Affairs of Turkmenistan* carries out the fight against terrorism through prevention, detection and suppression of terrorist crimes on the territory of Turkmenistan by continuously monitoring the issuance of identity papers and travel documents; overseeing the compliance by legal and natural persons with the rules governing the storage, use and transportation of firearms, explosives, poisonous and radioactive substances; identifying persons prone to terrorism and their associates, as well as informational publications in print and electronic media advocating religious, racial intolerance and calling for commission of terrorist acts.

136. *The State Customs Service of Turkmenistan* carries out the fight against terrorism through suppression of smuggling into the territory of Turkmenistan of weapons, ammunition, explosives, toxic and radioactive substances and materials, as well as printed and other publications calling for the overthrow of the constitutional order or commission of other acts that undermine public safety, aimed at the physical elimination of government officials, willful disobedience of the law and abuse of public morality. The Prosecutor General's Office of Turkmenistan ensures accurate and uniform compliance with the Turkmen law, contributes to elimination of its violations, the causes and conditions that are favorable for terrorism, and conducts criminal investigations of terrorist crimes.

138. *The State Service for Combating Narcotic Drugs* is directly involved in the fight against illegal drug trafficking, thereby contributing to the fight against terrorism through prevention, detection and suppression of terrorist crimes related to drug trafficking or its financing.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1 Criminalization of Money Laundering (R.1 & R.2)

2.1.1 Description and Analysis

Recommendation 1

139. Turkmenistan criminalized “money laundering” (hereinafter ML) in Article 242³ of the Criminal Code “Legalization of Illegally Obtained Funds or Other Property”⁴. Pursuant to this Article, performance of financial transactions and other deals with funds or other property, knowingly obtained in illegal way, as well as the use of such funds or other property for carrying out entrepreneurial (business) or other economic activities and concealment of such actions is recognized as the crime.

140. The provisions of Article 242 of the Criminal Code are consistent with the requirements of the Vienna and Palermo Conventions.

141. The Criminal Code of Turkmenistan does not define “self-laundering” as a separate element of the crime. However, the representatives of the General Prosecutor’s Office of Turkmenistan informed the assessors that Article 242 of the Criminal Code also covers this element of the crime.

142. The requirements of the Conventions to criminalize conversion or transfer of property that represents the proceeds of crime, “legitimizing the origin of property (funds or other assets) through its transfer, conversion or exchange, if funds and other assets are obtained as a result of criminal activity” are covered by the wording of Article 242 of the Criminal Code “performance of financial transactions and other deals with funds or other property, knowingly obtained in

³ Article 242 was introduced in 1996.

⁴ (1) Performance of financial transactions and other deals with funds or other property, knowingly obtained in illegal way, as well as the use of such funds or property for carrying out entrepreneurial (business) or other economic activities and concealment of such actions,

are punishable by a fine in amount from fifty to one hundred average monthly wages or by corrective treatment for a period of up to two years or by imprisonment for a period of up to two years.

(2) The same acts, if committed:

a) repeatedly;

b) by a group of persons by previous concert or by organized group;

c) by an officer through the abuse of official powers,

are punishable by a fine in amount from seventy five to one hundred and fifty average monthly wages with or without confiscation of property or by imprisonment for a period from two to five years with or without confiscation of property.

(3) Where actions stipulated in the first and the second parts of this Article with regard to funds or other property obtained by criminal means have been committed in a large scale,

they are punishable by imprisonment for a period from three to eight years with confiscation of property.

Note

Large scale of funds and other property obtained by criminal means stipulated in this Article is the amount exceeding one hundred average monthly wages.

illegal way, as well as the use of such funds or other property for carrying out entrepreneurial (business) or other economic activities”. The requirements of the Conventions pertaining to “conversion and transfer of property” are covered since, although the terms “financial transaction or deal” used in the Article are not defined in the AML/CFT Law (the term “transaction” is defined through the term “deal”), the Civil Code defines the term “deal” as “expression by natural and legal persons of their will aimed at establishing, changing or termination of civil rights and liabilities”.

143. The requirements of the Convention to criminalize “acquisition, possession or use” are covered only partially. The provisions of Article 237 of the Criminal Code “Acquisition, storage and sales of property knowingly obtained by criminal means” cover just “acquisition”, while “possession” and “use” are covered only as applied to storage and sales, respectively.

144. The purposes of money laundering, as provided for in the Conventions - “for concealment or disguise of the criminal origin”, are specified in Article 242 of the Criminal Code. In particular, the representatives of the Supreme Court explained to the assessors that the term “concealment” used in Article 242 of the Criminal Code means “disguise”.

145. The requirements of the Conventions to criminalize “*participation in, association with or conspiracy to commit any criminal offence, ...attempting to, as well as aiding, abetting, facilitating and counseling during the perpetration of a criminal offence*” are covered by the provisions of Articles 13-14 (Preparation for and attempt to commit a criminal offence), Article 32 (Complicity in a crime), Article 33 (Types of accomplices) and Article 35 (Liability for complicity in a crime) of the Criminal Code of Turkmenistan.

146. The object of a ML-related offence is funds or other property (Article 242 of the Criminal Code), regardless of their value, that, directly represent the proceeds of crime. The term “property” is defined in section 3 of Article 1 of the Law on Counteracting Legalization of Criminal Proceeds and Financing of Terrorism: “property is any material item that may be owned, used, disposed of and acquired, in any quantities, by natural and legal persons, that is not prohibited by the law and is consistent with the moral standards”.

147. According to the information provided to the assessors during the on-site mission, it is not necessary to know precisely as a result of what specific crime tangible assets have been obtained, but it is sufficient to know that tangible assets have been obtained in a criminal manner. Besides that, the Criminal Code of Turkmenistan does not provide for any exceptions of crimes that are predicate offences for legalization (laundering) of proceeds obtained by criminal means.

148. Pursuant to Article 8 of the Criminal Code, the citizens of Turkmenistan and stateless persons permanently residing in Turkmenistan who commit a crime, punishable under the Criminal Code, outside Turkmenistan are subject to prosecution under the Criminal Code of Turkmenistan if the act committed by these persons is recognized as a crime in the country where it has been committed and if these persons have not been convicted in a foreign country. In case of conviction of such persons punishment may not exceed the upper limit of sanctions set forth in the law of the country where a given crime has been committed.

149. Foreign nationals and stateless persons not residing permanently in Turkmenistan are subject to liability under the criminal legislation of Turkmenistan for a crime committed outside Turkmenistan if such crime is aimed against Turkmenistan and its citizens and in situations provided for in the international agreement/treaties of Turkmenistan, if these persons have not been convicted in a foreign country and have not been brought to trial in Turkmenistan.

150. The following Articles of the Criminal Code of Turkmenistan cover 19 of 20 designated categories of offences:

Designated Categories of Offences (FATF Recommendations Glossary)	Chapters and Articles of the Criminal Code of Turkmenistan
Participation in an organized criminal group and racketeering	33, 34, 58, 101, 107, 126, 274, 277, 285, 287, 291, 292 и 294
Terrorism, including terrorist financing	271, 271 ¹
Trafficking in human beings and migrant smuggling	129
Sexual exploitation, including sexual exploitation of children	137, 143
Illicit trafficking in narcotic drugs and psychotropic substances	254, 292, 293-301
Illicit arms trafficking	254, 287
Illicit trafficking in stolen and other goods	227, 237
Corruption and bribery	184-186, 199
Fraud	228
Counterfeiting currency	252
Counterfeiting and piracy of products	153, 247
Environmental crime	Chapter 31

Murder, grievous bodily injury	101-107
Kidnapping, illegal restraint and hostage-taking	126, 129, 130
Robbery or theft	227, 230
Smuggling	254
Extortion	232, 291 и 294
Forgery	187
Piracy	231, 234, 277
Insider trading and market manipulation	Not covered

151. The above Table shows that such types of the designated categories of offences as insider trading and market manipulation are not criminalized in the Criminal Code of Turkmenistan and, therefore, there is a partial non-compliance with the FATF Recommendations for the minimum list of the “designated categories of predicate offences”.

Recommendation 2

152. Pursuant to Articles 20 and 21 of the Criminal Code of Turkmenistan, only mentally competent natural persons who have attained the age of 16 prior to the commission of a crime can be subject to criminal proceedings. A person is defined as mentally competent if he/she, during the commission of a crime, is conscious of the nature and implications of his/her actions (inactions) and has control over them. In view of this, ML-related criminal proceedings can only be instituted against natural persons who knowingly commit a ML crime.

153. Under Article 27 of the Criminal Code of Turkmenistan, a crime is considered to have been committed with specific intent if the person who committed it was aware of the danger his actions or inactions posed to society, foresaw their socially dangerous consequences and desired their onset or foresaw the inevitable occurrence of such consequences. A crime is considered to have been committed with indirect intent if the person who committed it was aware of the danger his actions or inactions posed to society, foresaw their socially dangerous consequences, did not desire but intentionally failed to prevent their onset or ignored them. The element of intent to commit a ML-related offence can be inferred from objective factual circumstances.

154. It should be noted that despite the fact that Article 242 of the Criminal Code of Turkmenistan (see text of article 242 in R.1) provides a wide range of sanctions imposed for

money laundering or other property acquired by illegal means, the amount of the penalties provided in the case of basic ML is low, compared with other EAG member-states.

155. Criminal liability of legal entities is not provided for. There are no fundamental principles of domestic law that would inhibit the application of criminal liability to legal entities..

156. At the same time, it should be noted that criminal or administrative proceedings can be instituted against a natural person employed by a legal entity if such person is found guilty of committing or participating in the commission of a ML crime.

157. However, the representatives of Turkmenistan informed the assessors that in case of non-compliance with the legislation, including the AML/CFT legislation, legal entities may be held liable under Article 58 of the Law on Enterprises which provides the grounds for suspension or termination of the activities of legal entities for violation of the legislation of Turkmenistan.

Effectiveness and Statistics

158. The following statistics on predicate offences committed in 2010 was presented:

Article	Number of Criminal Cases Judged by Turkmenistan Courts	Number of Convicts
Article 227. Theft		1454
Article 228. Fraud		371
Article 229. Appropriation or Embezzlement		987
Article 230. Robbery		351
Article 231. Armed Robbery		258
Article 232. Extortion		41
Article 274. Banditism		
Article 254. Smuggling		241
Article 292. Illicit Production, Processing, Acquisition, Storage, Transportation, Shipment of Narcotics Drugs or Psychotropic Substances for Sale	1724	3191
Confiscation of Property	1101	2166

159. Although Article 242 was introduced over 15 years ago (in 1996), there have been no ML investigations, prosecutions or convictions. Consequently, the offence is not being effectively implemented.

2.1.2. Recommendations and Comments

Recommendation 1

160. Such types of the “designated categories of offences” (provided for in the FATF Recommendations) as insider trading and market manipulation should be criminalized.

161. It is also recommended to take steps to raise the effectiveness of implementation of Article 235, inter alia, through conducting trainings for prosecutors and judges.

Recommendation 2

162. In order to make legal entities subject to criminal liability, Turkmenistan is recommended to introduce into the AML/CFT Law of Turkmenistan provisions specifying the liability of legal entities for involvement in ML-related crimes (similar to Article 24 of the Law of Turkmenistan “On Combating Terrorism”).

163. In order to achieve proportionality of sanctions imposed for ML, it is recommended to amend Article 242 of the CC in terms of increasing the size of sanctions.

164. It is also recommended to take steps to raise the effectiveness of implementation of Article 242, inter alia, through conducting trainings for prosecutors and judges.

2.1.3. Compliance with Recommendations 1 and 2

No.	Rating	Summary of factors underlying rating
R.1	LC	<ul style="list-style-type: none"> • Provisions of Article 242 do not cover indirect proceeds of crime; • Possession and use are not fully covered as required by the Conventions; • The Criminal Code does not criminalize such types of the “designated categories of offences” as insider trading and market manipulation; • The ML offence is not effectively implemented, as there have been no investigations or prosecutions for ML.
R.2	LC	<ul style="list-style-type: none"> • Criminal liability for ML does not extend to legal persons. • The ML offence is not effectively implemented, as there

		<p>have been no investigations or prosecutions for ML.</p> <ul style="list-style-type: none"> •
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2.2. Criminalization of Financing of Terrorism (SR. II)

2.2.1. Description and Analysis

165. In Turkmenistan, financing of terrorism (hereinafter FT) is criminalized in Article 271¹ of the Criminal Code⁵. The wording of this Article of the Criminal Code and of Article 26 of the Law on Combating Terrorism reflects the requirements set forth in Article 2 of the International Convention for the Suppression of the Financing of Terrorism of 1999.

166. The requirements of the Convention for the Suppression of the Financing of Terrorism set forth in item (a)⁶ of Article 2 are covered by wording of Article 271¹ of the Criminal Code of Turkmenistan, in particular:

- “collecting or providing funds, material, technical and other means or providing financial services, knowing that they are intended for financing of preparation or commission of terrorism”;
- “supporting the activities of organized group, illegal armed group or criminal community established for pursuing these goals”⁷.

⁵ (1) Financing of terrorism - collecting or providing funds, material, technical and other means or providing financial services, knowing that they are intended for financing of preparation or commission of terrorism, as well as supporting the activities of organized group, illegal armed group or criminal community established for pursuing these goals,

are punishable by imprisonment for a period from four to ten years with or without confiscation of property.

2) The same acts, if committed:

a) repeatedly;

b) by a group of persons by previous concert or by organized group;

c) by an officer through the abuse of official powers,

are punishable by imprisonment for a period from eight to fifteen years with confiscation of property.

Note

A person who has committed the crime covered by this Article shall be relieved of criminal liability if he/she helped to prevent a terrorist act by informing the authorities or otherwise and if there are no other elements of crime in the actions of such person.

⁶ (a) The terrorist financing offences shall extend to any person who willfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they should be used or in the knowledge that they are to be used, in full or in part:

(i) to carry out terrorist act(s);

(ii) by a terrorist organization; or

(iii) by an individual terrorist.

⁷ A “terrorist organization” is an organization that is established for carrying out terrorist activities or that admits possible use of terrorism in its activity;

A “terrorist act” is the direct commission of a crime of terrorist nature in form of explosion, arson, the use of or threat to use nuclear explosive devices or radioactive, chemical, biological, bacteriological, explosive, toxic, noxious, aggressive or poisonous materials; the destruction, damaging, or seizure of vehicles, material and other objects; an infringement on the life of the President of Turkmenistan, other statesman or public official, a representative of national, ethnic, religious, or other groups of population, representatives of foreign countries or members of international organizations enjoying international protection or diplomatic immunity, and also on the

167. Based on the provisions of Article 271¹ of the Criminal Code of Turkmenistan the FT offences are covered by the following wording as required by item (b)⁸ of Article 2 of the International Convention: “as well as supporting the activities of organized group, illegal armed group or criminal community established for pursuing these goals”. In this regard, one can state that the provisions of Article 271¹ of the Criminal Code of Turkmenistan cover direct or indirect collection and provision of any funds and also provision of any funds even if they were not actually used for carrying out terrorist activity and were not intended for committing a specific terrorist act. It should be noted that there are some problems due to the fact that the term “terrorism” is not defined in this Article of the Criminal Code. However, the Law on Combating Terrorism defines this activity without reference to a specific terrorist act. In particular, “terrorism” is defined as “policy and tactics of actions, with the aim of seizing power or changing forcibly the constitutional order of the country, violating public security, intimidating the population, creating circumstances of chaos or influencing the adoption by the state authorities of decisions advantageous to terrorists, or satisfying illegal material or (and) other interests of terrorists”.

168. It should be noted that the provisions of Article 271¹ along with the provisions of the Law on Combating Terrorism also cover the requirements of the Convention pertaining to criminalization of financing of an individual terrorist. In particular, Article 1 of the Law on Combating Terrorism defines the terrorist activity⁹ as “activity involving financing of a known terrorist organization, terrorist group or individual terrorist or providing any other assistance to them”. Article 26 of the said Law, in its turn, establishes that “persons engaged in terrorist activities are held liable in compliance with the Criminal Code of Turkmenistan”, i.e. are subject to punishment under Article 271¹ of the Criminal Code.

169. In the course of discussion of this issue with the representatives of the Supreme Court the assessors were informed that this system worked in practice and in case of instituting criminal proceedings there would be no problem with proving implication in and sentencing a person for financing of an individual terrorist.

170. Pursuant to Article 12 of the Criminal Code of Turkmenistan, criminal liability for preparation of or attempt to commit an offence is incurred under the same Article of the criminal

offices or vehicles of such persons; the taking of hostages and kidnapping; the creation of danger of harm to the life, health, or property of a nonspecific range of people by creating the conditions for accidents and man-made disasters or the real threat of creation of such danger; the dissemination of threats in any form and by any means; other actions aimed at creating danger to life and health of people; significant damage to property, or other socially dangerous consequences;

⁸ (b) Terrorist financing offences should extend to any funds⁸ as that term is defined in the TF Convention. This includes funds whether from a legitimate or illegitimate source.

- (c) Terrorist financing offences should not require that the funds:
- (i) were actually used to carry out or attempt a terrorist act(s); or
 - (ii) be linked to a specific terrorist act(s).

law as for the committed offence, with reference to Articles 13 and 14 of the Criminal Code (requirements set out in item (d)¹⁰ of Article 2 of the International Convention).

171. As noted in the summary on Recommendation 1, the Criminal Code of Turkmenistan provides for criminalization of all necessary forms of complicity in a crime, including those provided for in Article 2 (5) of the International Convention for the Suppression of the Financing of Terrorism (requirements of item (e)¹¹ of Article 2 of the International Convention). Complicity in a crime as well as aiding, abetting, facilitating or counseling the commission are covered by Articles 32-35 of the Criminal Code of Turkmenistan, while preparation of and attempt to commit a crime are covered by Articles 13-14 of the Criminal Code of Turkmenistan.

172. Under Article 242 of the Criminal Code of Turkmenistan, financing of terrorism is a predicate offense for money laundering.

173. In general, a number of elements of offences specified in 9 anti-terrorist Conventions and Protocols listed in the Annex to the International Convention for the Suppression of the Financing of Terrorism is covered by the following Articles of the Criminal Code:

Conventions	Chapters and Articles of the Criminal Code of Turkmenistan
Convention for the Suppression of Unlawful Seizure of Aircraft, done at Hague on December 16, 1970	277
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971	34, 107, 108, 111, 235, 279
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973	170
International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979	130
Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980	Not covered
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the	107, 108, 111, 133, 235, 236

¹⁰ (d) It should also be an offence to attempt to commit the offence of terrorist financing.

¹¹ (e) It should also be an offence to engage in any of the types of conduct set out in Article 2(5) of the Terrorist Financing Convention.

Safety of Civil Aviation, done at Montreal on February 24, 1988	
Convention for The Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988	277
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on March 10, 1988	Not covered
International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997	173

174. It should be noted that such actions as theft of nuclear materials for the terrorist purposes and unlawful acts against the safety of fixed platforms located on the continental shelf are not covered by the Criminal Code of Turkmenistan. At the same time, the term “crime of a terrorist nature” means that offences of a terrorist nature may also include other crimes covered by the Criminal Code of Turkmenistan if such crimes are committed for the terrorist purposes.

175. Pursuant to Article 8 of the Criminal Code, the citizens of Turkmenistan and stateless persons permanently residing in Turkmenistan who commit a crime, punishable under the Criminal Code, outside Turkmenistan are subject to prosecution under the criminal law of Turkmenistan if these persons have not been convicted in a foreign country.

176. At the same time, foreign nationals and stateless persons not residing permanently in Turkmenistan are subject to liability under the criminal legislation of Turkmenistan for a crime committed outside Turkmenistan if these persons have not been convicted in a foreign country and have not been brought to trial in Turkmenistan.

177. According to the fundamental principles of law, described above, legal entities are not subject to criminal liability, including for FT offences. At the same time, pursuant to Article 24 of the Law of Turkmenistan “On Combating Terrorism”, an organization, including an international organization (its divisions, branches, representative offices), engaged in terrorist activities is recognized as a terrorist one and is subject to liquidation by a court ruling. In the event of liquidation of an organization recognized as a terrorist one the property owned by such organization is confiscated and sold in a manner established by the law and the obtained proceeds are transferred to the central budget of Turkmenistan.

178. Under Article 3 of the Criminal Procedure Code of Turkmenistan, proceedings in criminal cases are conducted in accordance with the laws applicable at the time of the inquiry, preliminary investigation and court proceedings, regardless of the location of the scene of a crime, unless otherwise is provided for in the treaties and agreements concluded by and between Turkmenistan and other countries.

179. Sanctions established in Article 271¹ of the Criminal Code of Turkmenistan envisage imprisonment for a period from four to ten years. Based on the extent of public danger it represents, an FT-related offence constitutes a grave or particularly grave type of crime.

Effectiveness and Statistics

180. Lack of relevant statistics does not allow for assessing the effectiveness of the efforts undertaken in this area.

2.2.2. Recommendations and Comments

181. Turkmenistan should criminalize actions involving capture, theft and use of nuclear materials and unlawful acts against the safety of fixed platforms located on the continental shelf.

182. It is recommended to maintain detailed statistics on FT-related criminal cases.

2.2.3. Compliance with Special Recommendation II

No.	Rating	Summary of factors underlying rating
SR. II	LC	<ul style="list-style-type: none"> • Actions involving capture, theft and use of nuclear materials and unlawful acts against the safety of fixed platforms located on the continental shelf are not directly criminalized in the legislation. • Lack of statistics makes it impossible to assess the effectiveness of the existing measures.

2.3. Confiscation, Freezing and Seizing of Proceeds of Crime (R.3)

2.3.1. Description and Analysis

183. The legislation of Turkmenistan contains provisions that envisage undertaking the provisional measures called “seizure”. The Criminal Procedure Code stipulates that investigative authorities shall seize property for potential confiscation of assets or, in case of a civil claim, for payment of compensation to parties that have suffered losses as a result of criminal actions. Seizure of property may be imposed on a convict, suspect or persons liable to the extent of their assets in civil actions brought against them or other persons who own property obtained by criminal means (Article 277 of the Criminal Procedure Code).

184. Pursuant to Article 169 (Seizure of Property) of the Criminal Procedure Code of Turkmenistan, seizure of property consists of the following: informing the owner or possessor of property of the prohibition to dispose of, and if necessary, to utilize such property, or of temporary confiscation of property and placement thereof under a safe keeping arrangement. Seizure of property shall be imposed pursuant to the substantiated resolution (order). Such

resolution (order) shall indicate property subject to seizure which cost is sufficient for securing a civil claim.

185. In Turkmenistan, confiscation is provided for in the criminal procedure legislation. Provisions of Article 130 of the Criminal Procedure Code of Turkmenistan, in general, correspond to the meaning of the term “confiscation”¹² as it is specified in the FATF Recommendations.

186. Pursuant to Article 130 (Material Evidence) of the Criminal Procedure Code, subject to confiscations under the criminal procedure is material evidence which consists of items and documents which were used as instruments of crime as well as money and other valuables obtained in a criminal manner and other items and documents. Besides that, pursuant to this Article, money and other valuable obtained by criminal means are transferred to the state.

187. Not subject to confiscation are the following types of items and property of vital need to a convict or his/her dependants owned by a convict or being his/her share in common property: residential house, apartment or parts thereof, if a convict and his/her family permanently reside therein; outbuildings and livestock; seed grains; household furnishings, utensils, clothing; food products; fuel; equipment and supplies (including textbooks and books); means of transportation specially intended for disabled persons.

188. However, possibility of confiscation of property derived indirectly from proceeds of crime raises certain doubts. In particular, there are not measures in place to allow for confiscating property that is derived indirectly from proceeds of crime, including income, profits or other benefits from the proceeds of crime. Also, the confiscation of proceeds derived from insider trading and market manipulation is impossible, since these actions are not criminalized. As well, it is not possible to confiscate property of equivalent value, as is required by Recommendation 3. Also, there are no provisions that allow for confiscating property held or owned by a third party.

189. The competent authorities of Turkmenistan have broad powers for application of preventive measures, including seizure and freezing of the property, which is subject to confiscation. Under Article 169 (Seizure of Property) of the Criminal Procedure Code, to provide for the enforcement of the sentence in part related to a civil claim, other recovery measures and possible confiscation of property, an inquiry officer, investigator, prosecutor, judge and court may seize the property belonging to a suspect, accused, defendant or persons materially liable for their actions under the legislation of Turkmenistan.

190. In Turkmenistan, confiscation is also used as an additional penalty. Listed in Article 44 of the Criminal Code of Turkmenistan, among other types of penalties, is “confiscation of property”. In particular, this Article stipulates that confiscation is the additional penalty.

¹² Confiscation is a deprivation of rights, where applicable, and stands for the permanent deprivation of funds or other assets by a decision of the competent authority or court. The confiscation or deprivation of rights is effected through a judicial or administrative procedure that transfers the ownership of certain funds or other assets to the state. In this case, the natural or legal person(s) who had owned rights to such funds or other assets at the time of confiscation or forfeiture lose all rights to all confiscated or forfeited funds or assets. (Confiscation or forfeiture warrants are usually linked to a criminal conviction or a court decision authorizing such confiscation or forfeiture of rights. Such property is defined as resulting from the breach of law or intended for such).

Confiscation is also mentioned in Article 52 of the Criminal Code that provides for “confiscation of property” during imposition of a sentence and in respect of illegally obtained property. Confiscation is also mentioned in the Constitution of Turkmenistan which states that subject to confiscation are only illegally obtained assets.

191. Confiscation of property as an additional punishment is the measure aimed at combating grave and particularly grave crimes committed out of mercenary motives. Such confiscation of property may be imposed by a court only as additional punishment and only if sanctions under the relevant Article envisage such penalty. That the same time, imposition of confiscation as a procedural measure is effected in all cases regardless of whether or not additional penalty is provided for in the respective Article of the Criminal Code.

192. Pursuant to Articles 270-280 of the Criminal Procedure Code of Turkmenistan (and using the operational and detective powers – see summary of R.27 and R.28), the law enforcement agencies of Turkmenistan have the right to search and seize documents from natural persons and legal entities in order to identify and trace the property which is subject or may be subject to confiscation, or when the said property is suspected to constitute the proceeds of crime.

193. The rights of *bona fide* third parties are protected under Article 130 and Chapter 21 of the Criminal Procedure Code of Turkmenistan, as well as under Articles 180-184 of the Civil Code of Turkmenistan as required by the Palermo Convention. Persons who suffered material losses as a result of the committed crime are entitled to, and institutions, companies and organizations are obliged to institute a civil claim against the accused person or against persons, institutions, companies and organizations that, under the law, are materially liable for the losses inflicted by the crime committed by the accused person. This provision is substantially consistent with the standards set out in the FATF Recommendations.

194. Under Articles 79-87 and 91 of the Civil Code of Turkmenistan, a transaction is invalid for the reasons set out in the Civil Code. This provision means that a court may suspend or cancel a transaction based on a request made by a party concerned.

Effectiveness and Statistics

195. Statistics on property seized and confiscated in 2010 presented by Turkmenistan.

Statistics on Seizure and Confiscation of Property in 2010		
	Number of Criminal Cases Judged by Turkmenistan Courts	Number of Convicts
Confiscation of Property	1101	2166

196. In light of the presented statistical data, one can argue that the property confiscation requirements in Turkmenistan are effective enough.

2.3.2. Recommendations and Comments

197. It is necessary to provide for confiscation of property related to predicate offences and, therefore, non-criminalized predicate offences (insider trading, market manipulation) should be criminalized.

198. Turkmenistan should introduce provisions that allow for confiscating property held or owned by a third party and also introduce provisions that fully protect the rights bona fide third parties as required by the Palermo Convention.

199. The legislation of Turkmenistan should contain provision that permits to confiscate property that is derived indirectly from proceeds of crime, including income, profits or other benefits from the proceeds of crime. The legislation should also contain a provision that permits the confiscation of property of equivalent value.

2.3.3 Compliance with Recommendation 3

No.	Rating	Summary of factors underlying rating
R.3	LC	<ul style="list-style-type: none">• Confiscation of proceeds derived from insider trading and market manipulation is impossible, since these actions are not criminalized.• There are no provisions that allow for confiscating property held or owned by a third party.• Confiscation of property equivalents is not provided for.• There are no measures in place that allow for confiscating property that is derived indirectly from proceeds of crime, including income, profits or other benefits from the proceeds of crime.

2.4. Freezing of Funds Used for Terrorist Financing (SR.III)

2.4.1. Description and Analysis

General Description of Laws or Other Measures, the Situation, or Context

200. Turkmenistan has, to a certain extent, implemented the requirements of Special Recommendation III in pursuance of the UN Security Council Resolutions 1267 и 1373 pertaining to prevention and deterrence of financing of terrorist acts through freezing funds and other assets in possession of terrorists, persons engaged in financing of terrorist activities and terrorist organizations.

201. Turkmenistan has developed special provisions for fulfillment of its obligations to freeze funds or other assets in compliance with UNSCR 1267 and 1372 and the successor Resolutions and has regulated the powers of the competent authorities as related to the implementation of these Resolutions.

202. Pursuant to section 3 of Article 5 of the Law on Combating Terrorism, Turkmenistan, in compliance with its national legislation and the international law, prevents and suppresses the financing of terrorist activity, promptly blocks funds and other financial assets, deposits, economic resources and material assets of persons, who commit or attempt to commit terrorist acts or contribute to the commission thereof, organizations which are directly or indirectly owned or controlled by such persons, persons and organizations which act in the name or upon instructions of such persons and organizations, including funds acquired or received, or with the use of property which is directly or indirectly owned or controlled by such persons as well as persons and organizations linked to the above-mentioned persons. However, this provision is too general and has to be considered jointly with other requirements set forth in the legislation.

203. In particular, the procedure of suspension of transactions carried out by individuals and legal entities is set forth in section 10 of Article 3 of the AML/CFT Law of Turkmenistan, which stipulates that banks and other credit institutions authorized to open and maintain bank accounts shall suspend transactions of natural and legal persons, who are reportedly engaged in terrorist activities (financing of terrorism), for a period of three business days and shall submit information on such transactions to the designated government agency, which, pursuant to section 3 of Article 6 of the AML/CFT Law, may further suspend a transaction for a period of five days.

204. If, upon expiration of the established period of time, no resolution of the designated agency on further suspension of a respective transaction for additional time period is received, banks and other credit institutions shall carry out the transaction with funds or other property in compliance with the instructions of a customer.

205. As prescribed by the Ministry of Finance of Turkmenistan, the Regulation on Suspension of Transactions with Funds and Other Property was approved by Order No.44 dated 03.05.2010. This Regulation stipulates that upon receipt by the Ministry of Finance from reporting entities of information on suspension of FT-related transactions with funds or other property, the Financial Monitoring Department shall conduct a preliminary analysis, and if the suspension is deemed substantiated, instruction shall be given through the Ministry of Finance to suspend transactions or deals with funds or other property.

206. Further suspension or freezing of transactions with funds or other property of natural and legal persons, who are reportedly engaged in terrorist activity (financing of terrorism), beyond the time period indicated in the resolution of the designated agency may be effected only by a decision of a court or investigative agencies.

207. If, upon expiration of a time period indicated in the resolution of the designated agency, no decision of a court or investigative agencies on further suspension of a respective transaction for additional time period or on freezing is received, banks and other credit institutions shall carry

out the transaction with funds or other property in compliance with the instructions of a customer.

208. There are no mechanisms needed for reviewing and utilizing the information received from foreign countries in respect of entities subject to freezing measures.

209. Funds may be frozen by the law enforcement agencies, but in this context there is a question as to the effectiveness of the freezing system which is largely based on the criminal procedure mechanisms. And the seizure, freezing and confiscation mechanism is similar to that described above in the summary on Recommendation 3.

210. Pursuant to Article 21 of the Law on Commercial Banks and Banking Activity, funds and other assets of legal entities, including foreign legal entities, deposited in banks may be frozen only by a court ruling or by a resolution of the investigative agencies, and such funds and assets may be recovered only against enforcement documents issued by courts within the scope of their competence and at request of the state tax inspectorates. In other words, funds and other assets of individuals deposited in banks may be frozen, recovered and confiscated only based on the decision or order of a court.

211. During the meetings with the representatives of the competent authorities the assessors were informed that till that time no funds had been actually frozen at request of the law enforcement agencies of foreign countries, but if there would be such request it would be processed within the national legislation framework.

212. At the meeting with the representatives of the Ministry of Foreign Affairs the assessors were informed that the information on the UN Security Council list of designated persons associated with terrorist activity is received via the diplomatic channels of the Ministry of Foreign Affairs of Turkmenistan and is further disseminated to the Central Bank, the designated government agency and the law enforcement agencies.

213. For the fulfillment of the requirements of the UN Security Council Resolutions the Minister of Finance approved the Regulation on Arrangement for Implementing UN Resolutions and Conventions which establishes the procedure of implementation of the UN Resolutions and Conventions. Pursuant to this Regulation, the Financial Monitoring Department (FMD) informs, on an ongoing basis, the government institutions, entities subject to financial monitoring and other interested parties about UN FT-related Conventions and Resolution and maintains, on a daily basis, information pertaining to compliance with the UN Security Council Resolutions posted on its website.

214. Pursuant to the aforementioned Regulation, the lists of terrorists are posted on the classified page of the website and shall be updated, as appropriate, by the FIU on a daily basis. The supervisory and supervised authorities shall visit the classified page of the website to obtain the respective information on the list of terrorists and terrorist organizations.

215. In this context, it should be noted that being developed was the detailed instruction for the government agencies and financial institutions on their obligation to take measures for the implementation of the UN Conventions and Resolutions, which is a positive example of

communicating and clarifying the obligations of financial institutions with regard to the requirements of the Special Recommendation III.

216. At the same time, Turkmenistan has not established certain requirements for the implementation of Special Recommendation III pertaining, in particular, to procedure for considering de-listing requests and for unfreezing the funds or other property (assets) of de-listed individuals or legal entities in a timely manner consistent with the international obligations.

217. As for the procedure for unfreezing funds of persons inadvertently affected by a freezing mechanism, section 4 of Article 313 of the Criminal Procedure Code of Turkmenistan stipulates that, upon discontinuance of criminal proceedings, restraint measures applied to a suspect or accused person as well as measures to secure a civil claim and possible confiscation of property shall be cancelled. However, Turkmenistan has no effective and publicly-known procedures for unfreezing funds that have been frozen by mistake.

218. Turkmenistan has appropriate procedures for authorizing access to funds or other property (assets) that were frozen pursuant to UNSC Resolution 1267 (1999) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses and service charges or for extraordinary expenses as required by UNSC Resolution 1452(2002). Such procedures are established by Article 52 of the Criminal Code which lists property that is not subject to seizure and confiscation.

219. As for reviewing of the property freezing decisions, pursuant to Article 47 of the Law of Turkmenistan “On Prosecutor’s Office”, the General Prosecutor of Turkmenistan is authorized to suspend, as part of his supervisory functions till solution of a case, execution of a challenged sentence, ruling, decision and resolution of any court or judge, and his deputies have the right to suspend, as part of their supervisory functions till solution of a case, execution of a challenged sentence, ruling, decision and resolution of any court or judge, except for Resolutions of Presidium and Plenum of the Supreme Court of Turkmenistan.

220. Besides that, Article 485 of the Criminal Procedure Code of Turkmenistan regulates the issues pertaining to challenging a valid sentence, decision and resolution of a court, filing a petition, giving an opinion, issuing a petition, and appealing.

221. Terrorist-related funds may be seized (frozen) or confiscated as part of seizure of criminally obtained funds in the course of investigations carried out by the law enforcement agencies or based on a court ruling (see R.3).

222. Legislative and other measures aimed at protection of the rights of bona fide third parties as similar to measures described in Recommendation 3.

223. Till now no sanctions for failure to implement procedures for detecting/identifying persons or organizations associated with terrorism have been imposed on banks and other financial institutions.

Effectiveness and Statistics

224. Lack of statistics on confiscation, freezing and seizure makes it impossible to assess the effectiveness of the system.

2.4.2 Recommendations and Comments

225. It is expedient to implement specific mechanisms for reviewing and utilizing the information received from foreign countries in respect of entities subject to freezing measures.

226. It is necessary to develop other laws and procedures, besides criminal-proceeding mechanisms, to establish effective mechanism for freezing terrorist assets in all instances, in line with the UNSCRs.

227. It is necessary to develop effective and publicly-known de-listing procedures and procedures for unfreezing funds or other property (assets) of de-listed natural and legal entities in a timely manner.

228. There should be regulations that fully protect the rights of bona fide third parties.

2.4.3 Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	PC	<ul style="list-style-type: none"> • Low effectiveness of measures since Turkmenistan largely relies on criminal procedure mechanisms for freezing property. • There are no mechanisms needed for reviewing and utilizing the information received from foreign countries in respect of entities subject to freezing measures. • There are no publicly-known procedures for considering de-listing requests and procedures for unfreezing funds or other property (assets) of de-listed natural and legal entities in a timely manner.

Authorities

2.5. The Financial Intelligence Unit and Its Functions (R.26, 30 & 32)

2.5.1. Description and Analysis

229. The Financial Monitoring Department (hereinafter FMD) of the Ministry of Finance of Turkmenistan was established pursuant to Resolution No.10798 of the President of

Turkmenistan dated January 15, 2010 “On Approval of the Regulation on Financial Monitoring Department of the Ministry of Finance of Turkmenistan”.

230. Pursuant to section 2 of Article 6 of the AML/CFT Law, the Financial Intelligence Unit (FIU), within its respective terms of reference, collects and analyzes information related to transactions and deals subject to mandatory monitoring; determines maximum amount of transactions and deals in the national and foreign currency; develops and implements measures to improve and upgrade the system of prevention, detection and deterrence of suspicious transactions and deals as well as ML/FT related deals and transactions, including provision of clarifications as to the application of the AML/CFT measures, particularly, related to detection of and reporting suspicious transactions and deals; submits to court (judge), prosecutor, investigative and inquiring agencies ML/FT-related documents and other materials.

231. The procedure of submission and the standard form of reports are specified in Order No.38 of the Minister of Finance of Turkmenistan dated 14.04.2010 “On approval of recommended instruction on completing the forms of AML/CFT reports to be filed by legal entities and individuals with the Financial Monitoring Department of the Ministry of Finance of Turkmenistan”.

232. The information specified in the aforementioned Procedure is submitted in form of an electronic document bearing the electronic digital signature. Upon approval of the Financial Monitoring Department, the aforementioned information may be submitted in hard copy signed by the manager of an entity subject to financial monitoring or by the authorized person of an entity subject to financial monitoring and certified by a seal (if any). The owner of the information resources shall ensure protection and security of the information transferred to the Financial Monitoring Department in compliance with the legislation of Turkmenistan.

233. Under subsections 7 and 8 of Article 6 of the AML/CFT Law, the FIU is entitled to have access (to utilize) the databases (registers) created and (or) maintained by the government agencies and also has the right to request the reporting entities to provide the AML/CFT-related information and documents.

234. In pursuance of the AML/CFT Law, approved by Order No.16 of the Minister of Finance of Turkmenistan dated February 25, 2010 was the Procedure for the submission by natural and legal persons of the AML/CFT-related information requested by the Ministry of Finance of Turkmenistan. This Procedure regulates the manner in which information from the state register of the Economic Development Ministry (from the unified state register of legal entities) can be obtained.

235. During the on-site mission, the assessors were informed that the Financial Monitoring Department has direct (on-line) access (the contents are periodically updated by providing the Ministry of Finance with the relevant information transmitted in electronic form) to the following databases:

- database of the Ministry of Justice (register of non-profit organizations);
- database of the Ministry of Economic Development (unified state register of legal entities);
- database of the Ministry of Finance;

- database of the tax authorities;
- portion of the database of the customs authorities (information on transactions above the threshold that shall be reported to the FIU).

236. The assessors sought for more detailed information about the list of accessible databases and the database access procedure, but no such information was provided.

237. Pursuant to section 7 of the Regulation on the Financial Monitoring Department (FMD) of the Ministry of Finance of Turkmenistan, approved by Resolution No.10798 of the President of Turkmenistan dated January 15, 2010, the FMD is authorized to request information and substantiating documents from the reporting entities as well as from the Ministries, Government Departments, companies, institutions and organizations (of any form of incorporation and ownership structure) and natural persons engaged in transactions with funds and other property (assets). Besides that, Article 6 of the AML/CFT Law empowers the FIU to request the reporting entities to provide the AML/CFT-related information and documents.

238. Order No.40 issued by the Minister of Finance on April 23, 2010 approved the Regulation on obtaining necessary information and documents from the entities subject to financial monitoring requested by the Ministry of Finance of Turkmenistan. This Regulation allows for obtaining additional information for full analysis.

239. Section 3 of the aforementioned Regulation stipulates that requests shall be sent by Financial Monitoring Department in writing on the official letterhead addressed to the head of an entity subject to financial monitoring or to the head of its structural department. Pursuant to section 4 of the Regulations, the request shall be signed by the Minister of Finance (or by the Deputy Minister). In this regard, during the on-site mission to Turkmenistan assessors raised the question of the effectiveness of interaction of the FIU with the subjects of financial monitoring, as well as the independence of the functioning of the FIU.

240. It should be noted that, when asked whether the FIU can proactively request a financial institution to provide information on persons or transactions on which no STR was submitted, the representatives of the FIU affirmed that such powers are vested in the Ministry of Finance and referred to the aforementioned provisions of the Turkmen legislation pursuant to which the Financial Intelligence Unit has the right to request and obtain information needed for undertaking the AML/CFT actions.

241. Pursuant to subsection 9 of section 2 of Article 6 of the AML/CFT Law, where there are sufficient grounds to believe that a deal or transaction is related to ML/FT, the designated agency submits the respective information and materials to the appropriate law enforcement agencies.

242. For implementing the said provision of the AML/CFT Law, the Minister of Finance issued Order No.52 dated June 11, 2011 that approved the Procedure of collection and analysis of AML/CFT information by the Financial Monitoring Department for disseminating, within the scope of powers vested in it, the respective information and documents to the law enforcement agencies.

243. At the same time, it should be noted that during the on-site mission the assessors were informed that the head of the Financial Monitoring Department (FMD) had no signing authority to handle the operational matters of the FIU and the FMD did not have its own budget. All documents related to sending/receiving requests and responses are signed / endorsed by the Minister of Finance of Turkmenistan or his deputy, while the head of the FIU is not the Deputy Minister. A final decision on sufficient grounds for filing information and materials with the law enforcement agencies is also made by the Minister or the Deputy Minister. The reason for this is that the Financial Monitoring Department is the structural division of the Ministry of Finance of Turkmenistan. The head of the FMD is appointed to and dismissed from his office by the Minister of Finance of Turkmenistan upon consultation with the Cabinet of Ministers of Turkmenistan. The above facts do not allow to say that the FMD has operational independence. This is due, inter alia, to the fact that currently the distribution of vested powers is unclear and one cannot definitely say whether it is the Ministry of Finance or the FMD that operates as the designated agency.

244. According to Order № 99 dated December 28, 2010 The Minister of Finance of Turkmenistan has delegated his authorities to the Head of the Department of financial monitoring, including accepting and signing correspondence, recruiting and promoting staff of the FIU, approving and executing the financial budget of the FIU, making decisions, and submitting materials to law enforcement and other authorities related to AML / CFT. At the same time, this order does not provide authority to determine staffing levels, the structure of the FIU. This order, however, provides substantial operational independence of the head of DFM.

245. At the time of the on-site visit the DFM did not publish periodic reports on its performance. Due to the fact that the DFM was established in the Ministry of Finance of Turkmenistan and information on its activities in 2010 were included in the report of the Ministry of Finance.

246. At the time of the on-site mission, the issue of applying by the FIU for membership in the Egmont Group has not been resolved yet, however, the FIU has started to collect information necessary for making a balanced decision to join the Egmont Group.

247. Besides that, during the on-site mission the assessors received no information on information exchange with the FIU of foreign countries and, therefore, it was impossible to assess adherence to the information exchange principles of the Egmont Group.

Structure, Resources and Effectiveness

248. The Financial Monitoring Department is the structural division of the Ministry of Finance of Turkmenistan. The staff size of the FMD is 12 persons. Since the moment of its establishment three heads of the FMD have been replaced (during less than one year), which does not demonstrate consistency and continuity of the efforts to establish and develop the AML/CFT system of Turkmenistan.

249. The Financial Monitoring Department consists of three Divisions:

- Financial Information and Analysis Division;

- System Development, IT and Internal Control Division;
- Coordination and International Cooperation Division.

250. Funds for the operation of the FMD are allocated from the central budget of the Republic of Turkmenistan and technical and other resources are also financed from the central budget.

251. Over 60 percent of reports are filed with the Financial Monitoring department in electronic form, which makes it significantly easier to send and receive the information. At the time of the on-site mission, about 10 thousand reports on transactions subject to control were accumulated in the FMD database. However, it should be noted that statistics provided to the assessors before the on-site mission was inconsistent with the information obtained during the on-site mission.

252. The issues pertaining to the development of technical programs for ensuring full and effective performance of the AML/CFT functions is currently under consideration.

253. The employees of the Financial Monitoring Department have higher (University) education required for performing the FIU functions. The FIU employees shall ensure confidentiality of information on FMD activities that becomes known to them and constitutes official, bank and other secrets protected by the law and are liable under the law for disclosure of such information. Liability for disclosure of official secrets is provided for by Articles 205, 250 and 179 of the Criminal Code.

254. There are no AML/CFT methodological and training centers in Turkmenistan. The FMD employees, inter alia, jointly with the personnel of the law enforcement agencies received training under the international cooperation programs. In particular, starting from 2008 the Swiss Government, IMF and EAG provide technical assistance in training of the AML/CFT personnel.

255. At present, a program has been adopted that envisages ongoing training and several training workshops for the employees of the FMD and entities subject to financial monitoring. In 2010, the representatives of the FIU took part in three training workshops held by the International Monetary Fund. In the beginning of 2011, the World Bank arranged for a 6 months training course for the FIU personnel in the USA.

256. In order to train its personnel and to arrange for proper analytical work, the Financial Monitoring Department provides training in methodology of identification and analysis of ML/FT-related financial transactions.

257. Turkmenistan provided the following statistics on received reports, their analysis and submission to the law enforcement agencies (January – August 2010):

Statistics on STR (January – August 2010)

January-August 2010	Received	Additionally Requested	Analyzed	Filed with Appropriate Law Enforcement
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		Reports		Agencies
STR	62	2	62	
Reports from law enforcement agencies	1		1	1
Monthly obligatory reports from entities subject to financial monitoring (for reference) and information from other Ministries and Agencies	62	7	1	1
Information on licenses issued to entities subject to financial monitoring (for reference)	5			
Information on terrorist list	1			
Information on off-shore companies and non-resident legal entities	2			
Total:	133	9	64	2

258. At the same time, as mentioned above, during the on-site mission the assessors were informed that the database contains about 10 thousand reports. The updated statistical data were presented after the completion of the on-site mission.

2010	Received	Additional ly Requested Reports	Analyzed	Submitted to International Organizations and FIU	Filed with Appropriate Law Enforcement Agencies	Examined by Law Enforcement Agencies
STR	1	5	1			
Reports from law enforcement agencies	0	0	0			
Monthly obligatory reports from entities subject to financial monitoring and from other entities subject to financial monitoring	4061	30	4061			
Information on licenses issued to entities subject to financial monitoring	32	1	32			
Information on terrorist list	20	0	20			
Information on off-shore companies and non-resident legal entities	0	0	0			
International cooperation	2	1	2			

259. Along with these data, being provided were additional figures, analysis of which indicates inconsistent understanding of statistics by the representatives of Turkmenistan. With consideration for inconsistent statistics it is difficult to draw a preliminary conclusion about effectiveness of the FIU efforts, given, inter alia, the fact that no ML/FT-related criminal proceedings have been instituted based on the information provided by the FIU.

2.5.2. Recommendations and Comments

260. It is necessary to consider undertaking more active efforts to provide the FMD with the software for visualizing links between transactions of entities subject to inspection and other

options of automation of the FMD employees work process (enabling, in particular, each FMD analyst to have direct access to the information from his/her workstation in a secure manner).

261. It is necessary to sign international inter-agency agreement with the FIU of foreign countries and to initiate information exchange with the financial intelligence units of foreign countries (with the application of the Information Exchange Principles of the Egmont Group).

262. It is necessary to periodically (at least once a year) publish reports on its activity, including description of ML/FT typologies and trends.

2.5.3. Compliance with Recommendation 26

	Rating	Summary of factor underlying rating
R.26	PC	<ul style="list-style-type: none"> • The FMD does not publish periodical reports on the results of its activity. <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> • There is no information exchange with the FIU of foreign countries. • Inadequate resources provided to the FIU affects the effectiveness of its efforts.

2.6. Law Enforcement, Prosecution and Other Competent Authorities – the Framework for Investigation and Prosecution of Offences as well as for Confiscation and Freezing (R.27, 28, 30 and 32)

2.6.1. Description and Analysis

Recommendation 27

263. Pursuant to Article 224 (Investigative Jurisdiction) of the Criminal Procedure Code of Turkmenistan, investigations into ML-related offences are carried out by investigators of the prosecution authorities, while investigations into FT-related crimes are conducted by the investigators of the Ministry of National Security of Turkmenistan.

264. Under Article 5 of the Law on Operational and Detective Activities, the following agencies have the right to conduct operational and detective activities at the territory of Turkmenistan:

- 1) Internal affairs authorities of Turkmenistan;
- 2) National security authorities of Turkmenistan;
- 3) Intelligence agencies of the State Border Service of Turkmenistan;
- 4) Intelligence units of the Ministry of Defense of Turkmenistan;
- 5) Security Service of the President of Turkmenistan;
- 6) Agencies of the State Migration Service of Turkmenistan;

- 7) Agencies of the State Service for Combating Drugs of Turkmenistan;
- 8) Agencies of the State Customs Service of Turkmenistan.

265. One of the objectives of the operational and detective activity is prevention, detection, deterrence and solution of crimes as well as detection and identification of persons who are plotting, committing or have committed crimes (Article 2 of the Law on Operational and Detective Activities).

266. Suspects may be detained and taken into custody and property may be taken during the period of preliminary investigation, which allows for postponing or waiving the arrest of the suspected persons or seizure of the money for evidence gathering.

267. Pursuant to Article 237 (Inquiry Terms) of the Criminal Procedure Code of Turkmenistan, under the cases subject to mandatory preliminary investigation, the inquiry and urgent investigative actions shall be completed within ten days following the institution of proceedings. Article 230 (Preliminary Investigation Terms) stipulates that preliminary investigation into criminal cases shall be completed within two months following the institution of criminal proceedings.

268. Power of the competent authorities to apply preventive measures for enforcing sentence and recovery of property are described in summary on Recommendation 3.

269. It should be noted that powers vested in the law enforcement agencies may also be used for conducting ML/CF-related investigations.

Additional Elements

270. Pursuant to Article 9 of the Law on Operational and Detective Activities, for performing the assigned mission the law enforcement agencies engaged in the operational and detective activities, in compliance with the secrecy rules, may undertake the following actions: questioning citizens; making inquiries; collecting samples for comparative analysis; making test purchases; examining items and documents; conducting surveillance; verifying identity; inspecting premises, buildings, structures, areas, and transport vehicles; controlling postal items; censoring correspondence of convicts; wiretapping; data mining in communication channels.

271. In the course of operational and detective actions the relevant agencies may carry out camera recording, take photos, conduct video and audio recording, use information systems and other equipment that do no harm to live and health of human beings and make no damage to the environment. In the course of operational and detective actions the officers of the relevant authorized agencies personally take part in arranging for and implementing the operational and detective actions, use the assistance of the officers and experts that have scientific, technical and other special knowledge as well as the assistance of individuals upon their consent on an overt or covert basis. Organization and tactics of operational and detective actions is the state secret.

272. In order to prevent, detect, deter, and solve crimes and detect and identify individuals who are plotting, committing or have committed crimes, including ML/FT crimes, the law

enforcement agencies of Turkmenistan make full use of the operational and detective methods and techniques in accordance with the legislation of Turkmenistan.

273. Pursuant to Article 231 (Preliminary Investigation by Investigation Team) of the Criminal Procedure Code of Turkmenistan, when an investigated criminal case is complex or labor-intensive the preliminary investigation into such case may be assigned to a team of investigators. This shall be indicated in an order on the institution of criminal proceedings, or a separate order shall be issued.

274. The assessors were informed that the Instruction on Coordination between the Ministry of National Security of Turkmenistan and the Financial Monitoring Department was under development, however, no further details were provided.

275. It should be noted that no ML/FT-related criminal cases have been instituted in Turkmenistan. In such situation it was impossible to obtain information on practical application of appropriate special investigative techniques. Since no criminal cases have been instituted, there are no permanent and temporary inter-agency working groups specialized in investigating ML-related cases and no joint investigation with the competent authorities of other countries (which are not inconsistent with the national legislation) have been conducted.

Structure and Resources

276. During the meetings with the representatives of the law enforcement agencies the assessors apparently got impression that the law enforcement agencies did not have sufficient resources and were poorly aware of their responsibilities in respect to AML/CFT-related investigations. In general, their structure is not adjusted to meet the AML/CFT-related objectives. The need for the staff to receive training in the use of ML/FT-related investigation procedures is considerable.

277. During the meetings with the representatives of the law enforcement agencies the assessors got the impression that the law enforcement agencies generally institute criminal proceedings for offences that are predicate for money laundering/terrorist financing crimes.

278. No information about the structure and number of the AML/CFT personnel was presented to the assessors.

Effectiveness

279. It is impossible to assess the effectiveness of the efforts undertaken by the law enforcement agencies, since there is no practice of investigation of ML/FT and investigations into ML/FT-related criminal cases.

Recommendation 28

280. Pursuant to Article 235 (Inquiry into Cases Subject to Mandatory Preliminary Investigation) of the Criminal Procedure Code of Turkmenistan, upon detection of indicators of a crime subject to mandatory preliminary investigation the inquiring agency shall institute criminal proceedings and, following the requirements of the Civil Procedure Code, shall take urgent investigative actions to detect and register the vestiges of a crime: inspection, examination,

search, seizure, wiretapping and recording telephone and other communications, seizure of property, detention and interrogation of suspected persons, interrogation of victims and witnesses; and where necessary prescribes to conduct expert examination and review. The inquiring agency shall promptly notify a prosecutor on the detected crime and on institution of criminal proceedings.

281. In order to enforce a sentence as regards to a civil claim and possible confiscation of property, an investigator shall seize the property of an accused, suspect or persons materially liable under the law for their actions and other persons holding criminally obtained property. Property may be seized in parallel with search and seizure of items necessary for criminal prosecution, or separately.

282. Pursuant to the criminal legislation of Turkmenistan, any statements, reports and other information related to any crime must be registered and dealt with immediately. The law enforcement agencies and the Prosecutor's Office are authorized, for the purposes of investigation and to use as evidence in the prosecution of crimes, including ML, FT and other predicate offences or related to them activities, to take witness statements, accept testimonial evidence and interrogate individuals involved.

2.6.2. Recommendations and Comments

Recommendation 27

283. Special ML/FT investigation units should be established within the General Prosecutor's Office, the Financial Monitoring Department and the Ministry of National Security.

284. It is necessary to provide AML/CFT training for law enforcement agency investigators, judges and prosecutors.

285. The statistical data on criminal cases, including those examined by courts (with guilty verdicts), should be segregated into a separate category that covers ML and FT-related offences. The amount of funds or value of property seized in the course of investigations and amount of recovered or confiscated funds should also be reflected.

Recommendation 28

286. Turkmenistan has adopted all necessary measures recommended by Recommendation 28.

2.6.3. Compliance with Recommendations 27 and 28

	Rating	Summary of factors underlying rating
R.27	PC	<ul style="list-style-type: none"> • Law enforcement agencies lack a systemic approach to investigating ML/FT, which is one of the reasons why no criminal proceedings have been instituted.

		<ul style="list-style-type: none"> • There are no special ML/FT investigation units within the General Prosecutor’s Office, the Financial Monitoring Department and the Ministry of National Security. <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> • Insufficient resources and staffing for the AML/CFT purposes are one of the factors of low effectiveness. • Lack of statistics does not permit to assess the effectiveness of the efforts undertaken by the law enforcement agencies.
R.28	C	<ul style="list-style-type: none"> • This Recommendation is fully observed.

2.7. Cross-Border Declaration or Disclosure (SR. IX)

2.7.1. Description and Analysis

287. Under the current legislation, Turkmenistan has a combined system in place for declaring cash and bearer negotiable instruments crossing the border.

288. At the same time, this system is only beginning to be used for the purposes of AML / CFT. According to paragraph 8 of Article 6 of Law of Turkmenistan "On the Customs Service" (adopted on 12 March 2010) one of the main objectives of the Customs Service in accordance with the legislation of Turkmenistan is combating smuggling, money laundering, terrorist financing and other violations of the customs regulations. It should be noted that the acts and regulations do not specify the possibility of using powers of customs authorities for AML / CFT goals.

289. Pursuant to Article 53 of the Customs Code, cross-border movement of transport vehicles, goods, currency, currency valuables as well as property of international and foreign organizations is subject to the customs declaration procedure. Under Article 4 of the Customs Code, goods are material items owned by individuals, companies, organizations and other entities engaged in foreign economic activities that are transported across the customs border of Turkmenistan as object of sale, exchange, rent or other economic transaction. Pursuant to Article 1 of the Law of Turkmenistan "On Currency Regulation", currency valuables are foreign currency, payment instruments (cheques, bills, letters of credit, etc.), equities (shares, bonds and other) in foreign currency, precious metals – gold, silver, platinum and platinum group metals (palladium, iridium, rhodium, ruthenium and osmium) in any form or state, raw and processed natural precious stones (diamonds, cut diamonds, rubies, emeralds, sapphires as well as pearls).

290. Order No.16 issued by the Chairman of the State Customs Service of Turkmenistan on 07.01.2009 approved the Procedure of completion of a passenger customs declaration registered in the Ministry of Justice of Turkmenistan (No.479; dated 12.02.2009). The said Order establishes that natural persons carrying across the border foreign and national currency in the

amount over the equivalent of 3,000 (three thousand) US dollars per one person shall necessarily declare it in writing to the customs authority. At the same time, it should be noted that the requirement for declaration does not apply to all bearer negotiable instruments.

291. Where individuals are carrying across the border foreign and national currency in the amount not exceeding the equivalent of 3,000 (three thousand) US dollars per one person, such persons are not required to declare the exported foreign currency in writing unless they wish to do so.

292. Individuals may import or export certificated securities denominated in foreign currencies and payment instruments in foreign currencies without any limitations on the amount and without the need to declare them in writing to the customs authorities of Turkmenistan, unless a person wishes to do so.

293. At the same time, Order No.17 issued by the Ministry of Finance of Turkmenistan on 52.02.2010 (registered in the Ministry of Justice of Turkmenistan No.519, dated 16.03.2010) establishes the threshold amount of transactions and deals in foreign or national currency for mandatory AML/CFT control, which shall be reported to the financial intelligence unit:

- transactions with funds – about 200 thousand US dollars;

- transactions with other assets – about 500 thousand US dollars.

294. Thus, the established threshold for bearer negotiable instruments exceeds 500 thousand US dollars, which is inconsistent with the requirements set forth in Special Recommendation IX.

295. Customs control is conducted by the officers of the customs authorities through examining documents necessary for such control, inspecting transport vehicles, goods and other items, searching individuals, registering items moved across the customs border of Turkmenistan as well as using other methods provided for in the legislation of Turkmenistan (Article 35 of the Customs Code).

296. The customs authorities of Turkmenistan are empowered to request or obtain additional information from a carrier with regard to the origin of cash or bearer negotiable instruments and their intended use for verifying information in the customs declaration, presented documents and for other customs clearance related purposes (section 3 of Article 81 of the Customs Code).

297. Pursuant to Article 76 of the Criminal Procedure Code, the customs authorities are the inquiring agencies, and under Articles 77, 270-280 are authorized to restrain and seize goods and other financial instruments in the event of any suspected money laundering or terrorist financing activities.

298. Control of legitimacy of movement of personal use items by natural persons is conducted by the officers of the customs authorities on a random basis (selection of objects and (or) control operations) if there are signs indicating non-compliance with the established conditions of their cross-border movement. In the event of detection of violations, as a rule, administrative sanctions – admonition and fines are imposed. Where the customs regulations are violated by a

person who does not permanently reside or have a place of residence in Turkmenistan, material items, currency and valuables may be seized in amount necessary for recovering a fines or the cost of the items. Seized items and documents shall be listed in the attachment to a protocol to be drawn up in the situations specified in the respective Section (of the Customs Code) with precise indication of quantity, dimensions, weight and individual attributes of such items and documents as well as the cost of the items. The seized items and documents are accounted for, evaluated and stored in compliance with the Rules approved by the State Customs Service of Turkmenistan and endorsed by the Ministry of Economy and Finance of Turkmenistan.

299. Pursuant to Article 87 of Turkmenistan, any items constituting an immediate object of violation of the customs regulations and items with special hiding compartments used for hiding items moved across the customs border of Turkmenistan as well as documents necessary for examining the violation of the customs regulations are subject to seizure as per requirements set forth in the legislation on administrative offences of Turkmenistan. In order to monitor the situation with movement of foreign currency across the customs border of Turkmenistan, pursuant to the agreement with the Ministry of Finance of Turkmenistan (Letter No.4/1106/ dated 14.04.2010), the State Customs Service of Turkmenistan submits to the Ministry of Finance of Turkmenistan monthly reports on movement across the customs border of Turkmenistan of natural persons carrying cash or other assets in amount exceeding the established threshold. However, the representatives of the Customs Service did not provide to the assessors the respective regulation that governs such submission of information to the FIU. At the same time representatives of the customs provided statistics for 2010, according to which 106 reports on transboundary movements of cash and bearer instruments that exceeded threshold were submitted to the FIU. In accordance with Article 14 of the Law on Customs Service, the relevant data fall under the category of official secrecy and shall be subject to appropriate protection measures.

300. At the times of the on-site mission, there was no adequate coordination among the customs, immigration and other related authorities on issues related to implementation of Special Recommendation IX. Coordination between the customs authorities and the law enforcement and other oversight agencies is implemented in compliance with the provisions of the Customs Code and other regulations. No further details in this respect were presented.

301. The Turkmen side gave evaluators a list of international inter-ministerial agreements concluded by the Customs Service of Turkmenistan with foreign counterparts. In particular, the Turkmen side informed, that reporting foreign counterparts where cross-border movements of different material assets, including precious metals and stones are covered under these agreements. However, given the fact that texts of agreements were not provided, evaluators couldn't assess the effectiveness of such relationships.

302. The Current legislation envisages administrative and criminal liability for violation of the customs legislation in the Code on Administrative Offences of Turkmenistan:

303. Code on Administrative Offences:

Article 198³ – Failure to file with the customs authorities a customs declaration or other documents required for customs control;

Article 198¹⁰ – Concealment from customs control of goods and other items moved across the customs border of Turkmenistan;

Article 198¹¹ – Movement of goods and other items across the customs border of Turkmenistan using false documents or false identification of items for customs control purposes;

Article 198¹² – Failure to declare goods and other items or declaring them under other names

304. Criminal Code: Article 254 – Smuggling.

305. The Order issued by the Minister of Finance of Turkmenistan approved the Regulation on Arranging for Implementation of the UN Security Council Conventions and Resolutions. Pursuant to this Regulation, in the event of detection of natural and legal persons listed as terrorist organizations, terrorists and person supporting their activities, the law enforcement agencies, including the customs authorities are obliged, under the UN Security Council Resolutions, to promptly undertake appropriate measures and block their funds and other financial assets or economic resources.

Structure and Resources

306. Turkmenistan did not provide information on structure, funding, staffing, technical and other resources of the customs authorities engaged in the AML/CFT activities. No information on the requirements set for the employees of these agencies, on past or present professional development training courses related to combating ML and FT, etc., was provided either. Also, the representatives of Customs stated that they implement appropriate programs of education and trainings of employees, but the issues of AML/CFT are not envisaged in the framework of these programs.

Effectiveness and Statistics

307. The provided statistics indicate of the effective interaction between customs authorities and the FIU. However, the legal framework regulating this interaction is absent.

2.7.2. Recommendations and Comments

308. Turkmenistan should implement legislative, institutional and other measures in order to fully apply existing mechanisms of customs control and declaration for AML/CFT purposes.

309. The customs authorities should be able cooperate at the international level in the AML/CFT area.

310. Turkmenistan should apply declaration requirements to all types of bearer negotiable instruments that are set out in the FATF Recommendations.

311. It is necessary to hold appropriate AML/CFT training workshops for the customs authorities.

2.7.3. Compliance with Special Recommendation IX

	Rating	Summary of factors underlying rating
SR.IX	PC	<ul style="list-style-type: none"> • The existing customs control system is insignificantly used for AML/CFT purposes. • The declaration requirements do not cover bearer negotiable instruments. • No opportunity for international cooperation with the customs authorities of other countries. • The representatives of the customs authorities are poorly aware of their AML/CFT responsibilities. <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> • The provided statistics indicate of the effective interaction between customs authorities and the FIU. However, the legal framework regulating this interaction is absent..

3. Preventive Measures – Financial Institutions

Customer Due Diligence and Record Keeping

3.1. Risk of Money Laundering or Terrorist Financing

312. The risk-based approach is not used in the framework of regulation of combating laundering of proceeds obtained by criminal means and financing of terrorism (hereinafter AML/CFT). However, the assessors were informed that this instrument is partially used by some reporting entities subject to financial monitoring in their Rules of Internal Control for combating laundering of criminal proceeds and financing of terrorism (hereinafter the Internal Control Rules) adopted pursuant to the legislation of Turkmenistan.

313. It should be noted that analysis of the Internal Control Rules (ICRs) of commercial banks allow for drawing a conclusion that they partially use the risk-based approach. However, this instrument is not used in the reviewed Internal Control Rules of other financial institutions.

3.2. Customer Due Diligence, Including Enhanced or Reduced Measures (R.5 - 8)

3.2.1. Description and Analysis

Preamble: Types of financial institutions subject to AML/CFT measures

314. The following financial institutions of Turkmenistan are subject to the FATF Recommendations under Article 1 of the AML/CFT Law:

- banks, licensed and supervised by the Central Bank of Turkmenistan;
- other financial credit institutions;
- insurance institutions;
- leasing institutions;
- pawnshops;
- business operators in securities market;
- commodity exchanges;
- currency exchanges;
- postal and telegraph service institutions providing money transfer services and other institutions carrying out payments and/or settlements.

Recommendation 5

Anonymous Accounts

315. It is prohibited for financial institutions in Turkmenistan to open and maintain anonymous accounts. Pursuant to section 1 of Article 3 of the Law of Turkmenistan on Counteracting Legalization of Proceeds Obtained by Criminal Means and Financing of Terrorism (hereinafter the AML/CFT Law), banks and other credit institutions authorized to open and maintain bank accounts have no right to open anonymous accounts (deposits), numbered accounts (deposits)

and carry out any transactions without identifying counterparties and/or customers in compliance with the legislation of Turkmenistan. This requirement is established by the directly applicable provision of the AML/CFT Law, and no additional regulation or internal documents of the respective entities are required for its implementation.

316. The regulations of Turkmenistan, that govern banking activity, clarify this requirement as applied to specific types of activities.

317. For example, the regulations of Turkmenistan that govern the procedure of opening and maintaining of bank accounts contain the list of mandatory documents to be submitted to a banking institution for opening a bank account (Regulation on Bank Account approved by Order No.18 of the Chairman of Board of the Central Bank of 2006). Instruction on the procedure of carrying out certain transactions in foreign currency by banks at the territory of Turkmenistan (approved by Resolution No.5490 issued by the President of Turkmenistan on 07.01.02) also contains prohibition to open anonymous accounts. Pursuant to section 5 of Chapter 5 of the said Instruction, the designated banks may not open anonymous accounts, numbered accounts and carry out transactions without identifying a customer.

318. It should be noted that this item was introduced into these instructions only in December 2009 (Resolution of President of Turkmenistan on 02.12.2009, № 10 717). Thus, from 2006 to 2009 the technology to open bank accounts and deposits excluded the possibility of opening and maintaining anonymous accounts, however there was no prohibition on their opening and maintaining. According to the information received from the Turkmen side anonymous bank accounts, accounts payable to bearer in Turkmenistan "de facto" were not opened. However, the data for analysis of all open accounts (deposits) after the entry into force of the AML / CFT and the closure of accounts (deposits), with signs of anonymity, was not provided to evaluators.

319. The Internal Control Rules of the banks (except for one bank) presented to the assessors also prohibit opening and maintaining anonymous accounts and in some cases clarify the term "anonymous account". For example, under the Internal Control Rules it is prohibited to open anonymous holder accounts (deposits), i.e. without presenting by a natural person or legal entity that opens the account of documents needed for identification. It is also prohibited to open accounts (deposits) of individuals without personal presence of a person who opens the account (deposit) or his/her representative.

When CDD is required

320. Pursuant to the AML/CFT Law (section 4 of Article 3), the reporting entities (in particular, banks and other financial institutions) shall carry out identification and undertake other CDD measures when establishing business relationships, carrying out occasional financial transactions above the established threshold, and also when there is a suspicion of laundering of criminal proceeds or financing of terrorist activity, or there are doubts about the veracity and/or adequacy of previously obtained customer identification data.

321. Pursuant to the AML/CFT Law (section 1 of Article 5 and subsection 2 of section 2 of Article 6), the threshold amount is determined by the designated government agency of Turkmenistan.

322. Pursuant to Order No.17 “On establishing threshold amount of transactions and deals in foreign or national currency subject to mandatory AML/CFT control” issued by the Minister of Finance of Turkmenistan on 25.02.10 (hereinafter Order No.17), the threshold amount of transactions and deals in foreign or national currency subject to mandatory AML/CFT control is 570 thousand manats (about 200,000 US dollars) for transactions and deals with funds and 1,425 thousand manats (500,000 US dollars) for transactions and deals with other property (assets). Under the AML/CFT Law (Article 5), the threshold amount is calculated for both single transactions and deals with funds and other property (assets) and a series of interlinked transactions and deals carried out during ten days.

323. The threshold amount established in Turkmenistan, i.e. the amount that triggers the obligation to undertake the CDD measures when carrying out occasional transactions, is equal to the equivalent of about 200 (two hundred) thousand and about 500 (five hundred) thousand US dollars, respectively. Therefore, when carrying out occasional transactions in amount slightly less than 200 thousand US dollars the CDD measures may not be undertaken (or undertaken just partially), which is inconsistent with the FATF Recommendations. It should be noted that banks in Turkmenistan may conduct almost any types of occasional financial transactions and deals – the Law of Turkmenistan on Commercial Banks and Banking Activity contains the open list of banking transactions and deals.

324. In this context, such large threshold amount means that financial institutions of Turkmenistan are formally not obliged to undertake necessary CDD measures with regard to most of occasional financial transactions (including purchase and sales of foreign currency cash, cash remittances, etc.).

325. The Internal Control Rules of financial institutions reviewed by the assessors mirror the aforementioned provision of the AML/CFT Law concerning situations when identification is required or refer to the situations specified in the legislation of Turkmenistan. Some Internal Control Rules clarify the situations when CDD is required.

326. For example, the Internal Control Rules of one bank stipulate that when carrying out transactions with funds or other assets the bank, in the situations specified in the legislation of Turkmenistan, shall identify customers and their counterparties and shall undertake actions to obtain data on other parties to a transaction (including beneficiary owners). The same Internal Control Rules stipulate that identification of natural persons (depending on a customer risk profile) may not be carried out if an occasional transaction performed by them is not subject to mandatory control and the legislation of Turkmenistan does not require to submit the ID documents to a bank for carrying out such transaction. Given that the banking and foreign currency legislation of Turkmenistan requires to provide ID documents when conducting most banking transactions and deals, in practice it may result in the extension by this bank of situations when identification is necessary for carrying out one-off transactions and deals, compared to the Law.

327. The Internal Control Rules (ICRs) of another bank establish mandatory requirements for the contents of the customer identification and examination program of the bank. These Internal Control Rules do not contain a list of situations when identification shall be carried out. On the

contrary, these ICRs extend and clarify such situations as compared with the Law. The bank identifies its customers when carrying out banking transactions and deals in compliance with the legislation of Turkmenistan (and not just when it is prescribed by the AML/CFT Law). Personal information on individuals shall be collected when a customer enters in any contracts. Personal data are collected when cash is credited / debited to a customer's account (deposit), when carrying out transactions involving purchase and sales of foreign currency cash and traveller's cheques, when conducting money transfers without opening bank account, when using rented safe deposit box. As for legal entities, these Internal Control Rules do not specify a special list of transaction and deals when identification is required, i.e. the general procedure established in these ICRs will apply.

328. Just one of the reviewed Internal Control Rules of commercial banks almost mirror the provisions of the AML/CFT Law (section 4 of Article 5) regarding the situations when the CDD measures shall be undertaken and specify no additional situations when CDD is required.

329. It should be noted that some regulations oblige financial institutions to undertake certain CDD measures when carrying transactions below the established threshold. For example, the Temporary Regulation on Foreign Currency Cash Exchange Transactions approved on December 27, 2007 (hereinafter the Temporary Regulation on Exchange Transactions) stipulates that commercial banks may carry out exchange transactions with foreign currency cash in the amount equal to or exceeding 100,000 US dollars only upon presentation by a natural person of the ID document (item 8 of Section 4). Some identification data of such individual are recorded in the Register of purchased and sold foreign currency. It is prohibited to carry out the said exchange transactions without submitting the ID document. It should be noted that, pursuant to the Temporary Regulation on Exchange Transaction, the exchange transactions with foreign currency cash include only transactions involving purchase, sales and conversion of foreign currency cash. Other transactions with cash (change, collecting, etc.) conducted by natural persons are not covered by this Temporary Regulation.

330. The situations when the CDD measures shall necessarily be undertaken listed in the Internal Control Rules (ICRs) of the State Insurance Institution of Turkmenistan are similar to those specified in the AML/CFT Law, but the said ICRs indicate specific types of insurance contracts to which the threshold excess criterion for the identification purposes is not applicable.

331. The insures may not, without identification of insuree, enter into:

- a life insurance contract and other types of accumulative insurance contracts,
- contract for insurance contribution which amount is equal to or exceeds the established threshold amount of a transaction or a deal.

332. Furthermore, the insurers shall refuse to enter into the aforementioned contracts if no respective documents for identification of insuree are provided, or provided documents raise suspicions or if information is obtained that the insuree is engaged in terrorist activities.

333. Therefore, the situations when the CDD measures shall necessarily be undertaken when entering into the life insurance contracts and other accumulative insurance contracts listed in the

Internal Control Rules of the State Insurance Institution exceed those specified in the Law. When entering into the said contracts, identification of insuree is carried out irrespective of the threshold amount. As for other types of insurance contracts, the main criterion for undertaking the CDD measures is the threshold amount of insurance contribution, which, as mentioned above, is unreasonably high.

334. It should be noted that the said Internal Control Rules regulate identification of just an insuree and say nothing about identification and undertaking other CDD measures with regard to other persons involved in insurance, such as beneficiary, third parties to whom rights and obligations of an insuree are assigned, etc. The Internal Control Rules envisage undertaking the CDD measures depending on the amount of insurance contribution but say nothing about other amounts due under the insurance contract, for example, amount of insurance indemnity.

335. Besides that, in case of insurance the relationship is established for a long period of time, and according to the assessors' viewpoint the requirement of the AML/CFT Law for undertaking the CDD measures when "establishing business relationships" (section 4 of Article 3) is more applicable to such relationship. However, the insurance institutions do not use this tool provided by the AML/CFT Law in their respective Internal Control Rules.

336. Thus, the Internal Control Rules of the State Insurance Institution of Turkmenistan, on one hand, extend the scope of the AML/CFT Law (life insurance contracts and other accumulative insurance contracts) and, on the other hand, narrow down the scope of this Law (when establishing business relationships, subjects of insurance relationships, types of payments).

337. In the course of the meeting with the assessors the representatives of the aforementioned insurance company repeatedly stated that the insurance contract may not be entered into without obtaining the respective documents from a customer (personal ID documents, instruments of incorporation, etc.) regardless of the amount of the contract. However, according to the opinion of the assessors, the situation mentioned above (applying CDD measures when entering into other insurance contracts not specified in the Internal Control Rules) should be resolved and clarified in the respective documents.

338. It should be noted that none of the presented Internal Control Rules of financial institution provides for prohibition (refusal) to undertake the CDD measures by a financial institution at its own initiative when conducting transactions not specified in section 4 of Article 5 of the AML/CFT Law (situations when CDD shall be performed), including occasional transactions below the threshold amount.

Required CDD measures

339. Mandatory CDD measures to be undertaken by financial institution are specified in section 3 of Article 3 of the AML/CFT Law. The mandatory CDD measures include the following procedures:

- identify and verify identity of a customer;

- ascertain the legal status of a customer that is a legal entity;
- verify authority and identify persons authorized to carry out transactions on behalf of a customer not being physically present;
- identify and verify identity of a beneficiary owner;
- undertake other actions prescribed by the legislation of Turkmenistan.

340. In the course of identifying and verifying the identity of a customer financial institutions shall undertake certain actions to establish the identity of a customer that is a natural person (last name, first name, middle name, place of registration and residence, date of birth, passport details, authority to dispose of funds on bank account and other information required in compliance with the legislation of Turkmenistan). The legal status of a legal entity also includes information on name of a customer, form of incorporation, address, executive officers and other data related to instruments of incorporation regulating activities of a customer.

341. The obligation to identify representative of a natural person or legal entity is established in the AML/CFT Law.

342. The Law stipulates that the reporting entities shall verify the authority and identify persons authorized to carry out transactions on behalf of a customer not being physically present. However, the Law does not clarify the term “identification” and does not specify specific actions to be taken by the entity subject to financial monitoring. Analysis of the Law allows for making a conclusion that it means procedures similar to those prescribed for identification of a customer. Therefore, if a representative is a natural person, it is necessary to identify and verify last name, first name, middle name, place of registration and residence, date of birth, passport details, etc., and if a representative is a legal entity it is necessary to verify the legal status including information on name, form of incorporation, address, executive officers, etc (section 3 of Article 3).

343. The representative of the supervisory authorities and financial institutions repeatedly told the assessors that the Internal Control Rules adopted by them specify in detail the issues related to identification. It should be noted that the submitted IRC to experts are adopted either by commercial banks or the state insurance company, ie are local acts, and can not be considered as regulations.

344. The Internal Control Rules of commercial banks that use the risk-based approach (that have been presented to the assessors) address the identification issues in great detail. It should be noted that in some instances the procedure of actions a bank shall undertake to identify a customer is also developed. There are some differences in the identification procedures in the Internal Control Rules of various banks, but in all instances there is a general pattern – collection of data on a customer, verification and assessment of such data and assignment of a risk level. For example, the Internal Control Rules stipulate that under the customer identification and examination program in the course of identification of a customer using the ID documents the bank shall first of all verify personal data of natural and legal persons, their representatives and, in some instances, of third parties. Another bank, apart from collection and verification of customers’ personal data, shall also verify additional data. In both cases customers shall complete a special form.

345. The obligation of financial institutions to undertake CDD-related actions is also established in the regulations of Turkmenistan that govern certain types of operations of these institutions.

346. The assessors were informed that the CDD measures and mechanism of their implementation are specified in more detail in the Internal Control Rules developed and adopted by all financial institutions of Turkmenistan in compliance with requirements set forth in Article 5 of the AML/CFT Law. However, as mentioned above, apart from the Internal Control Rules of commercial banks, only the ICRs of the State Insurance Institution of Turkmenistan were presented to the assessors.

347. It should be noted that at the time of the on-site mission there were no common and uniform requirements (or recommendations) for the Internal Control Rules established by the laws or regulations of Turkmenistan. However, according to the representatives of the Central Bank of Turkmenistan an appropriate draft regulation is under development for the banking sector. The insurance sector and the postal money transfer providers are represented just by two companies – the State Insurance Institution of Turkmenistan and Turkmenpost state-owned company, while the leasing services and the securities market are poorly developed. Therefore, at present the chances of imbalanced regulation of the AML/CFT issues by the local regulations in various areas of the financial sector are minimum.

Banks and banking institutions

348. The requirement to identify customers and undertake other CDD measures is specified in the greatest detail in the Internal Control Rules of commercial banks.

349. For example, under the customer identification and examination program the bank shall identify and examine a customer when carrying out banking transactions and other deals, while based on the provided documents (e.g. ID documents, registration documents) a bank shall, first of all, verify the personal data. For natural persons such personal data include full name, place of residence and staying, details of ID document. For legal entities such data include name, individual taxpayer number, registration number, place of registration, location, postal address, statistical codes. It is emphasized that when reviewing these data special attention shall be paid to completion of documents, structure of governing bodies, amount of registered and paid-up authorized capital (fund, assets), founders (members) including persons who can exercise control over decisions made by the bodies of a legal entity. A representative and a third party in the name of whom an account (deposit) is opened shall also be identified. The Internal Control Rules of this bank contain a detailed form to be completed by a customer.

350. The Internal Control Rules of another bank requires to identify persons carrying out transactions with funds and other assets (customers of the bank and their counterparties), to take actions for identifying persons on whom behalf they act and undertake actions to obtain information on other parties to a transaction (intermediaries, beneficiary owners). The Internal Control Rules of this bank contains the requirement to collect and verify similar personal data on the customers. The Rules also provide for possible collection of additional information: verifying information on loans, obtaining data from third parties (including the government agencies) on business reputation, verifying the obtained information on managers, chief accountant and

executive officers as well as reviewing audit reports and reconciling the data provided by customers against the information obtained from the government agencies.

351. Most of the reviewed Internal Control Rules of commercial banks provide for completion of a customer form. However, not all Internal Control Rules provided to the assessor specify the situations when such customer form shall be completed, procedure of its completion and its format.

352. For example, certain Internal Control Rules contain a reference provision – development for each group of customers (individuals, legal entities, individual entrepreneurs, correspondent banks) special forms which format is approved by the Order of the bank CEO, but at the same time specify situations when completion of these forms is not mandatory.

353. Another Internal Control Rules, on the contrary, contain a very detailed customer form that shall reflect not just the information prescribed by the AML/CFT Law but also additional information. For example a natural person shall additionally provide information on entry visa (for non-residents), place of work and position he/she holds, on organizations/institutions which decisions are directly or indirectly controlled by such natural person, official information, e-mail address, individual taxpayer number (if any). Individual entrepreneurs shall provide information on state registration, on accounts opened with other banks, on types of entrepreneurial activity as well as information on counterparties. A legal entity shall provide information on managers, chief accountant and executive officers acting on behalf of such legal entity, on founders, beneficial owners and persons who can control operations of legal entity, including whether the aforementioned persons hold over 25% interest in the authorized capital and whether they are owners of other organizations. Besides that, legal entities shall provide information of the amount of registered authorized capital, on types of activities, on accounts opened with other banks, on regular counterparties, on a history of the entity and information on audit institution that have carried out the most recent audit. In addition to that, indicated in the customer form shall also be information on organizations that can control decisions made by such entity and on organizations which decisions are controlled by such entity as well as information on branches, representative offices, subsidiaries, counterparties and other official information. Similar forms are developed by this bank for correspondent banks.

354. Among the presented Internal Control Rules of commercial banks one Rule did not contain provisions on completion of a customer form and on the information to be reflected in such form, although the representatives of the supervisory authorities and commercial banks of Turkmenistan repeatedly pointed out during the on-site mission that completion of a customer form is provided for in each commercial bank of Turkmenistan.

355. It should be noted that some regulations that govern banking transactions and deals (for example the foreign currency regulation and currency control regulations) address identification and other actions which may be considered as the CDD measures, or these regulations inspire (force) commercial banks to carry out identification and undertake other CDD measures.

356. For example, the Regulation on Bank Account approved by Order No.18 issued by the Chairman of the Board of the Central Bank of Turkmenistan in 2006 (hereinafter the Regulation

on Bank Account) establish the procedure for opening, maintaining and closing of bank accounts. These accounts include transaction (subaccount), current (in manats and foreign currency), budgetary, deposit, special, provisional and correspondent accounts and subaccounts of customers (individuals and legal entities).

357. The Regulation on Bank Account specifies the list of documents that shall be submitted to the bank for opening the above listed accounts. In most instances the following documents shall necessarily be provided for opening a bank account:

- an application as per established form,
- originals and copies of documents on state registration and registration with tax authorities,
- originals or copies of the instruments of incorporation (articles of association/charter and deed of incorporation), certified copies of documents of title (granting the right to use) to land (for land owners and land users),
- an authorized signature card and a card with seal impression.

358. In order to open a bank account in foreign currency, a copy of the extract from the register of entities engaged in foreign economic activities shall additionally be provided. In order to open an account in foreign currency with the same bank where an account in the national currency (in manats) is opened, there is no need to provide instruments of incorporation, title documents and tax documents, but just the reference to the respective customer file is sufficient.

359. Annex No.4 to the Regulation on Bank Account specifies separate lists of documents to be presented by various types of customers when opening various types of accounts (government agencies, state-owned companies, public associations, business entities, one-man businesses, cooperative businesses, joint stock companies, lessees, branches and representative offices of foreign companies, etc. and natural persons). When opening accounts for legal entities, a copy of the extract from the unified state register of legal entities shall be always provided.

360. The Regulation on Bank Account does not oblige to provide documents certifying the status of and identifying the managers of a legal entity. Besides that, there is no requirement to provide documents that allow for identification of a beneficial owner. However, the said provisions are set forth in some Internal Control Rules of commercial banks that have been provided to the assessors.

361. Despite the fact that the Regulation on Bank Account applies to natural persons, the list of documents to be provided to a bank does not specify what documents shall be submitted by natural persons when opening a bank account.

362. The Regulation on Bank Account (section 1.3) authorized a bank to request, where necessary, a customer to provide additional documents and information needed for managing an account.

363. The Regulation on Bank Account provides for the preliminary review by a bank of documents submitted for opening an account. A lawyer or a chief accountant (deputy chief accountant) of a bank shall review an application submitted by a customer and all attached documents. Pursuant to section 1.4 (of the Regulation), after reviewing the presented documents

a lawyer, and where there is no a full-time lawyer in a bank, a chief accountant or a deputy chief accountant makes a note in the application confirming that all necessary documents are available. However, the procedure of reviewing the submitted documents, the purpose of the review, the extent of verification and the procedure of documenting the results are not provided for in the said Regulation.

364. A bank account is opened after the manager or the deputy manger of a bank signs a customer application. When opening an account the chief accountant (deputy chief accountant) of a bank makes a note on opening a bank account (account number, date of opening, signature and seal of a bank) in the original state registration document.

365. It should be noted that there is the procedure for updating the registration documents of legal entities in Turkmenistan. Therefore, the re-registration documents shall be submitted, within the established time frame (typically once a year), to commercial banks with which bank accounts of legal entities are opened.

366. Pursuant to the Regulation on Bank Account, if the presented documents for maintaining a bank account are insufficient, transactions carried out through such account, except for some transactions of social nature, may be suspended by an order of the bank manager (section 1.10).

367. Commercial banks are obliged to maintain a customer legal file which contains all documents pertaining to a bank account including the original account opening agreement (section 1.5). Such customer file shall be kept with the legal department of a bank, and where a bank has no legal department, which the chief accountant or his/her deputy.

368. Pursuant to the Regulation on Non-Cash Payments approved by Order No.16 issued by the Chairman of the Board of the Central Bank of Turkmenistan on January 19, 2009 (hereinafter the Regulation on Non-Cash Payments), all funds of business entities shall necessarily be kept with commercial banks. Payments are effected through the core activity service accounts through commercial banks and the Central Bank of Turkmenistan.

369. The Regulation on Non-Cash Payments establishes methods of payments and specifies the types of payment documents in form of payer's or recipient's instructions. The Annexes to the said Regulation specify the procedure for completion of the payment documents and information that shall necessarily be included in such documents.

370. All types of payment documents shall include information on a payer and a recipient (name, individual taxpayer number, account number), and in most instances the grounds for and type of a payment transaction shall be indicated.

371. Pursuant to the Regulation on Non-Cash Payments, an employee of a commercial bank shall verify correctness of all details contained in a payment document. Most of types of payment documents have the "verified by bank" column. However, the aforementioned Regulation do not specify the contents of such verification, its scope and subject of control nor does it regulate the actions to be undertaken by a bank and a customer in the course of such verification.

372. The obligation of a customer to provide the ID document and the obligation of a bank to verify the identification data against data contained in a payment document are established only in the situations when cash is paid-off or when funds are transferred from the accounts of authorized persons. A bank shall verify documents of a recipient of transferred funds (passport or equivalent document) and make an appropriate note in a cash voucher or on the reverse side of a payment order (section 66).

373. Turkmenistan has instituted foreign currency controls and therefore has developed the foreign currency regulation and currency control legislation. Pursuant to the Law of Turkmenistan on Foreign Currency Regulation, all transactions with foreign currency in Turkmenistan shall be carried out through the designated banks, which shall ensure legitimacy of the exchange transactions conducted by their customers and with their involvement.

374. The Instruction on Certain Transactions in Foreign Currency Carried Out by Banks at Territory of Turkmenistan approved by Resolution No.5490 issued by the President of Turkmenistan on 07.01.02 (hereinafter the Instruction on Certain Transactions in Foreign Currency) obliges natural persons to provide identification documents when carrying out transactions without opening bank accounts. When transferring foreign currency from Turkmenistan (when receiving foreign currency transferred to Turkmenistan) natural persons (their representatives) shall submit to a bank an appropriate application and a passport, or other ID document. When the aforementioned transactions are carried out through a representative, a respective power of attorney shall be presented as well.

375. Resident individuals may transfer from Turkmenistan foreign currency cash that has been earlier transferred or brought into Turkmenistan upon presentation of a document confirming the origin of such foreign currency cash. Similar regulation is established for non-resident natural persons when they carry out the aforementioned transfers in amount exceeding 5,000 US dollars during one banking day, or when such transfers are conducted systematically and total amount of transfers during 3 months exceeds 15,000 US dollars (or the equivalent in other foreign currency). The said Instruction stipulates that if the aforementioned thresholds are exceeded the designated bank shall require a natural person to provide a document certifying the origin of foreign currency (section 5). To receive foreign currency, a natural person shall also present to the designated bank documents that confirm the grounds for carrying out a foreign currency transaction set forth in the Instruction (section 6).

376. It should be noted that the Instruction on Certain Transactions in Foreign Currency also contains the list of documents that a natural person (resident and non-resident) who is the entrepreneur shall present for opening a foreign currency account. This list is similar to the list set forth in the Regulation on Bank Account but contains one additional document – a customer form. Neither the Instruction nor the Regulation on Bank Account specifies the scope of information needed for completion of the said customer form and procedure of its completion. Some Internal Control Rules of commercial banks also envisage completion of a customer form. However, no information on whether a customer shall complete just one or several customer forms (one under the banking activity legislation and another under the AML/CFT legislation) was provided.

377. The assessors managed to find out that in Turkmenistan natural persons also carry out other transactions with foreign currency cash (apart from transfers, withdrawal from/depositing in accounts). These transactions with foreign currency cash are generally referred to as foreign currency exchange transactions (purchase, sales, conversion, change, collection, etc.).

378. At present the foreign currency exchange transactions carried out by individuals are regulated by the Provisional Regulation on Foreign Currency Cash Exchange Transactions dated 28.12.2007 (as amended on 26.05.2010) approved by the Chairman of the Board of the Central Bank of Turkmenistan. Natural persons may conduct transactions involving purchase, sales, conversion of foreign currency cash (called foreign currency cash exchange transactions) in exchange offices of the designated banks in compliance with the Provisional Regulation on Exchange Transactions. However, such transactions as change of foreign currency cash, collection, transactions with cheques (including traveller's cheques) are not regulated by the Provisional Regulation and the assessors has received no information on how these transactions are regulated.

379. Item 3 of Section 4 of the Provisional Regulation on Exchange Transactions stipulates that for AML/CFT purposes when carrying out exchange transactions with foreign currency cash in amount exceeding 10,000 US dollars or the equivalent of any other foreign currency a cash keeper shall require ID documents of a natural person who carries out (attempts to carry out) such transaction. Exchange transactions with foreign currency cash in the aforementioned amount or above may be conducted only upon presentation by a natural person of the ID document. Should a customer refuse to provide the ID document, such transaction shall not be carried out. Each such transaction shall be documented by the appropriate certificate (registered high-security form), one copy of which is issued to a natural person, and the second copy remains with a bank (items 8 and 9 of Section 4). Personal data of a customer (and also if the aforementioned certificate is requested) are recorded in the Register of Purchased and Sold Foreign Currency (Annex 3). The personal data include last name, first name, middle name and details of ID document. Possible recording of other data in the Register is not provided for by the Provisional Regulation on Exchange Transactions.

380. Proper fulfillment of the requirements set forth in the Provisional Regulation on Exchange Transactions in the situations where natural persons conduct occasional transactions involving purchase, sales and conversion of foreign currency cash in amount exceeding 10,000 US dollars (i.e. below the threshold amount) requires (forces) commercial banks to undertake some CDD measures in respect to such natural persons. However, a commercial bank of Turkmenistan is not formally obliged to undertake any CDD measures in respect to natural persons who carry out other occasional transactions with foreign currency cash and cheques, that do not fall in the exchange transaction category (e.g. change of currency, collection, etc.), if the amount of such transaction is below the established threshold (about 200,000 US dollars).

381. It should be noted that, as mentioned above, the Internal Control Rules of some banks contain the requirement to collect more extended personal data on natural persons (including place of residence) when carrying out transactions involving purchase and sales of foreign currency cash and traveller's cheques. The assessors have received no information on how a bank will fulfill this requirement (e.g. where and how information, including information on

transactions with cheques (that is not provided for by the Provisional Regulation) will be recorded) complying with the Provisional Regulation on Exchange Transactions. However, neither the laws and regulations of Turkmenistan nor the internal documents of banks prohibit such actions.

Insurance institutions

382. Under the AML/CFT Law, the insurance institutions are the reporting entities. At the time of the on-site mission, operating in Turkmenistan was the only insurance institution – the State Insurance Institution of Turkmenistan. Pursuant to the AML/CFT Law, the said company has developed and adopted the Internal Control Rules (ICRs) that specify the procedure of performing CDD when entering into and executing insurance (reinsurance) contracts.

383. Pursuant to the Internal Control Rules, the insurers shall carry out identification. To do this, it is necessary to:

- identify and verify the identity of an insuree (insured person), i.e. last name, first name, middle name, place of registration and residence, place of birth, passport details and other information in compliance with the legislation of Turkmenistan;
- verify the legal status of an insuree, including its name, form of incorporation, address, executive officers and other data provided for by the instruments of incorporation;
- identify and verify the identity of a beneficial owner,
- identify and verify authority of persons acting on behalf of an insuree.

384. It should be noted that the situations when the CDD measures shall be undertaken are almost similar to those specified in the AML/CFT Law. In the event of occasional transactions the CDD is performed only if the amount of such transaction is equal to or above the established threshold, except for the life insurance contracts and other accumulative insurance contracts (see Section “When CDD is required”).

385. The obligation to carry out identification means prohibition to enter into life insurance contracts, other types of accumulative insurance contracts and contracts for insurance contribution which amount is equal to or above the threshold amount of transactions or deals without appropriate identification of an insuree. Besides that, the insurers shall refuse to enter into the aforementioned insurance contracts if documents needed for identification are not presented, or the provided documents raise suspicions or if there is information that an insuree is engaged in terrorist activity.

386. It should be noted that CDD is always performed when establishing business relationships. However, neither the Law nor the aforementioned ICRs define this term.

387. Analysis of the said provisions does not allow for drawing a definite conclusion that there is no obligation to perform CDD in respect to other persons engaged in insurance (e.g. third parties to whom the rights and obligations are assigned) when carrying out insurance transactions, not specifically indicated in the ICRs, in the amount below the established threshold

and other insurance transactions or other payments (e.g. insurance amount, insurance indemnity). However, the Internal Control Rules of the Insurance Institution does not contain prohibition to enter into deals in such situations without undertaking CDD measures.

388. The Insurance Law does not contain special provisions for undertaking the mandatory CDD measures in the course of insurance. However, the provisions regulating the contents of an insurance contract force the insurance institutions to undertake CDD-related actions. For example, pursuant to Article 18 of the Law on Insurance, an insurance contract and insurance policy shall contain data on insuring party, insured person and beneficiary. Such data include last name, first name, middle name of natural persons and name, legal address and bank details of legal entities. This forces counterparties, when entering into a contract, to provide and obtain the respective documents, i.e. to carry out identification and undertake certain CDD measures. However, further actions of the insurance institutions, including actions to verify and assess the presented documents and to retain such documents, are not specified in the Insurance Law. Furthermore, the Insurance Law (Article 10) provides for possible payment of insurance premium prior to entering into a contract. However, the assessors were informed that no such actions had taken place in Turkmenistan.

389. It should be noted that the Internal Control Rules prescribe the insurers, when performing CDD, comply with other requirements set forth in the entire legislation of Turkmenistan and not just in the AML/CFT legislation.

390. As for the identification and CDD implementation mechanism, the provided Internal Control Rules of the State Insurance Institution of Turkmenistan do not establish such mechanism. The said Rules do not provide for completion of customer forms and do not specify the algorithm of verification of obtained information. In this context, the general procedure established by the Law will apply, since no special provisions are adopted. Lack of special regulation, as applied to the insurance sector, of issues pertaining to the procedure of recording information obtained as a result of the undertaken CDD measures, completing customer forms and verifying data on a customer may affect the effectiveness of application of the respective provisions of the AML/CFT Law.

Exchanges

391. Operating in Turkmenistan are the currency exchange and the commodity exchange.

392. The functions assigned to the State Commodity Exchange include registration of certain types of contracts, while certain goods, as decided by the Cabinet of Ministers of Turkmenistan, may be sold only through the State Commodity Exchange (Article 4 of the Law on Commodity Exchange). The assessors were informed that all foreign trade transactions (Resolution No.2191 “On entering into foreign trade contracts by business entities with foreign companies in Turkmenistan” issued by the President of Turkmenistan on 28.04.1995) as well as other transactions (deals) in amount exceeding the equivalent of 2,170 US dollars are subject to registration or execution at the State Commodity Exchange. Pursuant to section 27 of the Regulation on Exchange Trade at the State Commodity Exchange of Turkmenistan (approved by Order No.01/05-36 dated 10.09.2008) the exchange transactions (deals) in amount less than

30,000,000 (thirty million) on non-denominated manats (about 2,170 US dollars) entered into by the Turkmenistan companies may be carried out outside the Commodity Exchange. Section 47 of the said Regulation establishes that registered according to the standard procedure at the Commodity Exchange are contracts entered into outside the exchange trading procedure that are subject to registration under the legislation of Turkmenistan. According to the representatives of the supervisory authorities and the private sector of Turkmenistan, this means that transactions in amount above the equivalent of 2,170 US dollars are also subject to registration at the State Commodity Exchange.

393. In order to register foreign trade contracts, involving import of goods purchased for foreign currency, entered into by the central and local authorities and institutions subordinated to them, it is necessary to obtain a positive opinion of the merchant bank certifying that the payment terms and conditions are consistent with the legislation of Turkmenistan (Section 7 of Resolution No.9847 “On basic measures for foreign currency regulation and supporting the exchange rate of the national currency” issued by the President of Turkmenistan on 13.05.08). Apart from the Law, the operation of the State Commodity Exchange of Turkmenistan is regulated by the Regulation on Exchange Trade at the State Commodity Exchange of Turkmenistan (hereinafter Commodity Exchange Trade Regulation) (approved by Order No.01/05-36 dated 10.09.2008 of the State Commodity Exchange) and by the Charter approved by the Cabinet of Ministers of Turkmenistan (Article 4). The Charter of the State Commodity Exchange of Turkmenistan was not provided to the assessors.

394. Pursuant to the AML/CFT Law (Article 1), the commodity exchanges, including the only currently operating State Commodity Exchange, are the reporting entities (the entities subject to financial monitoring). This means that the requirement of the Law to undertake CDD measures set forth in section 3 of Article 3 in the situations specified in section 4 of the said Article applies to the commodity exchange. Therefore, the CDD shall be performed with regard to the exchange intermediaries and visitors engaged in the exchange transactions as well as when registering contracts. The State Commodity Exchange shall identify the above listed persons and also indentify beneficial owners. Besides that, the State Commodity Exchange shall develop and adopt the Internal Control Rules. During the on-site mission, the representatives of the Commodity Exchange and the supervisory authorities informed the assessors that the Internal Control Rules of the State Commodity Exchange had been developed and adopted, however, this document was not provided to the assessors.

395. It should be noted that section 8 of the Commodity Exchange Trade Regulation obliges the Commodity Exchange to ensure identification of traders. However, this provision is not sufficient for addressing the AML/CFT issues. Firstly, this provision regulates the access control issues. And, secondly, the mechanism of such identification, the scope of obtained information, the procedure of its recording and verification as well as the procedure of undertaking other CDD measures set forth in the Commodity Exchange Trade Regulation are not specified.

Business operators in securities market

396. Pursuant to the AML/CFT Law, business operators in securities market are the reporting entities (the entities subject to financial monitoring). However, the securities market legislation of Turkmenistan uses different terminology (securities market participants).

397. Based on the analysis of the provisions of the Law on Securities Market one can make a conclusion that such entities subject to financial monitoring (specified in the AML/CFT Law) as “business operators in securities market” include investment institutions, stock exchanges, depository and securities registrars.

398. The AML/CFT legislation of Turkmenistan provides for arranging the AML/CFT measures by the professional operators in the securities market. In particular, pursuant to Article 3 of the AML/CFT Law, they (as the reporting entities) are obliged to undertake the CDD measures provided for in the said Article in respect to their customers in the specified situations (when establishing long-term business relationships, when carrying out occasional threshold (above threshold) transactions and deals, when there are suspicion of ML/FT and doubts as to the veracity of provided information). The Law also obliges the aforementioned persons to develop and adopt the appropriate Internal Control Rules.

Leasing companies

399. Leasing companies (firms), being the reporting entities, have all rights and obligations provided for by the AML/CFT Law. In particular, they are obliged to undertake the CDD measures specified in Article 3 of the Law in respect to their customers. They shall identify (take certain measures for identifying) a customer (natural person and legal entity) and a person acting on behalf of a customer (including authority of such person) and a beneficial owner. The situations when, pursuant to the AML/CFT Law, the aforementioned CDD measures shall necessarily be undertaken are described above. These situations include establishing business relationships, carrying out occasional threshold and above threshold transactions, doubts and suspicions of ML/FT and about the veracity and/or adequacy of previously obtained customer identification data.

400. Institutions engaged in leasing activities are obliged to develop and adopt the Internal Control Rules.

401. During the on-site mission, the representatives of the supervisory authorities of Turkmenistan informed the assessors that there were just few instances when single leasing contracts were concluded. Therefore, no meetings with the representatives of leasing institutions were arranged and the respective Internal Control Rules were not presented to the assessors. However, it should be noted that the legislation provides for arrangement by leasing companies of the AML/CFT measures.

Postal service

402. Pursuant to the AML/CFT Law, the postal and telegraph service institutions rendering money transfer services are the reporting entities (the entities subject to financial monitoring). Therefore, Turkmenpost state-owned company is the reporting entity. The requirement to

undertake the aforementioned CDD measures in the situations specified in the AML/CFT Law and the requirement to develop and adopt the Internal Control Rules applies to Turkmenpost.

403. With consideration for the specificities of the rendered services, the basic situation when the CDD shall necessarily be performed when carrying out postal money transfer is threshold money transfer transactions, i.e. in the amount equal to or above 570 thousand manats (or the equivalent amount in foreign currency) which is about 200 thousand US dollars.

404. The money transfer operations carried out by Turkmenpost state-owned company are regulated by the Turkmen Law on Communications, the Postal Service Regulations (no reference number was provided) and the relevant intergovernmental agreements. Provided to the assessors was the Intergovernmental Agreement of the CIS-member states on money transfer by individuals for effecting socially important non-trade payments.

405. The representatives of Turkmenistan stated that the Internal Control Rules of the postal service institutions (Turkmentpost state-owned company) had been developed and adopted, however, these Rules were not presented to the assessors during the on-site mission. Later on, the representatives of Turkmenistan informed the assessors that the AML/CFT issues are regulated by the Postal Service Regulation.

406. It should be noted that the analysis of the postal service regulations allows one to draw a conclusion that certain measures for identifying both money transfer originator and recipient are provided for in Turkmenistan when postal money transfers (money acceptance and collection) are carried out.

407. Pursuant to the Law on Communications, postal money transfers fall within the terms of reference of the postal service network (section 3 of Article 31). The Regulation on Postal Service Provision (hereinafter the Postal Service Regulation) provides a mechanism of acceptance and delivery (handing in) of funds including measures to be undertaken for identifying the originator and the recipient. The said Regulation defines a postal money transfer as a postal item in form of a specially designed form which indicates the amount of money to be paid to the recipient by a post office at the originator's instruction (section 2).

408. The Postal Service Regulation does not contain special provision that establishes the obligation to identify the money transfer originator, only the return address of the originator shall necessarily be indicated. When writing the address it is required to indicate just the name of a recipient (last name, first name and middle name for natural persons). There is no separate provision in the Postal Service Regulation that obliges to obtain information on the last name, first name and middle name of an originator and details of his/her ID document and information on a legal entity. No obligation to verify originator identification data when accepting money for postal transfer is established (section 60).

409. The Postal Service Regulation specifies in more detail the recipient identification procedure. Transferred funds are collected by recipients upon presentation of the ID documents. When the transferred funds are collected using the power of attorney, the authorized person shall present his/her ID document and the power of attorney. Money transfers addressed to legal entities are paid by crediting the transferred funds to their respective accounts. Large money

transfers (in amount exceeding 3 average monthly wages) can be collected only in the post offices (sections 88, 89, 98). Moreover, when collecting the transferred money a recipient shall indicate the details of the presented ID document in the notice, and if the address indicated in the money transfer order does not match the actual recipient's address the recipient shall indicate his/her correct address (place of registration, residence).

410. The Postal Service Regulation specifies the grounds for returning the unclaimed money back to the originator, but does not establish a mechanism and grounds for refusal (prohibition) to accept money to be transferred and to release the transferred funds. This applies to the identification issues, in particular, failure to present or presentation of invalid data (inconsistent data). Furthermore, such issues as recording and verification of information by postal service operators when carrying out postal money transfers are not regulated as well.

411. However, at the meeting with the representatives of Turkmenpost the assessors were told that, pursuant to the Postal Service Regulation and the internal regulations of Turkmenpost, all money transfers (postal, telegraph, wire transfers), irrespective of amount, are carried out in Turkmenistan subject to identification and completion of the required documents. When carrying out money transfer, the originator and the recipient shall complete the respective payment document (postal money transfer form) indicating all basic identification information – his/her own data and those of a recipient. According to the representative of Turkmenpost, fulfillment of this requirement is ensured by the right of Turkmenpost to “block” a transaction (refuse to transfer money or release the transferred funds, and in exceptional situations to return funds back to the originator) if a customer fails to provide the respective documents and information. At the same time, the assessors were informed that when carrying out money transfer transactions the postal service operators do not inquire into the origin of the funds.

412. As for the international postal money transfers, the representatives of Turkmenistan repeatedly told the assessors that only small postal money transfers for effecting socially important nontrade payments specified in the respective international (intergovernmental) agreement are permitted. In fact, the aforementioned Intergovernmental Agreement of the CIS-member states contains the exhaustive list of nontrade payments. Furthermore, pursuant to Resolution No.2 issued by the Deputy Chairman of the Cabinet of Ministers of Turkmenistan on January 13, 1994, legal entities may carry out postal money transfers outside Turkmenistan for payment of pensions, educational maintenance allowances and alimony, while natural persons may transfer money via post to post-graduate students, persons undergoing medical treatment and parents. The monthly amount of one postal money transfer in manats carried out by individuals outside Turkmenistan is limited to the equivalent of 50 US dollars at the exchange rate set by the Central Bank of Turkmenistan on a date of such transfer.

413. The assessors received no information about the maximum permitted amount of domestic postal money transfers. Therefore, formally it is not required to undertake CDD measures in respect to natural persons carrying out any postal money transfers below the established threshold (the equivalent of about 200,000 US dollars). During the meetings the representatives of Turkmenpost told the assessors that in practice the amounts of postal money transfers are insignificant, much less than the threshold amount, while the amount of the fee is at least 10% of the amount of transfer. In the course of the meeting the representative of Turkmenpost also

pointed out that the originator and recipient identification data (last name, first name, middle name, address, details of ID document) shall necessarily be indicated in the established postal money transfer forms. And when funds are transferred via post and the transferred money are released the identity of an originator (recipient) are necessarily verified. Two types of domestic postal money transfer forms are used In Turkmenistan. There is also a separate international postal money transfer form. However, these forms were not presented to the assessors.

Identification of beneficial owners

414. The AML/CFT Law provides for identification of a beneficial owner. The reporting entities are obliged to identify and verify the identity of a beneficial owner. The term “beneficial owner” is defined in the said law as a natural person who ultimately owns or controls a customer or a person on behalf of whom a transaction is being conducted. This definition is in line with the FATF Recommendations.

415. However, the legislation of Turkmenistan does not establish a mechanism of identification of a beneficial owner. The legislation of Turkmenistan does not oblige the reporting entities to review documents of a legal entity and its founders in order to determine persons who may exercise control over decisions made by a legal entity and to review the structure of the governing bodies of a legal entity and powers vested in them. From the assessor’s viewpoint, the provisions of the AML/CFT Law (section 3 of Article 3) pertaining to the need to verify the legal form of a customer that is a legal entity, including information on executive officers and other data related to the instruments of incorporation, are obviously insufficient.

416. The only exception is the banking system, where most of the reviewed Internal Control Rules of commercial banks establish obligation to identify a beneficial owner and specify the mechanism of such identification. For example, being established is the obligation to determine founders (members) of a legal entity, including persons who may exercise control over decisions made by the governing bodies of a legal entity. For enforcing this obligation, information on a beneficial owner and large interest in the capital (assets) of other legal entities owned by the founders (members) and managers (chief accountant) of a legal entity shall be indicated in the legal entity file (see above). The Internal Control Rules of other commercial banks establish obligation of a bank to determine and identify beneficial owners and systematically update information on them (shall necessarily be reflected in a customer file), or clarify the definition of a beneficial owner provided for in the AML/CFT Law, in particular, include persons exercising ultimate effective control over a customer in the beneficial owner category.

Verification

417. There AML/CFT legislation of Turkmenistan does not contain provisions that clearly and explicitly establish the obligation to conduct verification. The verification requirement is included in other CDD measures - identification. With regard to natural persons, the AML/CFT Law establishes obligation to verify the identity of a customer, and with respect to legal entities – to ascertain the legal status. The AML/CFT Law does not oblige the reporting entities to verify these data through obtaining information specifically from the government agencies.

418. The laws and regulations do not define and clarify the terms “verify” and “ascertain”, therefore, they may be ambiguously construed by both business entities and supervisory authorities. In the opinion of the representatives of the supervisory authorities and financial institutions of Turkmenistan, the reporting entities may independently establish the requirement for verifying information provided by a customer using data obtained from various sources including the government agencies. Furthermore, there is a unified legal entities database within the existing system of registration of legal entities. Information contained in this database is not classified, which makes it significantly easier for financial institutions to verify data obtained by them.

419. Verification issues are partially covered by the Internal Control Rules of commercial banks of Turkmenistan. For example, the Internal Control Rules envisage verification of data provided by a customer and obtaining additional information in a manner consistent with the law. In this context the bank may check the credit history of a customer who is a natural person; obtain, in a prescribed manner, information (inter alia, on business reputation) from the government agencies, organizations and individuals; send requests for information on a counterparty bank; verify data provided by a customer against data assigned by the government agencies; review an audit report; verify data on managers, chief accountant and other executive officers as well as information on founders and beneficial owner. Another Internal Control Rules just stipulate that it is possible to verify the provided information, but do not specify what actions shall be taken in this respect. However, the scope of information to be indicated in a customer form is large (see above), which allows the bank to reconcile the provided information.

420. The Internal Control Rules of the Insurance Institution just declare that customer’s identity shall be verified. The representatives of Turkmenistan did not present documents authorizing the institutions to request the government agencies to provide information required for verification purposes and obliging the government agencies to provide the requested information. On the other hand, the presented laws and regulations do not prohibit the aforementioned actions.

Purpose and intended nature of relationships, ongoing due diligence

421. Determination of the purpose and intended nature of business relationship with a customer as well as conducting ongoing due diligence in respect to a customer are poorly regulated by the AML/CFT legislation of Turkmenistan. Regulation of the said issues is too general and ambiguous.

422. For example, pursuant to section 5 of Article 3 of the AML/CFT Law, the reporting entities shall conduct ongoing due diligence on the business relationships. However, neither the law nor the regulations establish a specific time period for which customer’s transactions shall be scrutinized and identification data shall be updated. Specific actions to be undertaken by the entities subject to financial monitoring in respect to their customers, in what situations and for what purpose such actions shall be performed and actions to be taken in case of failure to satisfactory complete CDD are not specified and regulated as well.

423. Commercial banks that use the risk-based approach independently regulate ongoing customer due diligence in their Internal Control Rules. Information obtained as a result of

identification and examination of a customer is periodically updated – once a year for high-risk customers and once in three years for low-risk customers. A bank employee may be sent to a high-risk customer’s location to verify information on such customer. In other case, the uniform timeframe is established – the bank shall, at least once during a calendar year, update the data obtained through the customer identification process and revise the customer’s risk level, should such data change. It is separately specified that the customer data shall be retained, inter alia, in a customer file. However, it should be noted that even the aforementioned Internal Control Rules of commercial banks do not clearly define the criteria of ongoing customer due diligence, its purpose, procedure for recording results and actions to be taken in case of failure to satisfactory complete CDD.

424. The Internal Control Rules of the State Insurance Institution of Turkmenistan do not contain provisions that regulate ongoing customer due diligence. In other financial institutions these issues are not regulated as well due to absence of the Internal Control Rules. However, it should be noted that the problems caused by lack of detailed regulation of ongoing customer due diligence and determination of the purpose and intended nature of business relationship with a customer in the AML/CFT Law are partially eliminated by the provisions of other legislative and regulatory acts, in particular, by the laws and regulations on establishing and operating companies, on certain types of banking transactions and deals. A large number of administrative and command methods of management provided for by the legislation of Turkmenistan forces financial institutions conduct ongoing customer due diligence as well as determine the purpose and the intended nature of business relations with a customer in any case.

425. For example, the Regulation on Bank Account provides for opening of only certain bank accounts (deposits) depending on a status of a person, which obliges banks (when opening and maintaining accounts) to determine the status of a person, the purpose of opening of an account and the type of business relationship with a customer.

426. Turkmenistan exercises foreign currency regulation and currency control enforced by the Law on Turkmenistan on Foreign Currency Regulation. Pursuant to the Regulation on arrangement of currency export/import control (hereinafter the Currency Export/Import Control Regulation) approved by Resolution No.4516 “On approval of the Regulation on arrangement of currency export/import control” issued by the President of Turkmenistan on 18.01.2000, when carrying out transactions with foreign currency it is required:

- to provide documents (for example, contracts) substantiating the nature of a transaction – current or related to capital flow;
- in some instances, a resident shall provide additional documents, e.g. “transaction passport” that contains full information on an export or import transaction and on a counterparty.

427. The legislation of Turkmenistan provides for registration at the State Commodity Exchange of foreign trade transactions and, as reported by the supervisory authorities, transaction in amount exceeding the equivalent of 2,170 US dollars. In order to carry out banking transactions under these deals, the appropriate documents shall be filed with a credit institution. Pursuant to the Currency Export/Import Control Regulation, the State Commodity Exchange maintains the Register of Registered Contracts and provides information on the registered

export/import contracts to the Central bank of Turkmenistan that, in its turn, disseminates this information to the designated banks.

428. Besides that, under the currency legislation the designated banks are obliged to exercise control over customers' transactions with foreign currency, in particular, over repatriation of revenues from export. The designated banks shall notify the Central Bank of Turkmenistan on a daily basis about the incoming export revenues and payments made under import contracts. This forces the designated banks to conduct ongoing due diligence on foreign currency transactions of a customer when debiting and crediting funds to customer's account, inter alia, to verify the grounds for transaction, verify information on counterparties of a customer, review a set of required documents as well as determine whether a customer's transaction is consistent with the previously obtained information from the government agency.

429. Therefore, in the banking system of Turkmenistan a large number of transactions and payments effected by customers is subject to ongoing due diligence, and the results of such ongoing due diligence may be used for the AML/CFT purposes.

430. It is necessary to highlight the procedure for registration, updating information (confirming registration and recording current modifications) and re-registration of legal entities that exists in Turkmenistan as is related to ongoing customer due diligence. Pursuant to the Regulation on State Registration and Recording of Legal Entities (hereinafter the State Registration Regulation) approved by Resolution No.8054 "On improvement of state registration of legal entities and investment projects" issued by the President of Turkmenistan in 2006, legal entities are subject to state registration and appropriate records shall be made in the Unified State Register of Legal Entities. The Registration Department of the Ministry of Economy and Finance of Turkmenistan performs the state registration and maintains the said Register. A decision to register a legal entity is made based on the report of the Inter-Agency Committee issued after expert review of documents submitted for registration. An account in a commercial bank is opened against presentation of a provisional extract from the Register, which, later on, is substituted by the permanent extract and the State Registration Certificate.

431. The State Registration Regulation sets a time period of validity of the Register extract. The extract from the Register is valid for one year for companies with participation foreign investment companies, their branches and representative offices and branches and representative offices of foreign legal entities, and for 3 years for other entities subject to registration. At the same time, during the meetings with the representatives of the Ministry of Economy and Finance and the Central Bank of Turkmenistan the assessors were informed that at present the reduced period of validity of the Register extract is set – one year for all legal entities (except for the government agencies).

432. Pursuant to the State Registration Regulation, upon expiration of the period of validity the extract from the Register, legal entities are subject to the information updating procedure (confirming the fact of their state registration and carrying out activities specified in their instruments of incorporation). To undergo the said procedure, the respective documents are submitted to the Registration Department. If a legal entity fails to undergo the aforementioned

procedure, the Ministry of Economy and Finance may suspend its activity with the follow-on notification of the servicing bank thereof.

433. The representatives of the Central Bank of Turkmenistan and commercial banks told that upon receipt of such notification they block transactions (both crediting and debiting) carried out through all accounts of legal entities. It should be noted that the Regulation on Bank Account authorized the manager of a commercial bank to do so. Pursuant to the instruction, the manager temporarily suspends transactions carried out through a bank account till presentation by a customer of all documents required for maintaining the account (Section 1.10).

434. Re-registration (modification of data) of a legal entity takes place in the event of its restructuring, change of a founder (except for joint stock companies), owner, legal address, authorized capital and in case of other modifications in the instruments of incorporation. The modified data are recorded in the Register.

435. Therefore, documents certifying that a legal entity has undergone such information updating and re-registration procedures shall be provided to a credit institution.

436. This not just forces banks to conduct ongoing due diligence on business relationship with a customer and update customer identification data within period of validity of registration documents, but as such is the form of such control and method of identification.

437. However, this is insufficient for the fulfillment of the requirements set forth in the FATF Recommendations by the entire financial sector of Turkmenistan. Firstly, the laws and regulations do not clearly and explicitly establish obligation and possibility to use the obtained data for the AML/CFT purposes. Secondly, even in the banking system not all customers (e.g. natural persons who are not individual entrepreneurs) and transactions (e.g. transactions other than foreign currency transactions) are covered by the aforementioned control system. Thirdly, financial institutions other than banks are not obliged to perform similar due diligence on their customers. The above mentioned provisions mainly provide for identification but do not cover the entire CDD measures. The AML/CFT Law and the regulations of Turkmenistan presented to the assessor do not require to update customer data on an ongoing basis. The representatives of the supervisory authorities and financial institutions of Turkmenistan repeatedly referred to the Internal Control Rules of various groups of financial institutions, but this information was proved in the Internal Control Rules of just two commercial banks.

438. The provisions (see above) concerning periodical updating and providing updated information to commercial banks, maintaining a customer file by a bank and verifying proper and correct completion of the payment documents as a part of account keeping procedure do not cover the entire range of relationships that constitute the term “updating customer information on an ongoing basis” and require legislative regulation. The contents of the “updating customer information on an ongoing basis” as this term is defined in the FATF Recommendations are much broader than the aforementioned separate regulations and include regulation of activities of all entities operating in the financial sector and not just commercial banks.

439. The issues pertaining to the criteria of ongoing due diligence, its results and frequency and recording the obtained results for the AML/CFT purposes (except for the Internal Control Rules of some commercial banks that specify the frequency) are not regulated.

440. Therefore, the obligation to conduct ongoing due diligence on business relationships established in the AML/CFT Law needs to be further developed and clarified, inter alia, in the Internal Control Rules adopted by financial institutions in compliance with the AML/CFT Law. Partial regulation of ongoing customer due diligence measures undertaken by two commercial banks has no significant effect on the assessment of the application of this requirement of the FATF Recommendation to the entire financial sector of Turkmenistan.

Risk

441. Analysis of the presented AML/CFT Law as well as the regulations of Turkmenistan and the Internal Control Rules adopted in pursuance of the said Law allows one to draw a conclusion that such method as the risk-based approach is not commonly used in the entire financial system of Turkmenistan. The assessor found the requirement to assign a level (degree) of risk to customers (transactions) and to apply the CDD and other AML/CFT measures with due consideration for the assigned level of risk only in the local regulations – in the Internal Control Rules of two commercial banks.

442. The legislation of Turkmenistan (the law and regulations adopted by the government agencies) reviewed by the assessors contains no requirements to apply the risk-based CDD measures but does not prohibit to do this either. The AML/CFT Law obliges the reporting entities to pay special attention to business relationships and transaction and deals with institutions and individuals from countries and territories that do not or insufficiently apply the recommendations of international organizations as well as to their subsidiaries, branches and representative offices. However, it is insufficient for the risk-based approach in the AML/CFT area and is related to application of other FATF Recommendations.

443. The AML/CFT Legislation of Turkmenistan does not contain provisions specifying the procedure of application of reduced (simplified) CDD measures by financial institutions.

444. However, it should be noted that some regulations contain rudimentary simplified CDD measures. For example, the Regulation on Bank Account (section 3.2.3) sets out the list of companies and institutions which present the reduced list of documents for opening bank accounts with commercial banks, e.g. the budget-funded institutions and organizations that are not required to provide instruments of incorporation and charters.

445. In this situation it is necessary to highlight the positive experience of two commercial banks that use the risk-based approach in their respective Internal Control Rules.

446. The Internal Control Rules (ICRs) of these banks stipulate that bank shall use the documents and information provided for identification and examination of a customer for assessing the risk of customer involvement in ML/CF activities and specify criteria against which risk shall be assessed as high. Both ICRs use risk assessment criteria in terms of types of business activity (e.g. gambling business, transactions with precious metals and precious stones,

real estate transactions, etc.), in terms of geographical location (e.g. off-shore zones, countries with intensive trafficking and production of narcotic drugs, non-cooperative countries, etc.). Besides that, the criterion based on types of used products is also used (for example, banking products for prompt transfer of funds from one country to another, etc.).

447. In addition to determining a level of risk posed by a customer, the Internal Control Rules of one bank impose a binding obligation to assess a transaction risk. The criteria for qualifying a transaction as posing higher risk include high risk customers, type of property involved in a transaction (e.g. antiques, art objects, precious metals and precious stones, etc.), the use of modern technologies (e.g. Internet). Performance of suspicious transactions, including some large transactions (for legal entities – over 1,000 basic units and for natural persons – over 100 basic units, which amount to 50,000 manats and 5,000 manats respectively), puts such transaction into a higher risk category. Pursuant to Decree No.RR-5594 “On establishing the basic unit in Turkmenistan” issued by the President of Turkmenistan on 11.05.2010, the basic unit amounts to 50 manats (about 17 US dollars).

448. Bank shall pay special attention to higher (high) risk customers or transactions. Besides that, it is separately stipulated that the level (degree) of risk assigned to a customer forms the basis for conducting ongoing and follow-on due diligence.

449. Customers and transactions, to which no higher (high) risk level is assigned, fall into the category of low risk customers and transactions. At the same time, the Internal Control Rules require to review and revise risk level (degree) depending on the results of ongoing customer due diligence (see above).

450. However, it should be noted that the Internal Control Rules (ICRs) of even those banks that use the risk-based approach do not clearly and explicitly regulate the application of simplified CDD measures. The IRCs of these banks contain some provisions exempting certain customers from the document completion and identification procedures. For example, natural persons may be exempt from the identification procedure and are not required to complete a customer form in the process of identification when such persons carry out occasional transactions without opening bank account that are not subject to mandatory control and a transaction does not require presentation of ID document in compliance with the legislation of Turkmenistan (see Section “When CDD is required”). Besides that, the bank may relieve a first-class bank from obligation to complete the form when establishing correspondent relationship with such bank. Other issues pertaining to simplified CDD measures such as the information recording and verification procedures, presentation of results, assessment, etc. are not regulated even by this bank.

451. Thus, the provisions envisaging possible application of just one simplified CDD measure – identification introduced by one bank are obviously insufficient for making a conclusion that such element as simplified CDD measures is provided for in the legislation of Turkmenistan for the entire financial sector.

452. Although the Internal Control Rules of banks provide for assessing the level (degree) of risk posed by a customer (transaction), further actions to be undertaken by a bank in respect to a high risk customer (transaction) are poorly regulated. Apart from the requirement to pay special

attention to such customers (transactions) and more frequently update information on them (see above), no other enhanced CDD measures to be applied to high-risk customers are provided for in the Internal Control Rules. There are no provisions on a special procedure of making decisions when establishing business relationships (carrying out transactions) with such customers, on actions to be undertaken in the course of reviewing information on such customers (transactions), on the use of the findings of such review, etc.

453. The risk-based approach is not applied by insurance institutions, postal service operator and other financial market entities when undertaking CDD and other AML/CFT measures. The Internal Control Rules of some commercial banks do not envisage the application of the risk-based approach either. The use of the risk-based approach is not provided for in the AML/CFT Law and regulations of Turkmenistan. This allows for making a conclusion on insufficient use of the risk-based approach in addressing the AML/CFT issues in the financial system of Turkmenistan.

Timing of verification

454. The AML/CFT legislation of Turkmenistan does not specify a clear timeframe for identification and verification of data obtained through the CDD process.

455. When listing the situations when CDD measures shall necessarily be undertaken, the AML/CFT Law uses the terms that mean preliminary or in-parallel timeline for performance by the reporting entities of appropriate procedures, for example “when establishing business relationship”, “when carrying out any occasional transactions”, “when there is suspicion of ML/FT”.

456. Besides that, the AML/CFT Law contains special provisions that envisage preliminary CDD measures, i.e. provisions that prohibit (limit possibility of) establishing business relationships and carrying out transactions and deals without conducting CDD. The emphasis is placed on the banking sector. Pursuant to section 2 of Article 3 of the AML/CFT Law, banks and other credit institutions authorized to open and maintain bank accounts and other reporting entities shall refuse to open a bank account (deposit) or carry out a transaction for a legal and natural person if such person does not provide documents required for customer identification or provides documents which obviously raise suspicions or there is information that such person is engaged in terrorist activities. The reporting entities shall also consider filing the information with the designated agency. Besides that, in the situations listed above the credit institutions are entitled to terminate agreements they have already entered into with customers (account holders) and depositors.

457. In this context, the provision of the Regulation on Measures against Countries with Inadequate AML/CFT System (approved by Order No.102 issued by the Minister of Finance of Turkmenistan on December 29, 2010) contradicts the general position of the legislators. Pursuant to section 8 of the said Regulation, the requirement to identify customers (beneficial owners) from non-cooperative countries before establishing business relationships with them is referred to possible countermeasures against such countries.

458. The reviewed Internal Control Rules (ICRs) of financial institutions tend to provide for undertaking preliminary CDD measures. For example, Internal Control Rules of one bank place customer identification and assigning a risk level (degree) within the preliminary control stage, while the ICRs of the State Insurance Institution prohibit the insurers to enter into insurance contracts above the established insurance (in some cases insurance contribution) amount threshold without identification of an insuree and prescribe to reject an insuree who fails to provide documents necessary for identification. However, high maximum amount (threshold) of a contract above which the CDD measures shall be undertaken on insuree may lead to a situation where the AML/CFT measures including CDD timeframe will remain unregulated in respect to a relatively large number of insurance contracts.

459. It should be noted that the legislation that regulates other relationships, for example regulations on payment/settlement procedure, on opening bank accounts, on foreign currency regulation and currency control contains provisions making it impossible to carry out most banking transactions and deals without preliminary submission of customer identification documents. Under the Regulation on Bank Account, a customer of a bank shall preliminary submit the package of documents for opening a bank account (deposit). Pursuant to the foreign currency legislation of Turkmenistan, for carrying out almost any transaction with foreign currency, including transaction without opening a bank account, the documents substantiating the grounds for such transaction, e.g. contract, permit, registration documents, etc., shall be preliminary submitted to the designated bank. The only exception is transactions with small amounts of foreign currency conducted by natural persons. For example, pursuant to the Provisional Regulation on Foreign Currency Cash Exchange Transactions, for carrying out exchange transactions in the amount equal to or exceeding the equivalent of 10,000 US dollars natural persons shall present the ID document. The designated bank is not authorized to carry out an exchange transaction if such document is not provided. The Instruction on Certain Transactions in Foreign Currency stipulates that for carrying out money transfer transaction in amount equal to 5,000, and in case of systematic money transfers – equal to 15,000 US dollars and above natural persons shall provide documents substantiating such transactions (see Section “Required CDD measures”). Similar situation takes place with collection of transferred money – the transferred funds are released to recipients only upon presentation of the ID document (section 98 of the Postal Service Regulation). However, the provision of ID document of money transfer originator is not regulated by the aforementioned Regulation.

460. This allows for making a conclusion that comprehensive provisions contained in the AML/CFT Law, the AML/CFT-related regulations, the adopted ICRs and other laws and regulations of Turkmenistan (e.g. the banking, foreign currency, communications legislation) oblige the reporting entities (including those operating in the banking and financial sectors) to identify a customer before establishing business relationship with him and/or carrying out occasional transactions and deals.

Failure to satisfactory complete CDD

461. The AML/CFT Law (section 2 of Article 3) prescribes to refuse to establish business relationship with a customer as well as to refuse to arrange for and carry out a transaction where it is impossible to undertake certain CDD measures. First of all it means impossibility to identify

a customer, but also covers other situations where unsatisfactory findings are obtained through the CDD process.

462. Order of the Ministry of Finance of Turkmenistan number 52 (amended according to the order of Ministry of Finance of Turkmenistan № 107) established that the inability of the CDD or if there is a risk that the client can be warned about due diligence, legal entities and individuals submit to the FIU information on such transactions and operations in the same business day. Thus, submitting information is not due to the negative result of CDD, but only depends on the status of operations and transactions.

463. Banks and other credit institutions authorized to open and maintain bank accounts and other reporting entities shall refuse to open a bank account (deposit) or to carry out a transaction through a bank account and to arrange for and carry out a transaction (deal) for a legal and natural person if such person:

- does not provide documents required for customer identification; or
- provides documents which obviously raise suspicions; or
- is reportedly engaged in terrorist activity.

464. The issues pertaining to failure to satisfactory complete CDD are inconsistently addressed in the Internal Control Rules of commercial banks provided to the assessors. Despite the obligation to identify and examine a customer and a beneficial owner, it is not prohibited to establish business relationships and carry out transactions without undertaking the said measures. A bank is just granted the right to refuse to open a bank account if such customer fails to submit a full set of the required documents and/or provides invalid or inadequate documents, or is listed as terrorist, or if there is no respective body of a legal entity present at the location indicated by it. Bank refuses to execute a customer's instruction/order (except for crediting funds to account, depositing funds) if there is no required information on a payer (both legal entity and natural person). If a customer fails to provide documents necessary for documenting transactions subject to mandatory control, a bank is also entitled to refuse to execute such customer's instruction/order to carry out a transaction.

465. Other Internal Control Rules oblige a bank to refuse to open a bank account and execute customer's instruction/order in the above listed situations, while a bank reserves the right to terminate agreements its has already entered into with such customers (account holders) and depositors. There are also Internal Control Rules that do not regulate actions to be taken in case of failure to satisfactory complete CDD.

466. The Internal Control Rules of the State Insurance Institution contain prohibition to enter into a certain types of insurance contracts, and impose obligation to refuse to sign such contracts with an insuree if the required documents are not provided and/or if documents which obviously raise suspicions are provided.

467. It should be noted that the Internal Control Rules of financial institutions that impose such obligation (prohibition) also specify the situations where identification and other CDD measures shall be performed. As for occasional transactions and deals, the basic criterion is the threshold amount established by the AML/CFT Law. For example, it includes life insurance, other

accumulative insurance contracts, insurance contribution contract which amount is equal to or exceeds that maximum (threshold) amount of transactions and deals (about 200 thousand US dollars). This results in a situation where a large number of occasional transactions and deals are not subject to the legal AML/CFT regulation. Formally they will not be subject to the ICR requirements for CDD and actions to be taken in case of failure to satisfactory complete CDD.

468. The Postal Service Regulation contains provisions specifying actions to be taken in case of failure of a money transfer recipient to provide ID document (refusal to collect the transferred funds). In such situation funds shall be transferred back to the originator's address. However, given that the AML/CFT-related issues are not subject to regulation by the Postal Service Regulation, the aforementioned provision cannot be considered as a statutory measure to be undertaken in case of failure to satisfactory complete CDD. Besides that, the procedure of submission of ID documents by a money transfer originator and measures to be undertaken in case of failure to provide such documents (provision of documents which obviously raise suspicions) are not provided for in the Postal Service Regulation.

469. When the AML/CFT Law uses the term "documents which obviously raise suspicions" the Law does not clarify what documents (only customer identification documents or any other documents) and what suspicions (of ML/FT, non-compliance with the legislation or just authenticity and validity of submitted documents) are meant.

470. The discussions revealed a stable trend in the AML/CFT system of Turkmenistan towards broad interpretation of powers of the reporting entities in respect to their customers in terms of application of measures provided for in the AML/CFT Law. This means that the outcome of any failure (and not just failure to provide identification documents or information on engagement of a person in terrorist activities) to satisfactory complete CDD in Turkmenistan most probable will be refusal to establish business relationship and refusal to carry out a transaction (deal).

471. Possibility of such refusal for commercial banks is additionally provided for, in particular, in the Regulation on Bank Account. Transactions through a bank account (except for social transactions involving repayment of bank loans and payments to the state budget) may be temporarily suspended by an instruction of the bank manager till a customer provides all documents necessary for maintaining a bank account (section 1.10 of the Regulation on Bank Account).

472. However, it should be noted that despite of such broad approach, the CDD measures, as provided for by the FATF Recommendations, include broader range of measures (e.g. verification, ongoing updating of information, etc.) than those provided for in the AML/CFT legislation of Turkmenistan.

473. It can be definitely stated that the issues pertaining to the outcome of failure to satisfactory complete CDD are regulated only in the situations where identification documents are not provided and information is available on engagement in terrorist activities, which does not cover the entire range of required CDD measures. At present, the issue concerning legal implications of failure to satisfactory complete CDD (negative finding obtained through the CDD process) is only partially regulated by the AML/CFT system of Turkmenistan.

Existing customers

474. As for the existing customers, the AML/CFT Law contains the directly applicable provision obliging the reporting entities to conduct ongoing due diligence on business relationships.

475. The Law does not clarify whether the term “due diligence on business relationships” include the goals, situations, subjects, frequency and results of such due diligence as well as actions to be taken in case of obtaining negative findings. In such situations, in compliance with the general rule, one should judge from the main goals and objectives of the AML/CFT legislation of Turkmenistan which are set out in Article 2 of the AML/CFT Law. The main objective of regulation is prevention and detection of activities related to legalization (laundering) of criminal proceeds and financing of terrorism, while the goal is to prevent, detect and deter actions related to legalization (laundering) of proceeds obtained by criminal means and financing of terrorism.

476. The legislation of Turkmenistan does not contain provisions on performing CDD on customers with whom business relationships had been already established at the time when the AML/CFT Law came into force.

477. However, as mentioned above (Section “When CDD is required”), pursuant to the Law (section 4 of Article 3), the situations when the CDD measures provided for in the Law shall necessarily be undertaken include instances of carrying out any occasional threshold transactions. Analysis of the text of the Law (use of terms “any” and “ongoing”) allows for broad interpretation of powers vested in the reporting entities. In other words, it may mean the obligation to undertake CDD measures with respect to those customers (carrying out occasional threshold transactions) with whom business relations have been already established, inter alia, at the moment when the AML/CFT Law came into force.

478. From the viewpoint of implementation of the FATF Recommendations in respect to the existing customers, the role of the provision to perform CDD when carrying out occasional transactions is insignificant due to too high threshold amount (see Section “When CDD is required”).

479. The representatives of Turkmenistan told the assessors that the provision of the Law on ongoing due diligence on business relationships was elaborated in detail in the Internal Control Rules (ICRs) adopted by the reporting entities. Actually the ICRs of one commercial bank contains the provision authorizing the bank to terminate agreements entered into with customers (account holders) and depositors in case of failure to provide documents required for identification (provision of obviously inadequate documents). However, these ICRs do not establish the obligation to perform CDD and the procedure of conducting due diligence on the existing customers. Other ICRs presented to the assessors contain no such provisions either.

480. Despite broad interpretation of the AML/CFT legislation by the representatives of the supervisory authorities and financial institutions of Turkmenistan, lack of detailed regulation of the “existing customers” issue at all stages of relations with them does not allow for making a

definite conclusion that performance of all CDD measures in respect to the existing customers in compliance with the FATF Recommendations is provided for.

Effectiveness

481. The AML/CFT legislation of Turkmenistan is relatively young. The basic AML/CFT Law was adopted in May 2009. In July 2009, the Law “On Amendments to Certain Legislative Acts of Turkmenistan” modified other laws of Turkmenistan to ensure that they are consistent and in line with the basic AML/CFT Law.

482. Analysis of the laws of Turkmenistan that regulate the financial sector of the economy revealed no direct or indirect conflicts of the provisions of the AML/CFT Law and other Turkmenistan’s laws regulating the financial sector.

483. The main regulations were adopted in pursuance of the AML/CFT Law only in 2010. At the time of the on-site mission, some regulations, such as Standard Internal Control Rules (ICRs), were not adopted yet. It should be noted that the legislators do not oblige the supervisory authorities to issue Standard ICRs.

484. During the meetings the representatives of the supervisory authorities and private sector repeatedly stated that almost all entities operating in the financial sector of Turkmenistan being the reporting entities (the entities subject to financial monitoring) had developed and adopted their own Internal Control Rules which were submitted to the supervisory authorities (and some to the designated agency) and satisfactory used them in their operations.

485. The assessors were provided with some ICRs of the financial sector institutions. Some ICRs tend to literally stipulate the provisions of the Law, particularly when it relates to the situations when CDD is required. The provided ICRs do not fill in the gaps in the legislative regulation in the AML/CFT area. The only exception is the ICRs of commercial banks that use the risk-based approach. Application of this approach may help to resolve the CDD issues (e.g. ongoing due diligence on business relationships, assessment of information obtained through the identification process, etc.) that are not provided for in the laws and regulations of Turkmenistan.

486. The basis for performing CDD in respect to occasional customers and attempted transactions is the threshold amount (Article 3 of the AML/CFT Law). The threshold amount established in Turkmenistan (570 thousand manats (or the equivalent amount in foreign currency) for transactions and deals with funds, and 1,425 thousand manats (or the equivalent amount in foreign currency) for transactions and deals with other property/assets), with consideration for the denomination, is equal to about 200 thousand and 500 thousand US dollars, respectively. Thus, financial institutions of Turkmenistan may formally not perform CDD (or perform partially) on occasional transactions in lower amounts. The Law of Turkmenistan on Bank and Banking Activity (Article 13) specifies the open list of banking transactions and deals commercial banks are authorized to engage into. Analysis of the current legislation and materials provided by the representatives of the supervisory authorities and private sector during the meetings revealed the fact that occasional transactions without establishing long-term business relationships constitute (may constitute) the significant portion of business operations carried out by many entities subject to financial monitoring (Post Service Operator, Stock and Commodity

Exchanges, Business Operators in Securities Market). In this situation, too high threshold amount of occasional transactions subject to CDD does not contribute to the effectiveness of the AML/CFT efforts undertaken in the entire financial sector of Turkmenistan.

487. With consideration for the open list of performed financial transactions (including banking transactions and deals) it is noteworthy that such high threshold amount for the AML/CFT purposes is not just inconsistent with the FATF Recommendations but also formally provides the opportunity to avoid CDD when carrying out most occasional transactions and creates opportunities for using occasional transactions for the ML/FT purposes. In such situation, the effectiveness the AML/CFT efforts and measured undertaken by the state is jeopardized. In most cases the situation is improved by the well-established administrative regulation of various sectors of the marker (banking and foreign currency legislation, legislation on establishing companies and licensing, etc.). However, the provisions established by the said legislation are not directly related to AML/CFT and do not fully cover unregulated issues.

488. All attendees to the meetings held in Turkmenistan repeatedly drew the attention of the assessors to the fact that the customer identification requirements had been in force in Turkmenistan before the AML/CFT Law was adopted. Most of financial regulations of Turkmenistan confirm this fact. Besides that, the requirement established by these regulations for providing identification documents when carrying out transactions is not limited to the minimum threshold amount. However, although submission of customer identification documents is the significant CDD measure it is not the only measure. The said regulations do not address the issues pertaining to beneficial owner and beneficiary, verification, form and methods of ongoing due diligence on business relationships, implications of failure to satisfactory complete CDD, etc. These issues are partially covered by the ICRs of some commercial banks, but for other financial institutions they are still not properly regulated.

489. AML/CFT regulation with the application of the risk-based approach is provided for in the ICRs of two commercial banks. The risk-based approach has not been used by other institutions.

490. With consideration for the well-established state supervision and control over establishment and operation of business entities, including permission to enter other markets (pursuant to the Law of Turkmenistan on Licensing of Certain Types of Activities, it is required to preliminary obtain licenses to carry out 44 types of activities), the application of the risk-based approach in the AML/CFT regulation and law enforcement practice of Turkmenistan will not just significantly enhance the effectiveness of the undertaken CDD measures but will also make the work of financial institutions in AML/CFT areas much easier.

491. The outcome of failure to satisfactory complete CDD is regulated in the legislation of Turkmenistan only as it applies to provision of customer identification documents and availability of information on engagement in terrorist activity. Failure to satisfactory complete other CDD measures (identification of a representative, beneficiary, etc.) is not regulated by the legislation of Turkmenistan.

492. The interviews with the representatives of the supervisory authorities and private sector showed that the entities subject to financial monitoring (particularly those operating in the

financial sector) interpreted their AML/CFT powers in a maximum broad manner. The representatives of the financial sector informed the assessors that in case of failure to satisfactorily complete any CDD measures they were entitled to refuse to establish business relationships and carry out transactions and deals and were intended to do so. According to the representatives of Turkmenistan, to ensure the legitimacy of such refusal it is possible to use not just the provisions of the AML/CFT legislation but also the laws and regulations in effect in other industries which vest broad administrative powers in banks and other financial institutions (see Section “Required CDD measures”). The legislation of Turkmenistan grants such powers (and in some cases imposes obligations on them). For example, refusal to establish business relationships and carry out transactions is regulated in the laws and regulations on foreign currency regulation and currency control, on payment/settlement procedure, on procedure for conclusion and execution of certain deals, etc.

493. However, the fact that the AML/CFT legislation contains no clear provisions that regulate the issues pertaining to failure to satisfactorily complete CDD as well as lack of law enforcement practice makes it unlikely that all entities subject to financial monitoring in Turkmenistan will apply uniform measures in case of failure to satisfactorily complete CDD, which affects the effectiveness.

494. Analysis of the AML/CFT legislation of Turkmenistan allows for drawing a conclusion that the legislation of Turkmenistan does not envisage application of CDD measures in case of attempted transactions. Although the reporting entities may include such measures in their respective Internal Control Rules, lack of uniform regulation significantly reduces the effectiveness of these measures in the entire financial sector of Turkmenistan.

495. The AML/CFT legislation of Turkmenistan does not regulate the issues related to the “existing customers”, i.e. persons with whom business relationships had been already established at the time when the AML/CFT Law came into force (except for the ICRs of one commercial bank that partially address this issue). Identification of respective beneficiaries and representatives is partially regulated in the Internal Control Rules of some commercial banks. At the time of the on-site mission, application of other CDD measures to beneficial owners and representatives was not provided for by the legislation of Turkmenistan. Issues related to actions to be undertaken by the reporting entities in situations where there is insufficient information for identification and applying other CDD measures to such customers are unregulated as well.

Recommendation 6

496. At this point, Turkmen law does not contain the term “politically exposed person” (PEP); nor does it contain provisions requiring financial institutions to determine whether the client is a PEP. Financial institutions are also not required to obtain the approval of their management prior to establishing business relations with PEPs. There are no obligations requiring the use of any other requirements provided for in Recommendation 6.

Additional Elements

497. There are no requirements for resident PEPs to use enhanced CDD measures or other measures provided for in R.6.

498. Turkmenistan has neither ratified nor taken any other steps to accede to the UN Convention against Corruption.

Recommendation 7

499. Correspondent relations, including cross-border correspondent relations, are established by commercial banks of Turkmenistan in accordance with the Laws of Turkmenistan "On Commercial Banks and Banking", "On Central Bank of Turkmenistan", "On Combating Money Laundering and Terrorist Financing" and "On Currency Regulation". Additionally, the procedure for establishing correspondent relations is provided for in subordinate regulations:

- Regulations on the Bank Account;
- Regulations on Non-Cash Transactions in Turkmenistan;
- Instruction "On the Procedure for Execution of Certain Transactions in Foreign Currency by Banks on the Territory of Turkmenistan" adopted by Presidential Decree No. 5490 of January 7, 2002;
- Presidential Decree No. 9847 of May 13, 2008 "On Main Measures of Currency Regulation and Maintenance of a Uniform Rate of the National Currency".

500. Pursuant to the Law "On Commercial Banks and Banking", establishment of correspondent relations, opening and maintenance of accounts of correspondent banks (loro accounts) and opening and maintenance of correspondent accounts in banks (nostro accounts), including in foreign banks, constitutes banking activity.

501. Pursuant to the Law "On Currency Regulation", only authorized banks are entitled to carry out foreign exchange transactions and open and maintain accounts of non-residents, including non-resident banks. Pursuant to the Law "On Currency Regulation", the authorized banks are commercial banks licensed by the Central Bank of Turkmenistan to engage in banking activities involving currency exchange transactions. At the same time, the Central Bank of Turkmenistan may, on any terms and with any restrictions, grant any commercial bank the right to carry out foreign exchange transactions in accordance with the law and subordinate regulations of Turkmenistan (Article 14).

502. According to the information provided in the course of the mutual evaluation, all commercial banks of Turkmenistan possess the General License, i.e. are authorized banks.

503. Turkmenistan has adopted some measures to regulate the issues related to AML / CFT in the area of establishing cross-border correspondent relations. The cross-border correspondent relations of commercial banks of Turkmenistan are covered by the provisions of the Law on AML / CFT, governing the procedure for establishing business relations with clients. The requirement to implement general CDD measures, contained in the Law on AML / CFT, applies to such clients as correspondent banks (see Recommendation 5).

504. The Laws of Turkmenistan, including the Law on AML / CFT, do not require commercial banks of Turkmenistan to apply any special enhanced CDD measures in respect of correspondent banks.

505. However, the law on AML / CFT contains the requirements that make it mandatory for commercial banks to pay special attention to the establishment of cross-border correspondent relations in order to avoid possible violation of any of the prohibitions and restrictions established by the said Law. Pursuant to Article 3 (paragraphs 6 and 13), banks and other credit institutions authorized to open and operate bank accounts:

- may not establish direct correspondent relations with banks registered in offshore zones, their affiliates, subsidiaries or separate subdivisions that are not separate legal entities. The above restriction does not apply to the establishment of direct correspondent relations with the affiliates registered in offshore zones but whose parent organizations are outside offshore zones;

- may not establish or continue direct correspondent relations with shell banks;

- must take precautions to avoid executing transactions with foreign financial correspondent institutions that permit shell banks to use their accounts;

- must pay particular attention to business relations and transactions involving institutions and persons from countries and territories that do not comply or insufficiently rigorously comply with recommendations of international organizations (the so-called "non-cooperating countries"), as well as with subsidiaries, branches and representative offices of parent companies registered in such countries and territories.

506. The Letter of the Cabinet of Ministers of Turkmenistan No. 13-614 dated September 20, 2009 approves the list of such offshore areas. According to representatives of the supervisory authorities of Turkmenistan, it is this list that should be used by all entities in their implementation of the law on AML / CFT.

507. Therefore, all the necessary documents necessary for the fulfillment of the Law on AML / CFT in this area have been adopted. And, in order to avoid its violation when establishing correspondent relations, commercial banks of Turkmenistan are required to pay special attention to counterparty banks (to uncover any evidence of cooperation with the residents of the above-mentioned countries and take appropriate action).

508. The currency law of Turkmenistan contains the requirements that provide for enhanced control over the opening by commercial banks of Turkmenistan of correspondent accounts with foreign banks. Thus, the authorized banks may open correspondent account, nostro accounts (and use them for current foreign exchange transactions), only with first-class foreign banks, the choice of which must be pre-approved by the Central Bank of Turkmenistan (paragraph 6 of Presidential Decree "On Main Measures of Currency Regulation and Maintenance of a Uniform Rate of the National Currency"). With regard to correspondent accounts of non-resident banks (loro accounts), according to the information made available to the evaluators at a meeting with representatives of the banking system of Turkmenistan, there are no accounts of this type in commercial banks of Turkmenistan.

509. Commercial banks carry out (or in some cases obliged to) all the necessary foreign exchange transactions only through correspondent accounts opened with the Central Bank of Turkmenistan or the State Bank for Foreign Economic Affairs of Turkmenistan (paragraph 6 of Presidential Decree No. 9847 of May 13, 2008 "On Main Measures of Currency Regulation and Maintenance of a Unified Rate of the National Currency).

510. As evaluators were told at a meeting with representatives of the banking sector of Turkmenistan, the fulfillment of these requirements (especially the administrative measures of currency regulation) requires the implementation of the entire set of measures for gathering information on the correspondent bank, including for the purpose of assessing its business reputation, determining the nature of its activities and the quality of oversight measures. Additionally, the Turkmen side believes that there is a dual duplicate analysis of the effectiveness of the oversight measures applied by a foreign correspondent bank that is being conducted in the country. Firstly, each commercial bank of Turkmenistan must evaluate the information before presenting it to the Central Bank of Turkmenistan; secondly, the Central Bank of Turkmenistan can approve the above-mentioned list of foreign banks only following the evaluation of the information presented. Given the strong state control and supervision over the activities of commercial banks in Turkmenistan, these arguments of the Turkmen side may be accepted.

511. However, no documentary evidence, including regulations establishing the procedure for approval of the presented by a commercial bank list of foreign correspondent banks by the Central Bank of Turkmenistan (the request presentation form, nature of the information required to be contained in the request, presentation deadline, the acceptance and rejection criteria and the conclusion execution procedure) were presented to the evaluators.

512. It should be noted that the existence of the requirement for commercial banks to open correspondent accounts only with first-class foreign banks does not only make commercial banks of Turkmenistan gather and analyze information on correspondent banks, but is in itself an enhanced measure of control over correspondent relations. Also, considering the global practice, this measure ensures that commercial banks of Turkmenistan establish cross-border correspondent relations only with counterparties exercising a high level of AML / CFT control.

513. Turkmenistan's legislation does not contain a direct-action requirement for all newly established correspondent relations when opening nostro accounts in non-resident banks to be pre-approved by the top management of commercial banks. However, the existing in Turkmenistan system for preliminary control over the opening of such accounts, which provides for obtainment of a preliminary approval from the Central Bank of Turkmenistan, presupposes that any decision to establish correspondent relations with non-resident banks must not only be approved but also taken by the top management of commercial banks of Turkmenistan.

514. All matters related to the opening of correspondent accounts in commercial banks of Turkmenistan are governed by the Regulations on the Bank Account. They state that commercial banks of Turkmenistan are allowed to open correspondent accounts, both in manats and foreign currency, only to banks possessing appropriate licenses issued by the Central Bank of

Turkmenistan. Thus, correspondent accounts in monats are opened to the parent bank, licensed by the Central Bank to engage in banking activities, in the branches of the CB and other banks. Correspondent accounts in foreign currency are opened to the parent bank or its branch licensed by the CB to conduct banking transactions in foreign currency (paragraphs 2.10, 2.12).

515. The Regulations on the Bank Account does not contain a procedure for opening by non-resident banks of correspondent accounts (loro accounts) in commercial banks of Turkmenistan.

516. Given the absence of correspondent accounts of non-resident banks in commercial banks of Turkmenistan, the Turkmen law contains no special requirements (standards) non-resident banks must comply with when the said accounts are being opened to them. It is also not necessary to establish a requirement for the opening of accounts (loro accounts) to correspondent banks when establishing new correspondent relations with them to be pre-approved by the top management of commercial banks of Turkmenistan (as this is required for all other accounts by the Regulations).

517. The requirements governing the issues of AML / CFT at the time when banks establish correspondent relations and contained in the RICs of commercial banks are similar to the requirements contained in the Law on AML / CFT (see above). But, with regard to correspondent banks, the RICs of some commercial banks provide for additional requirements and for the use of the approach based on risk assessment. For example, there are RICs that provide for the following additional measures:

- refusal to establish and maintain correspondent relations if no AML / CFT measures are implemented by the correspondent.
- a requirement to ascertain, through submission of a request to the correspondent, whether the correspondent bank implements any AML / CFT measures, including the identification and study of clients,
- a requirement to fill out a correspondent bank's profile form.

518. While, other RICs provide for the following:

- if necessary, requests concerning correspondent banks should be sent to the Central Banks of the country of their registration or to the first-class bank that has correspondent relations with the correspondent bank in question,
- special surveys of correspondent banks (when establishing correspondent relations with first-class correspondent banks; such surveys are optional),
- correspondent banks not meeting the first-class bank criteria (pursuant to CB's profile forms) are regarded as high-risk clients.

519. The evaluating experts were able to see only one set of RICs of commercial banks that contained a detailed description of the information included in the profile form of a correspondent bank. The said RIC state that the a profile form of a correspondent bank must,

besides general information about the bank (name, address registration documents, codes, etc.), its management structure, shareholders, beneficial owners, subsidiaries and separate divisions, contain information on the AML / CFT measures applied by the bank, the sanctions for violation of the AML / CFT law it was subject to (for the last 3 years), the data concerning its business reputation, ranking, banking area of expertise, as well as data on the audits and audit firms that conducted external audits.

520. In the course of the analysis of the presented RICs of commercial banks, the evaluating experts noticed that the RIC of each bank had some kinds of deficiencies in terms of implementation of the FATF Recommendations in the area of establishing and maintaining correspondent relations. None of them solve the problem completely.

521. Despite the presence in the RICs of commercial banks of Turkmenistan of additional requirements for establishment and maintenance of correspondent relations, not all requirements of the FATF Recommendations were met. In particular, there is no procedure regulating the decision-making process related to the establishment of correspondent relations; no comprehensive regulation (even in the RICs of commercial banks using a risk-based approach) of the matters concerning the gathering, verification and evaluation of the correspondent data is available; the procedure for evaluating the effectiveness of the oversight measures and defining the responsibilities of correspondents is missing. The deficiencies of the existing system for the application of CDD measures (see Section "Required CDD Measures" above), i.e. evaluation of the information received, verification and recording of the results and effects of negative results of the application of CDD measures, etc., may adversely affect the application of AML / CFT measures when establishing correspondent relations. At the same time, the evaluating experts recognize that in conditions of strict administrative regulation by the banking and currency laws of the rules governing the establishment of correspondent relations by commercial banks of Turkmenistan such a thing is virtually impossible.

522. The Turkmen law does not provide for execution of cross-border transactions via transit accounts. No such transactions have been executed by commercial banks of Turkmenistan. For this reason, the issues related to the actions to be taken by a correspondent bank against the clients with direct access to the correspondent's accounts were of no relevance to Turkmenistan at the time of the evaluation, and were not subject to legal regulation.

Recommendation 8

523. The presented to the evaluating team regulations of Turkmenistan do not contain any special requirements or standards for the content and structure of the RIC adopted in pursuance of the Law on AML / CFT; nor do they contain any rules requiring financial institutions to develop and implement specific procedures to prevent the use of new technologies for ML / FT.

524. According to the information supplied by the Turkmen side, the Turkmen market of financial services is not developed enough to allow the utilization of new payment technologies and execution of transactions without personal presence. In fact, the stock and currency markets are only emerging, while the online banking is virtually non-existent. The share of card payments in the country's payment system is insignificant.

525. Assessment of the provisions of the Law on AML / CFT allows us to conclude that such operations are subject to the general rules of the law, i.e. on application of CDD measures, identification, prohibition on the opening of anonymous accounts, etc. The use of new payment technologies by financial institutions (commercial banks) calls specifically for the establishment of business relations with the client, which means that the application of CDD measures does not depend on the threshold amount (paragraph 4 of Article 3 of the Law on AML / CFT).

526. The use of payment cards in Turkmenistan is governed by the Regulations "On the Use of Payment Card Systems in Turkmenistan" approved by Presidential Decree No. 5393 of October, 1, 2001 (hereinafter the "Regulations on Payment Card Systems").

527. The regulations governing banking activities contain the rules for establishment of client relations that ensure compliance with the requirements of AML / CFT or correlate with them. Similar standards are contained in the Regulations on the Bank Account and Non-Cash Settlements.

528. The Regulations on Payment Card Systems, adopted as early as 2001, is based on the principle of mandatory customer and payment identification. Moreover, pursuant to the above Regulations, all payment card settlements in Turkmenistan are carried out by the card holders through the client's bank accounts. All settlements of the participants of the payment system are also carried out through correspondent and (or) settlement accounts opened by them in authorized credit institutions (paragraph 26). No payment card transactions can be carried out or payment cards issued without a bank account, and, as a result, the opening and maintenance of bank accounts must always be accompanied by the application of CDD measures provided for by the law on AML / CFT.

529. Pursuant to the Regulations on Payment Card Systems, the payment card itself is an identification document intended to be used by its holder for execution of multiple transactions and guaranteeing an unambiguous identification of the holder and issuer (paragraphs 1 and 7). Among its mandatory requisites is the identity data of the holder, issuer and the payment system. Payment organizations identify what payment system each card belongs to and draft the rules for its use.

530. Pursuant to the Regulations, a payment card that allows its holder to conduct multiple bank account transactions is regarded as a bank card. As it became known in the course of the mission, it is the bank cards that are issued in Turkmenistan, with no information on any other payment cards provided.

531. The Regulations on Payment Card Systems stipulate that all settlements between payment system participants are carried out at the request of the payment organization or a member thereof (the issuer or acquirer) through correspondent and (or) settlement accounts opened by payment system participants in authorized by them credit institutions (paragraph 26). The Regulations stipulate that the grounds for carrying out payment card settlement is the presentation of properly executed electronic slips or paychecks received through ATM or payment terminals.

532. Moreover, the acquirer (and according to the Turkmen side, these are mainly commercial banks) has the right to require the holder of a credit card to present, together with a bank card, an identity document confirming the identity of the card holder, unless this is prohibited by the rules of the payment system.

533. Thus, at the time of opening and maintaining a bank card, the implementation of the basic CDD measures will be ensured (see Recommendation 5).

534. The RICs of commercial banks presented to the experts contain no requirements that simplify the current AML / CFT rules (including CDD measures) when new technologies are being used. Moreover, the RICs of those commercial banks that use the risk-based approach tend to assign a high-risk status to such clients (transactions). Thus, the following are assigned by a bank to the high-risk category: legal entities other than credit institutions that provide money remittance services, as well as any banking operations (products) that are at high risk of ML / FT, or those that allow an easy conversion of cash assets into non-cash and international transfer of payments. Another bank assigns a high-risk status to transactions conducted by means of Internet technologies, as well as to transactions believed to be executed for the purpose of evading registration in a special form. However, the legal consequences accompanying the assignment of a high-risk status to a client (transaction) are not sufficiently defined in the reviewed RICs (see section "Risks", Recommendation 5), which is not conducive to the implementation of the FATF Recommendations.

535. The criteria and indicators that are used to assign transactions with payment cards to the category of suspicious (e.g. regular cash withdrawals by the cardholder, except for wages and similar remunerations) are contained in the RIC of only one bank. No other submitted RICs of commercial banks contain such criteria.

536. Neither the RIC of insurance companies, nor the regulations governing the execution of postal money orders contain any special rules for the use of new technologies.

Service of Clients without their Personal Presence

537. Regarding the situation with the service of clients without their person presence in Turkmenistan, it should be noted that the country's laws, including the Law on AML / CFT, do not prohibit the establishment of client relations (including the opening of accounts, deposits) without the personal presence of the client (his representative). However, the analysis of the regulations governing banking activities suggests that the established procedures for customer relations do not allow the opening of accounts or deposits without the personal presence of the client or his / her representative. Moreover, one of the three RICs of commercial banks presented contain a prohibition on the opening of bank accounts (deposits) to individuals without the personal presence of the person opening the account (deposit) or his / her representative. The RIC of another bank contain such an identification procedure that makes it impossible to establish business relations (execute a transaction) without the personal presence of the client (representative). The RIC of the same bank contain the requirement for mandatory client polling and sets the criteria for the data to be included in the client profile form.

538. The RIC of insurance companies do not contain a requirement for the personal presence of the client (representative) at the time of conclusion of an insurance contract.

539. As was mentioned earlier (see Recommendation 5), the Regulations on Bank Account stipulate that the opening of a bank account must be preceded by the presentation of an application form and a set of required documents, as well as by conclusion of a contract in writing. Additionally, such application form must be signed by the applicant (an executive for legal entities), with the reverse side thereof containing the bank's mark as to its acceptance for review, as well as the results of such review (the manager's resolution to open an account, account details and information on the entry made in the account register). Among the documents required for presentation by the Regulations is a sample signature card containing the sample signatures of the director and chief accountant, the authenticity of the signatures must be confirmed by either a notary or an umbrella organization.

540. Moreover, the Regulations on Bank Account clearly stipulate that a request to open an account to a legal entity must be presented to the commercial bank by the superior of the legal entity in person, i.e. the personal presence in a commercial bank of the legal entity's superior is mandatory. Thus, pursuant to Annex 4 to the said Regulations, the request to open an account as well as the card must be presented by the same company official that has the right of the first or second signature on the monetary instruments of this account. The official presenting the documents for opening an account must also present his / her identity document, of which fact, and provided also that the presented documents are correctly executed, a mark ("identity document presented") must be made on the card certified by the signature of the director or chief accountant of a commercial bank.

541. With regard to other non-bank financial institutions, the study of the appropriate regulatory documents and the specifics of activities conducted by these institutions suggests that the financial transactions carried out by them are based on the establishment of long-term business relations with the client (except for certain types of financial institutions such as SPSC "Turkmenpost"). The establishment of business relations requires conclusion of written contracts.

542. According to the information presented to the evaluating experts, the conclusion of such contracts in Turkmenistan must be carried out by the client in person (through a representative) with the personal presence of the client (his representative) in a financial institution. Also, the representatives of the Turkmen side insisted that the provision of remote services to clients by financial institutions of Turkmenistan was extremely limited (as yet).

543. All settlement transactions in banks are conducted on the basis of settlement documents. The Regulations on Non-Cash Settlements provide for a set of settlement documents, as well as the forms of some of them and the procedure for their completion. A settlement document can be executed either in a paper or electronic format.

544. The top copy of the settlement documents presented to commercial banks must contain two signatures of the persons authorized to sign settlement documents and the seal (specified on the card). Banks must ensure the compliance of both the settlement documents and the transaction

itself with the requirements of the Turkmen law prior to executing it. No settlement documents failing to meet the set requirements can be executed (par. 32). The settlement document forms approved by the Regulations on Non-Cash Settlements contain mandatory for completion entries that require the provision of full identification data on the payer and recipient (name, TIN), the payer's and recipient's banks (including their locations) as well as the grounds for the transaction. When issuing cash, regardless of the amount, banks must verify the identity of remitee (his passport) and, in some cases, his rights to receive money (par. 66)

545. It is not illegal to exchange electronic documents when carrying out settlements. The procedure for the exchange of electronic documents with the use of data security products must be specified in the contract between the bank and the client.

546. The Procedure for Exchange of and Control over Electronic Documents within the Electronic Payment System of Turkmenistan approved by Resolution of the Central Bank of Turkmenistan No. 172 of 2002 provides for the preparation of electronic payment documents to be made by the banking institution on the basis of the primary payment documents of clients, i.e. payment documents executed in paper format in accordance with the regulatory legal acts of Turkmenistan (par. 3.1.).

547. The Procedure for Provision by Legal Entities and Individuals at the Request of the Ministry of Finance of Turkmenistan of the Necessary Data to Combat Money Laundering and Terrorist Financing that was developed in fulfillment of the Law on AML / CFT and approved by Resolution of the Ministry of Finance of Turkmenistan No. 16 of February 25, 2010 (hereinafter the "Procedure for Provision of Data for AML /CFT) contains the Indicative List of Indicators of Suspicious Transactions. Among the transactions requiring no personal presence of the client that is classified by banks and other financial institutions as suspicious is the issuance by the client of an order to execute a transaction through a representative (intermediary) if such representative (intermediary) executes the client's order without coming into direct (personal) contact with the bank or other financial lending institution. This definition of a suspicious transaction makes it possible to cover quite a wide range of transactions executed without the personal presence of the client; however, there can be no doubt that it is insufficient to cover all transactions that use new technologies and have signs of suspiciousness. The RICs of commercial banks presented to the evaluating experts do not contain such criterion for suspicious transactions.

548. According to the Turkmen side, the Turkmen market of financial services that use new technologies is still in its infancy, making it difficult to assess its exposure to ML / FT risks.

3.2.2. Recommendations and Comments

Recommendation 5

549. Turkmenistan has adopted a number necessary measures to ensure compliance of the financial sector with Recommendation 5.

550. Turkmenistan should reduce the threshold amount for transactions requiring customer identification to 15,000 dollars / euros (1000 dollars / euros for remittances).

551. Turkmenistan needs to consider establishing a more clearly defined (avoid varying interpretations) requirement for financial institutions to implement CDD measures on an ongoing basis.

552. All required CDD measures, not just customer identification, should be worked at in more detail at both legislative and sub-legislative levels. In particular, it is necessary to determine the mechanism to be adhered to and procedure to be followed by financial institutions when identifying the beneficial owner, conducting a permanent inspection, carrying out verification, as well as when determining objectives and nature of the client's business relations and updating information about him.

553. The subordinate acts should contain a requirement to institute certain actions as part of the procedure for implementation of CDD measures, including identification of the beneficiary.

554. It is necessary to clarify the legal consequences of the inability to implement CDD measures (negative results of CDD measures) in respect of the entire set of CDD measures, not just the identification and availability of data suggesting involvement in terrorist activities.

555. The Turkmen law on AML / CFT should contain a provision governing the relations connected with the processing of the results of application of CDD measures.

556. When regulating the relations connected with the application of CDD measures, financial institutions should not allow the narrowing of the sphere of application of the Law on AML / CFT in their internal regulations (RIC).

557. It is also necessary to establish clear guidelines for the application of CDD measures to existing clients, i.e. to those persons who were already clients (beneficial owners, representatives, beneficiaries) of financial institutions of Turkmenistan at the time of entry into force of the AML / CFT law, subordinate regulatory acts and Rules of Internal Control.

558. It will be possible to assess the AML / CFT-related effectiveness of financial institutions in respect of application of CDD measures only after accumulation of sufficient law enforcement practice.

Recommendation 6

559. Turkmenistan needs to adopt regulations requiring financial institutions to ascertain whether the client is a politically exposed person (PEP) and seek the approval of the financial institution management prior to establishing relations with such person. Financial institutions should be obliged to establish the origin of a PEP's funds and pay extra attention to all current transactions conducted by such person.

Recommendation 7

560. The issues related to the evaluation of the non-resident bank and storage of the related to it data when establishing cross-boarder correspondent relations with it are addressed within the frameworks of the general requirements for application of CDD measures. In this regard, Turkmenistan should address the issue of AML / CFT in establishing cross-border correspondent relations, including establish the responsibility for commercial banks to gather information on the non-resident bank that would make it possible to ascertain the nature of its business reputation, compliance with international standards and quality of oversight measures used by it when establishing correspondent relations with such bank. Also, it is necessary to more clearly define the algorithm for taking a decision on the establishment of correspondent relationships specifically by the bank's management.

561. Turkmenistan should review the mechanism (criteria) for evaluating correspondent banks and the procedure for recording the results of such evaluation.

562. The issue of storage and volume of the received data on foreign correspondent banks should also be addressed in more detail as part of the special regulations on AML / CFT.

563. In this regard, Turkmenistan should consider the possibility of defining the responsibilities of each party participating in correspondent relations as it pertains to AML / CFT and their documentation.

564. Despite the absence of "transit accounts" in the banking practice of Turkmenistan, the issue of regulating relations connected with their use when establishing cross-border correspondent relations should be examined closer.

565. It should be noted that the above remarks are not currently relevant to Turkmenistan given the existing prohibitions and restrictions on the establishment of cross-border correspondent relations.

Recommendation 8

566. The Turkmen Law on AML / CFT does not prohibit the establishment of client relations without the personal presence of the client; however, the established client interaction procedures as well as the RICs of some commercial banks make it impossible for the client to open an account without personal attendance. However, the issues concerning the establishment of relations without the personal presence of the client and the use of new technologies by other financial institutions (non-banking) remain unresolved.

567. The regulatory acts of Turkmenistan do not contain special provisions requiring financial institutions to develop and implement measures to prevent the use of new technologies for money laundering and terrorist financing. The presence of separate standards in the RICs of two commercial banks is inadequate. The monitoring of transactions involving new technologies is mainly carried out in the framework of the general requirements for implementation of CDD measures and mandatory controls established by the Law of the AML / CFT, regulatory legal acts and RICs of commercial banks. The Turkmen Law on AML / CFT does not provide for any

exceptions in respect of CDD measures and mandatory controls when establishing client relations and executing transactions with the use of new technologies.

568. Steps need to be taken to promote the risk-based approach in addressing the AML / CFT issues in respect of transactions utilizing new technologies and transactions requiring no personal presence.

569. The Turkmen laws on commercial banks and banking, on procedure for carrying out settlements, on payment systems, as well as the currency regulation and currency controls make it impossible to establish client relations or execute transactions with the use of new technologies without conducting identification and implementation of CDD measures by all participants of the payment system.

570. The Law on AML / CFT permits the development by financial institutions of an internal control mechanism that takes into account the problems and risks of AML / CFT associated with the use of new technologies; however, not all financial institutions have successfully developed such mechanisms or developed them to a sufficient extent.

571. Financial institutions of Turkmenistan believe that the requirements for control over the client and transactions have priority regardless of the technologies used to execute such transactions.

572. However, banking regulations and the regulatory framework of other financial markets should call for special attention to and use of special procedures for managing the risks related to new technologies and transactions requiring no direct contact with the client.

3.2.3. Compliance with Recommendations 5 - 8

	Rating	Summary of Facts Underlying Overall Rating
R.5	PC	<ul style="list-style-type: none"> • Threshold required for CDD in the case of occasional transactions exceeds 15,000 USD/€; • There no requirements to verify the identity of the beneficial owner using reliable sources; • The legal consequences of the impossibility to carry out CDD (negative results of CDD) are provided for only in respect of identification and availability of data suggesting involvement in terrorist activities; • It is unclear whether the financial institutions should carry out CDD requirements to existing customers ; • There is no requirement to conduct enhanced due diligence in the case of high risk customers, business relationships and transactions;

		<ul style="list-style-type: none"> • There is no requirement to carry out verification of data provided by the client, except for identity document examination; • After the adoption of the AML/CFT Law there was no assessment of existing anonymous accounts as well as no requirement for their closure in case of signs of anonymity; • The refusal to open an account and to carry out operation only depends on the failure to identify documents (providing with suspicious documents), or terrorist activities and doesn't on other measures of CDD; <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> • The mechanisms for implementation of such CDD measures as the following are not sufficiently defined: identification of the beneficial owner, verification, determining the purposes and the nature of business relations with the client and on-going monitoring of the client relations; • The supervisory practice is missing, making effectiveness assessment impossible.
R.6	NC	There are no legislative or other measures required in accordance with Recommendation 6.
R.7	PC	<ul style="list-style-type: none"> • The mechanism for evaluating the respondent bank on issues of AML / CFT is not defined; nor is there a procedure for recording such information; • The requirement to gather and store data on the correspondent bank is established in the framework of the general requirements for CDD measures and lacks details in the area of correspondent relations; • The issue concerning the allocation of responsibilities in the area of AML / CFT when establishing cross-border correspondent relations lacks clarity. • There is no regulation of AML / CFT issues in respect of "transit accounts".
R.8	PC	<ul style="list-style-type: none"> • The special regulation of the AML / CFT issues concerning transactions with the use of new technologies and without the personal presence, especially for financial institutions of the non-banking sector, is highly inadequate.

		<ul style="list-style-type: none"> • There is no requirement for non-banking financial institutions to manage ML / FT risks when using new technologies and conducting transaction without direct contact.
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3.3. Third Parties and Intermediaries (R.9)

3.3.1. Description and Analysis

Recommendation 9

573. Financial institutions are not allowed to transfer the CDD-related responsibilities to third persons and companies. Outsourcing arrangements for the CDD measures are absent.

3.3.2. Recommendations and Comments

Not applicable

3.3.3. Compliance with Recommendation 9

№	Rating	Summary of Facts Underlying Overall Rating
R.9	N/A	Not applicable

3.4. Financial Institution Secrecy or Confidentiality (R.4)

3.4.1. Description and Analysis

Recommendation 4

574. In general, the Turkmen law and regulations on the bank secrecy do not inhibit the implementation of the FATF Recommendations.

575. Pursuant to art. 8 of the AML/CFT Law, financial institutions are obligated to provide the FIU with the information on suspicious transactions, including information constituting company, trade, bank, tax and correspondence secrets, and such action will not be considered a breach of secrecy.

576. In regard to additional requests made by the FIU, pursuant to Art. 20 of the Law "On Commercial Banks and Banking in Turkmenistan", the information on legal entities' transactions and accounts must be presented to the FIU, tax authorities, courts, prosecution authorities and auditing firms at their request. Statements concerning accounts and deposits of individuals may also be issued to courts and investigative agencies on matters under their review.

577. It is necessary to point at the existence in the sectoral laws of certain types of financial institutions of requirements concerning trade secrets, which at the time of evaluation had not yet been brought into compliance with the Law on AML / CFT in terms of information transfer made at the additional request of the FIU. However, pursuant to the Law "On Regulatory Legal Acts", if the force and effect of two or more laws is identical, the law with a later adoption date will prevail. In this situation, the requirements of the Law on AML / CFT, i.e. Article 4 of the Law "On AML / CFT", make it mandatory for persons providing information also provide information to the FIU, including at the additional request from the latter. In this way, the process for obtaining data on transactions will be complete.

578. Pursuant to art. 51 of the Law "On Central Bank", the Central Bank has the authority to request and receive information on the activities of subordinate organizations, including on transactions, and require explanations to be given in regard to the information received. Furthermore, the banking secrecy rules do not hinder the exercising of this authority. In respect of other oversight bodies, the situation regarding their powers in the context of trade secrets requirements is not clear.

579. Pursuant to chapter 30 of CPC of Turkmenistan, law enforcement agencies, including inquiry and preliminary investigation authorities may, subject to permission from the investigator, access the information available in the framework of criminal case. Thus, the secrecy requirements do not hinder their ability to exercise their right to request additional information.

3.4.2. Recommendations and Comments

580. Turkmenistan should eliminate ambiguities in supervisory powers (besides Central Bank) in the context of trade secrets requirements.

3.4.3. Compliance with Recommendation 4

№	Rating	Summary of Facts Underlying Overall Rating
R.4	LC	<ul style="list-style-type: none"> As for the oversight authorities (other than CB), the situation concerning their ability to exercise powers in respect of supervised institutions in the context of trade secrets requirements is not clear.

3.5. Record keeping and rules of wire transfers (R.10 and SR.VII)

3.5.1. Description and analysis

Recommendation 10

581. Pursuant to the AML/CFT Law (article 3, clause 9), financial institutions (or persons submitting the information) shall maintain the following information for **at least five years**:

- Information and records that refer to transactions and operations involving monetary or other assets since the date of transaction settlement,

- Information and records that refer to the customer identification as well as information on business relations, business correspondence and/or any other information since the date of closing of the account and/or termination of business relations.

582. At the same time, the Act includes no specification or limitation for the financial institutions on the scope and/or types of such information. Furthermore, the statutory list of information to be maintained is not exhaustive which means that financial institutions may include any additional information.

583. The AML/CFT Law includes quality requirements to the maintained information. Information in the abovementioned records shall be sufficient to reconstruct individual transactions and operations and provide appropriate evidences for review and investigation.

584. The appropriate provisions are contained in the Procedure for provision of information required for combating laundering of criminal proceeds and financing of terrorism by legal and individual persons upon demand of Turkmenistan Ministry of Finance approved by Order of Turkmenistan Ministry of Finance No. 16 dated February 25, 2010.

585. The ICR of financial institutions also include provisions on maintenance of documents and information and some of them even expand the requirements of the AML/CFT Law by specifying the structure of information for maintenance to fulfill the requirements of the Act.

586. The ICR of a bank that applies a risk assessment based approach require recording of any information received in the process of implementation of the internal control regulations on AML/CFT and documenting of any information on suspicious transactions and transactions subject to compulsory control as well as on the persons who make such transactions (including but not limited to representatives, beneficiary owners and counteragents). The same bank has a requirement on availability of payer and recipient information on any transfers as well as provisions on documents that shall be maintained. Thus, any documents that contain customer information shall be maintained in the customer personal file or profile; transaction documents shall be maintained with accounting or cash documents for the day; and reports on suspicious transactions and transactions subject to compulsory control shall be maintained in the information system of the bank. There is a separate provision that requires to maintain any documents and information for at least five years since the date of termination of customer relations. It means that the bank has any information on the customers it has current business relations with irrespective of remoteness of these customers' transactions.

587. Another bank that applies a risk-oriented approach has a commitment to maintain the customer and transaction documents (or copies thereof) for not less than 5 years since the date of termination of customer relations (date of transaction). Any other documents shall be also maintained for not less than 5 years since the date of termination of customer relations and then filed in archives. The same bank has a provision on recording of customer transactions and operations in such a way as to reproduce transaction/operation details in case of necessity. The bank shall collect all the documents that demonstrate any signs of ML/FT in such a way as to use them as evidences in case of criminal, civil or arbitration proceedings.

588. In other ICR, requirements on information maintenance almost repeat the provisions of the AML/CFT Law without any specifications. The Bank has a commitment to maintain any records and information on identification, business relations, business correspondence and/or other information for not less than 5 years since the date of termination of customer relations. Information and records on transactions/operations shall be also kept for at least 5 years since the date of such transaction/operation. Also there are quality requirements to the maintained records and information that are identical to the Act.

589. As for the insurance institution, its ICR also includes provisions on information maintenance but regarding to only those insurers who shall be identified in accordance with these ICR (i. e. on certain types of agreements including but not limited to those that exceeds the threshold amount; for details see section “Required CDD measures”, Recommendation 5). Personal accounts, information and records on such customers shall be maintained with sufficient information to fulfill the requirements of the AML/CFT Law on submission of evidences for review and investigation.

590. Considering the large threshold amount and limited list of agreements requiring application of ICR (see section “When CDD is required”), one can make a conclusion that in case of insurance the rules for information maintenance in the ICR of the insurance institution refer to a limited number of customers of this institution. Moreover, these ICR include no provisions on maintenance of transaction information including information on suspicious transactions and transactions subject to compulsory control and no restriction on maintenance of such information.

591. It should be noted that review of the ICR of these financial institutions revealed some deviations from the requirements of the Act as related to both increase and decrease of the maintenance commitments. However there are no ICR that contain a prohibition against maintenance and/or reproduction of any other information or a provision on possible nonobservance of the Law requirements. In Turkmenistan, there is a general rule that the Law shall prevail over any other statutory regulations and the more so over internal rules of financial institutions. According to the requirements of the Law, direct regulations shall be observed in any event. More than once representatives of Turkmenistan assured the evaluating experts that the existing Turkmenistan procedure for maintenance of documents and information significantly exceeds the provisions of the AML/CFT Law including those related to the scope and structure of information, retention period and permissions for reproduction.

592. As for Turkmenpochta Public Postal Service Company, its ICR were not presented to the evaluating experts. The rules on provision of postal services include no rules on money transfer information maintenance whereas postal service operators shall also be subject to the direct provisions of the AML/CFT Law on maintenance of information and documents.

593. As there are no activities of securities market participants and leasing companies in Turkmenistan (according to information from Turkmenistan), their internal documents were not provided to the evaluating experts. Thus, the rules for information maintenance in Turkmenistan legal system correspond to FATF Recommendations.

594. Basic principles and procedures on document maintenance in Turkmenistan are determined by Turkmenistan law “On archives and archiving” (the “Archive Law”).

595. The Archive Law binds any legal entities to observe the provisions and regulations on record management organization and maintenance established by the Central Records Office together with the committed ministries and department (section 15).

596. The evaluating experts were not provided with the principle archive operating instructions of Turkmenistan institutions, organizations and enterprises approved by Order of the Director of Central Records Office of the Cabinet of Ministers of Turkmenistan No. 10-IS dated February 15, 2010 (the “Principle Archive Operating Instructions”). This document is compulsory for the archives of ministries, departments, government agencies, institutions and enterprises as well as for any nongovernmental organizations as related to protection, description, recording and usage of documents (clause 2). Principle Archive Operating Instructions require that all the subjects have their own nomenclature of files and include principle requirements to making of such a nomenclature. In the process of the mission, representatives of regulatory authorities and private sector confirmed many times that departmental statutory regulations on record managements as well as corresponding documents on record managements (such as nomenclatures of files) of other organizations including but not limited to financial institutions were developed on the basis of this document.

597. The principle instructions set the requirements to maintenance, protection, classification and registration of documents. Enclosures to the principle instructions contain the forms of basic documents on record management (including but not limited to those for electronic documents), registration and maintenance and set the minimum storage time for information and documents (mostly in relation to commercial banks). Review of these minimum storage time revealed that the minimum storage time for documents and information related to customer services (opening of accounts, deposits, etc.) and payment transactions especially those related to securities and foreign economic activities significantly exceeded 5 years (except for some settlement-connected documents). There are no provisions revealed in Turkmenistan statutory regulations that prohibit establishment of longer storage time in nomenclatures of financial institutions.

598. As for the banking sector, regulations on document storage technology may be found in the Provisions on Banking Accounts. According to the Provisions on Banking Accounts, an agreement on opening of an account and all the documents provided by the customer in the process of opening of such account (see Recommendation 5) shall be kept in the customer legal

file by the legal service of the bank. If there is no legal service, the customer legal file shall be kept by the chief accountant or his/her deputy (clause 1.5). In accordance to the Provision on Cashless Settlements, the customer legal file shall include unexecuted settlement documents that were subject to return but were not returned.

599. Thus, the financial institutions of Turkmenistan have the required organizational and legal support as well as the rights and responsibilities to observe the requirements of the AML/CFT Law and FATF Recommendations on maintenance on the required documents and information for the established period and for reproduction thereof in appropriate form and extent. Moreover, the evaluating experts have a strong opinion that the financial institutions of Turkmenistan are actively engaged in such activities.

600. *Effectiveness* Efficiency evaluation depends on analysis of the procedure for registration by the persons submitting the information, CDD results (including negative CDD results) as well as the information received in the process of constant monitoring of business relations, transactions and operations of the customer including but not limited to transactions subject to compulsory control, suspicious transactions and unusual material transactions with no economic purpose.

601. Unreasonably large threshold amount of an individual transaction does not contribute to efficiency.

Special Recommendation VII

602. Turkmenistan AML/CFT Law does not regulate the issues of money transfer registration or the structure of information on the parties of money transfers that to be included into the accompanying message. At the same time the Law makes no exceptions for electronic payments and settlements. Electronic payments and settlements are subject to provisions of the AML/CFT Law that determine the situations requiring CCD measures including identification (see section “When CDD is required”, Recommendation 5).

603. Besides the AML/CFT Law, electronic payments and settlements are subject to the ICR of commercial banks. Some of the provided ICR of commercial banks contain provisions that regulate the procedure for money transfer registration and determine requirements to the structure of information on the parties of money transfers while the others include only requirements for CDD measures. However none of them have any exceptions in relation to CDD measures for electronic payments and settlements.

604. The ICR of one of commercial banks specifies that in absence of payer information the bank shall refuse to perform the transfer. For individual payers and individual entrepreneurs such information shall include surname, first name, account number, taxpayer identification number (if available), and residential (registration) address. For corporate payers the following information is required: Name, account number, and taxpayer identification number or foreign organization code. The same ICR specify that the bank may refuse to make a transaction (except for transactions related to placing money to the customer’s account) if the customer fails to

provide the documents required to register information on the transaction subject to compulsory registration. The ICR contain no exceptions related to electronic payments and settlements.

605. The ICR of two other banks determine basic identification requirements that in some cases also apply to electronic transfers. In one of the banks they refer to placing money to an account and writing money off an account as well as money transfers without opening of a banking account. In another bank they refer to single transactions/operations (including but not limited to wire transfers) to the amounts exceeding the threshold amount or causing suspicious of ML/FT. However these ICR contain no requirements to the structure of information that shall be included into the accompanying message even for the cases when CDD measures are required. This also refers to electronic payments and settlements.

606. In the ICR of the bank that applies a risk assessment based approach, any transactions involving monetary or other assets and made with the use of Internet technologies are classified as high-risk transactions. Another bank that applies a risk-oriented approach classifies any types of banking products that incur a high risk of usage for the purpose of ML/FT as well as banking transactions (products) that makes it possible to easily convert cash into non-cash resources or quickly transfer money from one country to another as high-risk transactions.

607. Issues of money transfer registration and the structure of information on the parties of money transfers are regulated by other sectors such as laws and regulations on banks and banking operations, electronic payment systems, currency regulation and currency control. The AML/CFT Law does not determine any exceptions for CDD measures depending on the type of the money transfer. Compulsory CDD measures according to the AML/CFT Law also apply to electronic transfers. Thus, any money transfer irrespective of business relations with the customer requires identification in the scope required by the AML/CFT Law (see Recommendation 5).

608. However for single money transfers especially for money transfers by customers the bank has no business relations with, the Law requires application of CDD measures only if the transfer amount exceeds the threshold amount. Considering the unreasonably large threshold amount – about 200 thousand USD in the local currency – one can make a conclusion that a large amount of single money transfers may escape monitoring for ML/FT. There are some exceptions such as transactions additionally specified in the ICR of commercial banks (see above) and/or subordinate legislation.

609. In the process of the mission it was found out that the system of electronic payments and settlements has just started developing in Turkmenistan and is not in full effect yet. Regulation of electronic payments in Turkmenistan is very weak.

610. Regulation on usage of card payment systems in Turkmenistan approved by Resolution of the President of Turkmenistan No. 5393 dated October 1, 2001 contains only provisions on transactions with payment cards. According to the abovementioned Regulation, a payment card shall contain information that makes it possible to identify its owner, issuer and payment system while a bank payment card shall be assigned to a specific account (card account). Thus, the

requirements of the AML/CFT Law including those related to compulsory application of ICR also apply to opening and maintenance of card accounts.

611. Relations between the owner and the issuer of a payment card are determined by their agreement. The Regulation enables the issuer to require that together with his or her payment card the owner of the card shall present his or her identification document unless it is prohibited by the rules of the payment system.

612. The Regulation has no provisions on compulsory inclusion of payer information for every payment. Any settlements between the participants of the payment system shall be made through correspondent or current accounts that shall be opened by the participants of the payment system in authorized credit institutions. Settlements shall be made on the basis of slips or an electronic pay checks (clause 26).

613. According to this Regulation, payment cards may be issued only by commercial banks (clause 1), settlements between the participants of the payment system shall be made through accounts in commercial banks, and acquiring may be performed only by a commercial bank (clause 26).

614. As the AML/CFT Law or any other laws and subordinate legislation of Turkmenistan provide no exceptions for electronic payments and settlements, in the process of payment by payment cards all the abovementioned subjects shall undergo AML/CFT control by the commercial bank. Being a person submitting the information, such a commercial bank shall perform AML/CFT monitoring in relation to owners of its payment cards and participants of its payment system as well as to apply CDD measures and ensure appropriate monitoring of transactions.

615. The requirements to inclusion of information on the payer and the payment recipient into settlement documents are contained in the Provision on Cashless Settlements. This Provision sets the forms and completion procedure for settlement documents in Turkmenistan (see the Enclosures to the Provision).

616. The requirement on compulsory inclusion of identification information into settlement documents also applies to settlements with individual persons, persons who have no account in the paying bank and settlements through transit accounts as well as to settlements by orders of individual persons (clause 48 of the Provision on Cashless Settlements).

617. The Provision on Cashless Settlements includes no special requirement for commercial banks to check the content of settlement documents. However forms of these documents include a column "Checked by the bank" which is considered by commercial banks as an obligation to perform a corresponding check of each settlement. An opinion on making commercial banks to check settlement documents for correspondence to Turkmenistan legal system was also many times offered by representatives of regulatory authorities at the meetings in Turkmenistan.

618. The Provision makes no exceptions to the rules on completion of settlement documents depending on the payment amount. As Turkmenistan legal entities shall make settlements only

by clearing it is possible to state that settlement documents on internal money transfers between Turkmenistan legal entities shall always contain sufficient identification information on the payer and the payment receipt.

619. External (foreign) settlements and transfers in Turkmenistan are subject to currency regulation and currency control. Every exchange transaction irrespective of its amount shall be inspected by the authorized bank for compliance with the currency law. Thus for both money crediting and debiting, the authorized bank shall be provided with a full set of substantiating documents; in some cases foreign trade contracts shall be subject to preliminary registration at the State Commodity Exchange and serve as a basis for transaction passports that include identifying information on the customer (including address and taxpayer identification number), counteragent, transaction and transaction procedure.

620. Settlements on exchange transactions shall be performed only after inspection for compliance with the currency law (Turkmenistan law “On currency regulation”, Regulation on organization of currency export and import control, Resolution of the President of Turkmenistan No. 9847 dated May 13, 2008 “On the principle measures of currency regulation and support of the uniform rate of the national currency”).

621. Neither currency not any other law of Turkmenistan has any exceptions from the statutory rules of currency transactions in relation to electronic or other forms of payments or settlements.

622. Moreover, Turkmenistan has some restrictions on performance of currency transactions by the authorized banks. The authorized banks may perform currency transactions only through correspondent accounts in Turkmenistan banks and capital flow transactions through correspondent accounts in the Central Bank of Turkmenistan or the State Bank of Foreign Economic Activity of Turkmenistan (Resolution of the President of Turkmenistan “On the principle measures of currency regulation and support of the uniform rate of the national currency”, clause 4).

623. In accordance with the procedure for performance of some foreign currency transactions by banks on the territory of Turkmenistan approved by the Resolution of the President of Turkmenistan No. 5490 dated January 7, 2002 (the “Procedure for Performance of Some Foreign Currency Transactions”), transfer and receipt of transferred foreign currency may be performed by an individual person on presentation of his or her identification document and an appropriate application.

624. The application (remittance order) for money transfer from Turkmenistan or receipt of foreign currency transfer to Turkmenistan shall include identifying information of the payer (or his/her representative) and details of his/her identification document (in case of money transfer from Turkmenistan), identifying information of the recipient (or his/her representative) as well as his/her address and details of his/her identification document. The application shall include the purpose of transfer (receipt) of the foreign currency in cash. If the amount of money transfer from Turkmenistan exceeds 500 USD in the local currency per a trading day or there are recurrent transfers to the total amount of more than 15,000 USD in the local currency within a

period of 3 months, the appropriate commercial bank shall be presented with a document on the origin of the foreign currency.

625. At the meeting with representatives of commercial banks, the evaluating experts were informed that in some cases a commercial bank may and shall refuse a money transfer or a payment of the transferred foreign currency. Thus a bank may refuse to perform foreign currency transactions if the required information on the payer, recipient or purpose of the payment is absent, the purpose of the payment does not comply with the Procedure, there are no documents on the origin of the foreign currency or the documents requested by the commercial banks are not provided.

626. According to Turkmenistan law, if transferred foreign currency may not be paid it shall be returned to the nonresident bank within 6 months (Procedure for Performance of Some Foreign Currency Transactions, clause 7).

627. The mission was not presented with any special statutory regulations (including local ones) that determine obligatory information to be included into settlement documents. Generally this issue is regulated by the Provision on Cashless Settlements according to which settlement documents related to cashless settlements in foreign currency shall comply with the same requirements and specifics of currency transactions (clause 3).

628. In the meetings representatives of regulatory authorities and commercial banks informed the evaluating experts that the problem of payment accompanying with identifying information is solved by inter-bank agreements with nonresident banks in the process of establishing of correspondence relations. At the same time it was stated more than once that commercial banks of Turkmenistan may conclude such agreements only with first-class foreign banks.

629. In view of the above a conclusion may be made that according to Turkmenistan legal system any bank payments and settlements (both domestic and foreign) including but not limited to cashless settlements and transfers without opening of a banking account shall be subject to preliminary control and accompanied with information on the payer, recipient, their banks and the purpose of payment. Even if there is no requirement for provision of identifying information for electronic transfers it is impossible to make foreign settlements (currency transactions) without inspection of the purpose of payment and the payer (as there is currency control in Turkmenistan).

630. Postal transfers as well as international postal transfers also take place in Turkmenistan. According to information from Turkmenistan, electronic postal transfers are not used in Turkmenistan (no confirmation of this information was presented to the evaluating experts). A representative of Turkmenpochta Public Postal Service Company informed that advices of postal transfers contain information on the payers and the recipients (or their representatives) of the transfers. Rules for provisions of postal services specify that postal money transfers shall be accepted only with the recipient's address and the payer's return address. Postal money transfers are paid out to the recipients in post offices or at the recipients' addresses. Big money transfers (exceeding the average wage by three times or more) and money transfers with non-paid delivery may be paid out only in post offices. Postal transfers may be paid out only on presentation of the

recipient's identification document. For receipt of a postal transfer the recipient shall indicate the details of his/her identification documents on the advice of the postal money transfer (clauses 67, 68, 89, and 94). The rules on provision of postal services include no requirements related to inclusion of information on postal money transfer senders into accompanying message, control of the sender and recipient information and maintenance of such information at all the stages of money transfer. The evaluating experts agree that it is impossible to make a postal money transfer without the abovementioned actions (such as inclusion of the recipient's full name and address into the postal transfer form). However requirements to sender details for performance of postal money transfers are not complete enough from the point of AML/CFT. The normative act shall clearly determine the structure of transfer sender information (full name, address, etc.) to be included into the accompanying message (postal form) as well as the obligation for maintenance of such information.

631. Analysis of the presented normative acts on postal money transfers gives no reply to the question of possibility of poste restante money transfers in Turkmenistan.

632. According to information from Turkmenistan, international postal money transfers from Turkmenistan are performed in strict compliance with the intergovernmental agreement between the member states of CIS on the procedure of money transfers by individuals for socially important payments that was concluded in 1994. The evaluating experts were informed that the amounts of international postal money transfers from Turkmenistan are not significant and the transfers are made only with social purposes.

633. Indeed, the abovementioned Agreement requires free money transfers and receipts through banks and/or postal services for socially important noncommercial payments of the citizens such as pensions, financial allowances, alimony payments, compensations, educational allowances, etc. According to the Order the Deputy Chairman of the Cabinet of Ministers of Turkmenistan dated January 13, 1994, postal money transfers from individuals shall be accepted if the money transfers are intended for medical care or education purposes or for support of parents. Organizations may use postal transfers for payment of pensions, educational allowances, and alimony payments. The same Order limits money transfers from individuals to 50 USD in the local currency per a month. The evaluating experts have no information on whether international postal transfers from Turkmenistan take place with bigger amounts.

634. According to the Order, in the process of international postal money transfers organization shall certify transfer forms with signature of their chief managers and their round seals. As any transactions related to international postal money transfers are currency transactions, they shall be subject to requirements of currency regulation and currency control including but not limited to those related to determination of the rights of legal and individual persons for performance of such transfers (see Recommendation 5).

635. The evaluating experts got neither specific information on completion of transfer forms for international postal money transfers by individual persons nor any information on the structure of details to be included into the accompanying message or information maintenance at all the stages of money transfer; together with the deficiencies of regulation of transfer procedure (see

above) this makes an adverse effect on the evaluation of compliance with FATF Recommendations.

636. *Effectiveness* As there is no practice of electronic payments (including foreign electronic payments) in Turkmenistan, any efficiency evaluation of the AML/CFT measures applied thereto including but not limited to the requirement for accompanying of transfers with correspondent information is premature.

3.5.2. Recommendations and comments

Recommendation 10

637. Requisite measures on compliance with the requirements of Recommendation 10 as related to maintenance of the required documents and information on transactions and clients are taken in Turkmenistan.

638. Financial institutions shall be obliged to ensure timely delivery of the required information to competent authorities in accordance with their competences.

Special Recommendation VII

639. Banks shall be obliged to consider restriction or termination of business relations with the financial institutions that fail to perform the requirements of SP.VII. Besides, regulatory authorities shall implement specific measures for monitoring of compliance with SP.VII requirements by financial institutions.

640. Intermediate financial institutions shall be obliged to pass information on senders to further stages of money transfer.

641. It would be advisable to continue implementation of the risk management procedure in relation to the transfers that include no information on their senders, submission of such information to FIU, and considering termination of business relations with the sending financial institution.

642. It is necessary to implement some facilities for monitoring of compliance with the corresponding requirements and sanctions for violation of such requirements.

3.5.3. Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of the underlying factors
R.10	LC	<ul style="list-style-type: none"> There are no requirements to maintenance of documents in a format that would ensure timely access for competent authorities.
SP.VII	PC	<ul style="list-style-type: none"> There are no requirements on the legislative level to maintain

		<p>the information relating to the originator of the wire transfer;</p> <ul style="list-style-type: none"> • The banks are not obliged to consider the issue of limiting or breaking business relations with the counterparts that do not comply with the requirements of SR VII. • There are no specific means for monitoring of observance of the rules of electronic wire transfers by financial institutions. • There is no requirement for intermediate financial institutions to pass information on the sender to further stages of money transfer. • There are no risk management procedures in relation to the transfers that include no information on their senders and submission of such information to FIU. • There are no procedures for considering termination of business relations with the sending financial institution.
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Unusual and Suspicious Transactions

3.6. Monitoring of transactions and relationships (R.11 & 21)

3.6.1. Description and analysis

Recommendation 11

Specific attention to complex and unusual transactions

643. According to the AML/CFT Law, financial institutions have to document any substantiated circumstances of complex and unusually large transactions and operations as well as transactions, operations and money transfers with unusual patterns or no apparent economic purpose (section 4, clause 3). At the same time the Law contains no definitions for the terms related to the abovementioned transactions and operations such as “complex transaction/operation” or “unusual pattern”, their criteria and “unusually large amounts”. There is also no detailed information on the “circumstances” that require documentation of unusual transactions and operations.

644. Representatives of Turkmenistan regulatory authorities and the private sector many times assured that all the issues of unusual transactions and operations are clarified in appropriate ICR (both standard ones and those implemented by financial institutions).

645. Turkmenistan law on AML/CFT includes no criteria for a transaction or operation amount to be determined as “extra large”. It means that financial institutions of Turkmenistan may orient themselves to different amounts established in different branches of Turkmenistan legal system.

For example, the AML/CFT Law includes a concept of threshold amount for the purposes of CDD and resolution of issues related to compulsory control of transactions and operations. At the present time, the threshold amount in Turkmenistan is unreasonably large (see Recommendation 5). Thus, classification of transactions as “extra large” only by the criteria of their threshold amounts would reduce the number of controlled transactions and operations and decrease the monitoring efficiency and information recording.

646. Representatives of tax authorities informed the team of evaluating experts that Turkmenistan legal system included a requirement for commercial banks to notify the tax authorities on any large transactions and operations of their clients. The criteria of large transaction/operation amount shall be determined on the basis of the minimum wage (basic value) multiplied by an appropriate index. According to the information from Turkmenistan, the amount of minimum wage (basic value) was determined by Resolution of the President of Turkmenistan No. 5594 on May 11, 2010 and constituted 50 manat (17 USD). However the evaluating experts could not find out the large transaction/operation amount that the tax authorities shall be informed of. According to the information from Turkmenistan, Turkmenistan legal system includes a special legal institute that any transactions to the amount of more than 2,170 USD in the local currency shall be registered or documented at Turkmenistan State Commodity Exchange (see Recommendation 5).

647. Currency law of Turkmenistan also includes such a criterion for increase of the currency control as excess of a specified transaction amount. Adverse legal effects for individual persons take place if the amount of their money transfers exceeds 5,000 USD at a time or 15,000 USD per a month. In this case the authorized bank shall request a document on the source of the money origin or the basis for the money receipt (Procedure for Performance of Some Foreign Currency Transactions by Banks on the Territory of Turkmenistan, clause 5).

648. It should be noted that Turkmenistan law has no restrictions for the financial institutions’ criteria of “extra large” transaction/operation amounts and this has been confirmed by representatives of regulatory authorities and financial institutions.

649. In the process of the mission, representatives of regulatory authorities and financial institutions many times confirmed that financial institutions are in a position to reveal any complex and unusually large transactions as well as any unusual patterns of transactions that have no economic or apparent legitimate purpose (“complex, unusual and extra large transactions and operations”). However in the process of the mission the experts had no opportunity to test the software of financial institutions and check if it helps to reveal such transactions and operations.

650. Turkmenistan law on AML/CFT includes such a legal institute as transactions subject to compulsory control and suspicious transactions/operations (transactions/operations that may be suspected of being intended for laundering of criminal proceeds or financing of terrorism). Financial institutions have to inform the authorized agency of suspicious transactions and transactions subject to compulsory control.

651. The list and criteria of transactions subject to compulsory control are determined by the Law (section 5). The list and criteria of suspicious transactions/operations are determined by the Procedure for provision of information required for combating laundering of criminal proceeds and financing of terrorism by legal and individual persons upon demand of Turkmenistan Ministry of Finance approved by Order of Turkmenistan Ministry of Finance No. 16 dated February 25, 2010 (the “Procedure for provision of information required for AML/CFT”).

652. It should be noted that the list and criteria of suspicious transactions/operations according to the Procedure for provision of information required for AML/CFT (see the Enclosure to the Procedure) is model and may be supplemented by the ICR of Turkmenistan financial institutions. According to representatives of regulatory authorities, though the List is deemed as “model” any transactions/operations that meet to the Procedure criteria are mostly likely to be recognized by financial institutions as suspicious transactions. Considering the expansive approach to interpretation of the AML/CFT Law of Turkmenistan, it may be concluded that in practice the model list of criteria of suspicious transactions/operations in the Procedure for provision of information required for AML/CFT will be recognized by financial institution as compulsory.

653. Many criteria of suspicious transactions/operations as well as transactions subject to compulsory control actually determine the circumstance of complex and unusually large transactions/operations as well as transactions, operations and money transfers with unusual patterns or no apparent economic purpose. Thus, the list of transactions subject to compulsory control includes purchase and sale of foreign currency in excess of the threshold amount, securities acquisition by individuals for cash (about 200 thousand USD in the local currency) and/or internal and external transactions that may be suspected of infeasibility. Suspicious transactions/operations may for instance include a clear mismatch of a customer's operations with the general market course of dealing.

654. One of criteria for suspicious transactions/operations is a lack of a clear economic or apparent legitimate purpose or mismatch with the customer’s type of business, i. e. any complex and unusual transaction/operation. According to section 5 of the AML/CFT Law, transactions subject to compulsory control shall include any transactions/operations with movable or immovable property in excess of the threshold amount (200 thousand USD in the local currency for movable property and 500 thousand USD in the local currency for immovable property). Analysis of the abovementioned rules of law makes it possible to conclude that in Turkmenistan any transactions/operations in excess of the threshold amount shall be not only subject to compulsory control but also recognized as extra large.

655. Analysis of Turkmenistan normative acts on AML/CFT also makes it possible to conclude that Turkmenistan AML/CFT Law establishes double control over complex, unusual and extra large transactions/operations. On the one hand they are either suspicious or subject to compulsory control and thus imply specific legal consequences. On the other hand the Law sets up special control rules for complex or extra large transactions/operations as well as transactions, operations and money transfers with unusual patterns or no apparent economic purpose, i. e. documentation of the circumstances of such transactions/operations.

656. Financial institutions include provisions that require inspection of complex, unusual and/or extra large transactions/operations into their ICR. However, in the ICR of the commercial banks that apply a risk assessment based approach these issues are considered as part of regulation procedure for control over suspicious transactions. Thus, the issues of the processes, techniques and procedures of the corresponding financial organization, its organization departments, responsible persons and management board as well as legal consequences of such control over complex, unusual and extra large transactions/operations are partially included into the ICR of the commercial banks that apply a risk assessment based approach.

657. ICR of any bank includes a provision that in submission of information due to transaction circumstances the bank shall document the actual circumstances of any complex and unusually large transactions/operations as well as transactions, operations and money transfers with unusual patterns or no apparent economic purpose. However the ICR of the bank does not specify the process of such documentation, examination of the history of such transactions and operations or usage of such examination results. In its ICR such a bank only requires that if the employees who submit information have any suspicions that some transactions or operations are performed for the purpose of ML/FT, information on such transactions or operations shall be provided to the authorized government agency whether or not they belong to the appropriate list of transactions and operations.

658. The ICR of the banks that apply a risk assessment based approach recognize almost any complex, unusual and/or unusually large transactions/operations as suspicious. Moreover, such banks use the same criteria and characteristics of unusual transactions/operations as the ones in the Procedure for provision of information required for combating laundering of criminal proceeds and financing of terrorism by legal and individual persons upon demand of Turkmenistan Ministry of Finance (approved by Order of Turkmenistan Ministry of Finance No. 16 dated February 25, 2010).

659. The list of criteria of suspicious transactions/operations in the ICR of one bank includes transactions/operations that have no apparent economic purpose or mismatch the customer's type of business. The list of criteria of suspicious transactions/operations in the ICR also includes unconventional or unusually complex instructions on settlement procedures (differing from the general practice of the customer or the general market practice), unsubstantiated haste of transactions, significant changes in the previously agreed transaction procedure, mismatch between transactions and general market practice, and breakdown of a large transaction (exceeding the threshold amount) into smaller ones. Characteristics of suspicious transactions also include some large transactions in cash and money transfer transactions (credit of large cash amount from individual persons unless their business is related to public services, significant balance increase that is not related to the business of the customer, etc.). Separate positions are reserved for suspicious credit agreement transactions (such as an unreasonably high rate of interest, etc.), foreign economic transactions (such as unreasonable returns of advance payments, excessive amounts of penal sanctions, usage of forms of payment that do not correspond to the business of the customer, etc.). Criteria of suspicious transactions/operations may be also met by some securities transactions (such as repeated purchase and sale of one and the same

instruments) and plastic card transactions (such as repeated withdrawal of cash amounts with no relations to wage projects).

660. The list of criteria and characteristics of suspicious transactions and operations is not compulsory and/or exhaustive and may be expanded or reduced by the bank in the process of development of its ICR.

661. The ICR of another bank that applies a risk assessment based approach include not only the above-listed criteria of suspicious transactions but also the amounts of such transactions. Usually it is about 1,000 basic values for organizations (17,000 USD) and 100 basic values for individuals (1,700 USD). For this bank the list of criteria and characteristics of suspicious transactions and operations is also not exhaustive and in case of any suspicions of ML/FT character of transactions the bank may recognize such transactions as suspicious.

662. Thus in accordance with the AML/CFT Law, Turkmenistan financial institutions shall take the following actions in relation to any complex, unusual or extra large transactions/operations:

- Document the substantiated circumstances of such transactions/operations (section 4, clause 3),
- Provide information on the transactions/operations being recognized as suspicious or subject to compulsory control to the authorized government agency before the end of the next day after the date of the corresponding transaction/operation (section 4, clauses 1 and 2).

663. It should be noted that the ICR of the banks that apply a risk assessment based approach include a provision on additional measures in relation to suspicious transactions and the customers they are performed by.

664. The ICR of the bank establish a procedure for inspection of the customer and transaction details to confirm or contradict the suspicions of ML/FT. The manager who has revealed a suspicious transaction shall compose a message and pass it to the responsible person who makes a final decision (confirm or not confirm the transaction as suspicious or subject to compulsory control). In case of suspicious transactions, the decision on further actions on the customer shall be made by the management board of the bank (for example, a special care or request of documents for inspection). So if the customer demonstrates a high risk level of ML/FT the customer's transactions shall be subject to special attention. The bank may even send a manager to the customer's place of economic activity.

665. As in the first case, the ICR of another bank include a procedure for recognition of and decision making on suspicious transactions as well as legal consequences of such decisions. Information on suspicious transactions shall be prepared in writing and passed from the manager who has revealed this transaction to the authorized employee, responsible employee and the management board of the bank who makes the final decisions. At the same time a decision shall be made on further actions on the customer (from request for additional information and special attention to increase of the risk level and termination of contract relations).

666. In spite of positive effects of double control, the norms of the AML/CFT Law may be subject to ambiguous interpretation. The team of the evaluating experts thinks that there is a

possibility that financial institutions may not pay enough attention to complex, unusual and extra large transactions and operations. It may fall out that financial institutions evaluate such transactions and operations only by those characteristics that classify such transactions and operations as suspicious or subject to compulsory control.

667. For example there is a danger of verification by only formal characteristics – if complex, unusual or extra large transactions or operations have any signs of suspicions transactions/operations or transactions/operations subject to compulsory control (such as achievement of the threshold amount). In this case financial institutions may exclude many types of complex, unusual or extra large operations from the extent of ML/FT control.

Examination and maintenance of information on complex and unusual transactions

668. The AML/CFT Law does not require that the financial institutions of Turkmenistan examine the history, reasons and purposes of the revealed complex, unusual or extra large transactions and operations as deep as possible or document the results of such examination. The requirements to study the history and purpose of complex, large-and unusual transactions are set from January 1, 2011 (Order of the Ministry of Finance of Turkmenistan № 107 of December 30, 2010).

669. The AML/CFT Law requires that financial institutions document the circumstances of such transactions and operations but only as the situation requires. At the same time the AML/CFT Law of Turkmenistan provides no procedure for financial institutions to exercise this obligation.

670. In connection with the above changes in the Order to collect and analyze relevant information for AML / CFT purposes, Turkmenistan established not only recording, but also to form and store the results of the analysis (the study of history) complex, very large and unusual transactions. This must be done in the proper format so competent authorities and auditors have access to this information. Storage should be within the time prescribed by the Law of the AML / CFT, ie, at least 5 years.

671. In respect to the AML / CFT Law the FIU was granted the authority to require entities who provide information to take measures to combat money laundering and financing of terrorism. The assessors believe that the requirements for financial institutions to study the history and purpose of complex, large-and unusual transactions and transactions, as well as storage the results of this analysis to provide access thereto, is adopted by the Ministry of Finance of Turkmenistan within the framework of its competence and is enforceable.

672. The evaluating experts revealed no special regulation for the process of control over complex, unusual and extra large transactions/operations in the ICR of the insurance institution and the normative acts regulating activities of the exchange sector, postal service operators, security market participants and leasing companies. These normative acts include no special procedures for examination of the history of such transactions or operations and documentation of such examination results.

673. The AML/CFT Law requires that all the persons submitting the information maintain information and records that refer to transactions/operations involving monetary or other assets, information and records on the customer identification, information on business relations, business correspondence and/or any other information for at least 5 years since the date of transaction, closing of the account and/or termination of business relations. Information on the abovementioned records shall be sufficient to reconstruct individual transactions/operations and provide appropriate evidences for review and investigation (section 3, clause 9).

674. This obligation has a general nature and applies to the whole scope of AML/CFT issues in Turkmenistan; it covers relations connected with maintenance and provision of information on any complex, unusual or extra large transactions and operations or the results of examination of their history, background and purposes (if examination is performed) by financial institutions. Similar provisions on information maintenance are also included into the ICR of financial institutions. Moreover, the ICR of some commercial banks supplement and expand the requirement of the AML/CFT Law to the maintenance of information on AML/CFT (see Recommendation 10).

675. In accordance with section 6, clause 2 of the AML/CFT Law, the authorized government agency shall (within its competence) develop and implement measures for identification, restraint and prevention of suspicious transactions and operations and/or transactions and operations related to ML/FT and provide corresponding clarifications. It also requires that the persons who submit the information shall take AML/CFT measures and perform their activities so as to prevent and restrain legalization of criminal proceeds. The team of the evaluating experts thinks that the abovementioned authorities also cover relations connected with provision of access to information on complex, unusual or extra large transactions and operations to the authorized agencies.

676. According to the Procedure for provision of information required for AML/CFT, financial institutions shall provide substantiating documents on suspicious transactions/operations or transactions/operations subject to compulsory control on the written request of Financial Monitoring Department of Turkmenistan Ministry of Finance within 5 business days since the date of the request receipt. Also, these persons may provide additional materials and documents on the abovementioned transactions and operations that may be necessary for efficient implementation of the AML/CFT Law (Procedure for provision of information required for AML/CFT, clauses 10 and 14). However, the Procedure for provision of information required for AML/CFT has no regulations on the process of direction of requests and submission by financial institutions to the authorized government agency of information on complex, unusual and extra large transactions and operations unless such transactions or operations are classified as suspicious or subject to compulsory control. This may have an adverse effect on the law enforcement practice of Turkmenistan.

677. Taking into account that the AML/CFT Law provides the authorized government agency of Turkmenistan with wide powers for communication with financial institutions including collection and analysis of information and the right to require corresponding measures as well as determines the required terms for maintenance of documents and information (5 years), the team

of evaluating experts believes that responsibility to study as much as possible the history and purpose of complex, large-and unusual transactions and transactions, record the results of the study in writing and “the willingness to render assistance to the competent authorities and auditors” regulation of the activities of Turkmenistan financial institutions corresponds to the FATF Recommendation.

Effectiveness

678. The analysis of the ICR of financial institutions did not find in them a special regulation of relations connected exclusively to the study and storage of data on complex, unusual and very large operations and transactions. The above "to study the history" is set up within the general ICR requirements (not all financial institutions) and requires to study business relations with clients, reviewing the level of risk and increased attention to customer service and operations at high risk (see "Required CDD measures" Recommendation 5), to identify suspicious transactions and transactions subject to mandatory control and data record for them.

679. In some ICR of commercial banks it is obligatory to record the information obtained as a result of internal controls for AML / CFT.

680. ICR of some financial institutions provide detailed regulation of recording the information on suspicious transactions and transactions subject to mandatory control. ICR of one of the banks stipulate that information recording of the operation includes the bases of operation, its date and amount. It is also should be recorded the identity of the person carrying out the transaction (on whose behalf a transaction is committed), his representative, as well as the identity of the recipient of a transaction (the representative). In other ICR submitted to the assessors this detailed regulation of the order of keeping the reporting of suspicious transactions and transactions subject to obligatory control, hasn't been identified.

681. In the ICR of the insurance company, as well as ICR governing the exchange sector, postal operators, the participants of securities market and the leasing companies the assessment team found no specific regulation on the control of complex, unusual, and very large operations and transactions

682. . In the process of the mission, representatives of the regulatory authorities and financial sector of Turkmenistan demonstrated understanding that it is necessary to ensure control over complex, unusual and extra large transactions and operations. But considering both gaps and duplication of regulatory control of this issue, the law enforcement practice may show disproportions. Lack of a statutory obligation to examine the history, backgrounds and purposes of complex, unusual and extra large transactions and operations and the fact the process of their classification is not developed enough may make financial institutions believe that such work is not really necessary. As a result a part of the information required for compliance with the FATF Recommendation may be not registered by financial institutions.

683. All this may have an adverse effect on the work with complex, unusual and extra large transactions and operations and as a result makes no contribution to increase of efficiency.

684. Effective implementation of Turkmenistan measures for compliance with the FATF Recommendation is also weakened by the fact that the process of control over complex, unusual and extra large transactions and operations is mostly regulated in the context of control over suspicious transactions/operations and transactions/operations subject to compulsory control.

Recommendation 21

685. According to section 3, clause 13 of the Law “On combating laundering of criminal proceeds and financing of terrorism”, the persons submitting the information shall pay special attention to business relations as well as transactions and operations with organizations and persons from the countries and territories that do not apply some or all of the recommendations of international AML/CFT organizations as well as with the affiliated companies, branches and agencies of the companies registered in such countries and territories. The list of such countries and territories is approved by the Cabinet of Ministers of Turkmenistan on submission by the authorized government agency.

686. The process of making and publishing of the list of such countries and territories is determined by the Cabinet of Ministers of Turkmenistan. At the present time it is list No. 13-614 dated September 20, 2009. The team of experts was not provided with such lists; according to the representatives of Turkmenistan, such lists are restricted and may not be provided.

687. At the same time, the Order of Minister of Finance dated December 29, 2009 approves the Provision on measures to be taken in relation to the countries with inadequate AML/CFT systems that regulated the process and procedure for applying of the required measures to such countries by financial institutions.

688. In accordance with this Provision, the FIU constantly informs government agencies, subjects of financial monitoring and other persons concerned on inclusion and/or exclusion of countries with inadequate AML/CFT systems by FATF; every day FIU updates information for financial institutions that have to apply the appropriate measures to the countries with inadequate AML/CFT systems in accordance with their competencies at the authorized part of its official web-site.

689. Also this Provision requires from financial institutions to pay special attention to business relations and transactions with persons (including legal entities and other financial institutions) from countries and territories with AML/CFT systems. If the business relations and transactions as well as related operations (hereinafter collectively referred to as the transactions) have no apparent economic or legitimate purpose financial institutions shall examine the background and purposes of such transactions in accordance with their competencies and document the results in writing. Examination results shall be kept so as to make them available for the authorized agency, regulatory or law enforcement authorities or auditors in case of necessity.

690. If a country stays in the list of countries with inadequate AML/CFT systems for more than a year FIU shall make a decision on application of countermeasures and publish it on the web-site within a business day since the date the decision is made. There exist the following minimum requirements to application of countermeasures:

- The requirement to identify the customers including but not limited to their beneficiary owners before establishment of business relations with legal or individual persons from these countries,
- Any financial transactions with these countries shall be recognized as suspicious transactions and be subject to all the measures required by Turkmenistan law in relation to suspicious transactions (including but not limited to those specified in section 3 of the AML/CFT Law),
- Special precautionary measures in the process of considering establishment of affiliated companies, branches and/or agencies of financial institutions from these countries in Turkmenistan,
- Warning of non-financial sector companies of the fact that transactions with individuals or legal entities from these countries may bear a risk of money laundering,
- Restriction of business relations and financial transactions with a country having inadequate AML/CFT system or with a person (legal or individual) from this country.

691. In this connection it shall be noted that Turkmenistan has a corresponding procedure for compliance with the requirements of R.21.

692. In accordance with section 3, clause 8 of the AML/CFT Law, for the purposes of licensing and regulating of activities of the banks and/or other financial institutions the Central Bank of Turkmenistan has determined a list of subjects, states and offshore territories and set conditions and restrictions for transactions and operations with these territories. In accordance with clause 51 of the Law “On the Central Bank”, the Central Bank of Turkmenistan performs licensing and regulation of activities of the banks and/or other financial institutions, determines the list if subjects, states and offshore area, sets conditions and restrictions for transactions and operations with these territories. The appropriate list of offshore areas was provided to the evaluating experts.

693. *Effectiveness* As it was impossible to provide the appropriate lists of non-cooperating countries and jurisdictions and the fact that the corresponding measures were introduced no so long ago, it was impossible to evaluate the efficiency.

3.6.2. Recommendations and Comments

Recommendation 11

694. Clarify the terms used in the AML/CFT Law for regulation of complex, unusual or extra large transactions and operations and take measures to prevention substitution of control over complex, unusual or extra large transactions and operations with control over suspicious transactions or operations and transactions or operations subject to compulsory control. For example, one should not mix the legal consequences for transactions and operations subject to compulsory control and those for complex, unusual or extra large transactions and operations.

695. To increase efficiency Turkmenistan shall develop a procedure for communication between financial institutions and the authorized government agency so as the latter has access to the information and documents on complex, unusual or extra large transactions and operations.

Recommendation 21

696. Financial institutions shall work together with competent authorities to inspect compliance of other countries with FATF requirements. Clear instructions should be given to all financial institutions (primarily in the non-banking sector) describing a mechanism of their actions in situations when a transaction with persons from countries that participate in the international AML/CFT cooperation is not qualified as suspicious one.

697. For the insurance and stock exchange sectors it is necessary to extend the obligation to exercise special control over persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation.

3.6.3. Compliance with Recommendations 11 and 21

	Rating	Summary of the underlying factors
R.11	PC	<ul style="list-style-type: none"> • There is no obligation to pay special attention to complex, large and unusual transactions in the non-banking sector. • There is no detailed procedure for control over complex, unusual and extra large transactions and operations. • As the measures have been implemented not long ago, it is difficult to evaluate their efficiency.
R.21	LC	<ul style="list-style-type: none"> • Efficiency evaluation of the measures applied was impossible at the moment of inspection.

3.7. Reports on suspicious transactions and other reports (R.13-14, 19, 25 & SR.IV)

3.7.1. Description and analysis

Preamble: Compulsory control system

698. A compulsory control system was established in Turkmenistan (sections 4 & 5 of the AML/CFT Law) that requires financial institutions to provide the Financial Monitoring Administration with reports on not only suspicious transactions but also on any large transactions and operations with the threshold amount of 200 thousand USD for transactions with monetary

assets and 500 thousand USD for transactions with other property for legal entities if such transactions belong to one of the following types:

- Internal and external transactions and operations by banks and other credit institutions,
- Transactions and operations with at least one party being an individual or a legal entity,
- Purchase or sale of foreign currency in cash,
- Purchase of securities by an individual for cash,
- Exchange of banknotes of one denomination for banknotes of another denomination,
- Contribution of cash money into the authorized capital of an organization by an individual person,
- Cash flow of charitable and public organizations, establishments and funds,
- Placement of securities, precious metals, precious stones and/or other valuables to a pawnshop,
- Payment of an insurance contribution by an individual person or receipt of life, retirement or other insurance premium,
- Transactions with immovable property,
- Transactions with movable property,
- Acquiring and provision of property under a contract of finance lease,
- Payment of money as a lottery prize, stakes and/or other risk games,
- Money transfers on a customer (individual person) instruction for more than established threshold amount.

Recommendation 13

Requirement to filing of STR (on ML and TF)

699. According to the compulsory control requirements (section 4, clause 1 of the AML/CFT Law), persons submitting the information shall report on any transactions that may be suspected of being intended for laundering of criminal proceeds or financing of terrorism as well as on any transactions involving monetary or other assets and corresponding to the list of criteria of transactions and operations subject to compulsory control to the authorized government agency in accordance with the established procedure before the end of the next business day after the date of the corresponding transaction or operation.

700. At the same time according to section 4, clause 2 of the AML/CFT Law, if a person submitting the information has any suspicions that some transactions or operations are performed for laundering of criminal proceeds or financing of terrorism this person shall report on such

transactions and operations to the authorized government agency whether or not they conform to the list of criteria of transactions and operations subject to compulsory control (section 5 of the Act).

701. According to section 5, clause 3 of the AML/CFT Law, compulsory control is required for transactions and operations involving monetary or other assets if at least one party of such a transaction or operation is an individual or a legal entity that is known to be engaged in terrorist activities (financing of terrorism).

702. Besides, Order No. 16 dated February 25, 2010 approves the Procedure for provision of information required for combating laundering of criminal proceeds and financing of terrorism by legal and individual persons upon demand of Turkmenistan Ministry of Finance that regulates provision of information required by the AML/CFT Law to the Financial Monitoring Department.

703. Also the Enclosure to the Procedure for provision of information required for combating laundering of criminal proceeds and financing of terrorism by legal and individual persons upon demand of Turkmenistan Ministry of Finance approved by Order of Turkmenistan Ministry of Finance No. 16 dated February 25, 2010 sets a model list of characteristics of suspicious transactions and operations for noncredit organizations, banks and other financial institutions, suspicious characteristics of cash transactions and money transfers as well as of credit agreements and clearing settlements, and suspicious characteristics of insurance institutions, international settlements, transactions with securities and financial instruments.

704. Internal control rules of financial sector organizations also include criteria and characteristics of suspicious transactions and operations.

Banking sector

705. Banking sector has the most developed system for classification of transactions involving monetary or other assets.

706. For example, ICR in the banking sector includes definition of “suspicious transactions or operations” that is similar to the wording of the principle AML/CFT Law.

707. At the same time, ICR in the banking sector include detailed descriptions of identification criteria and characteristics of suspicious transactions involving monetary or other assets. Besides of complex, unusual and extra large transactions, ICR include the following criteria of suspicious transactions and operations:

- Unreasonable fourfold of bigger increase in the turnover of clearing and/or current account as compared with a monthly average turnover (turnover for the previous month),
- Unmotivated refuse or unreasonable delay in the customer's provision of information on the transactions involving monetary or other assets that the bank requests or the customer's excessive concern with confidentiality,

- Mismatch between a transaction involving monetary or other assets and the type of the customer's business,
- Unreasonable breakdown into similar (one type) transactions involving monetary or other assets performed by the customer.

708. According to ICR, in case a bank reveals a suspicious transaction involving monetary or other assets it shall file STR to the FIU and make a decision on its further actions in relation to the customer that may include obtaining additional customer information; review the risk level of the customer; whether special attention is required to the customer's transaction involving monetary or other assets; and termination of contract relations with this customer in accordance with Turkmenistan legal system and the bank's agreement with the customer.

Insurance sector, securities market and postal service

709. The ICR of other financial institutions (members of the exchange, insurers, professional participants of securities market and operators/providers of postal services) include a list of criteria and characteristics for only suspicious transactions.

710. It should be noted that the ICR of these financial institutions are not as well developed in the part of behavior of the subjects of financial monitoring in the process of STR as those in the banking sector.

Tax matters, threshold criteria and attempted transactions

711. In the process of negotiations with the competent authorities of Turkmenistan it was found out that Turkmenistan legal system requires reports on any suspicious transactions but not on attempted transactions.

712. Turkmenistan determines tax evasion by individuals and legal entities as a predicate crime (articles 262 and 263 of the Criminal Code of Turkmenistan). Also representatives of Turkmenistan banks mentioned that the banks report to the Authorized agency on any suspicions of criminal proceeds. In this connection tax matters do not interfere with filing of STR.

713. According to the Criminal Code of Turkmenistan, criminal proceeds include any monetary or other assets received in the result of criminal activities with no exceptions for certain types of crimes according to the Criminal Code (including but not limited to financing of terrorism).

714. However it should be noted that the deficiencies in money laundering criminalization that have been described above in the corresponding sections of this Report (R.1) interfere with full compliance with the requirements of Recommendation 13.

Special Recommendation IV

715. Definitions of the terms "terrorism" and "financing of terrorism" are regulated by articles 271 and 271-1 of the Criminal Code of Turkmenistan respectively, section 1 of Turkmenistan law "On combating laundering of criminal proceeds and financing of terrorism", and section 1 of Turkmenistan law "On counterterrorism".

716. As has been said in R.13, section 4 of the AML/CFT Law, persons submitting the information shall report on any transactions that may be suspected of being intended for financing of terrorism to the authorized government agency. Correspondingly, requirements of Recommendation 13 are applied not only to money laundering but also to financing of terrorism.

717. In the Order of the Ministry of Finance from 30.12.2010 № 107 it is clearly stated the obligations of the subjects of financial monitoring to provide information, including that is related to the laundering of proceeds of crime or TF, transactions and operations that belong to the mandatory control of operations, suspected that the funds are the proceeds of any criminal offenses, as well as for operations for which there has been an attempt to commit them.

Effectiveness and statistics

718. Representatives of Turkmenistan presented contradictory statistics on the reports to FIU (see section 2.5 of this Report). STR statistics with a breakdown by types of financial institutions was not presented. A small number of STRs indicates a low level of effectiveness of the STR system in general.

719. Due to the fact that the system operates for a short period of time, there is a lack of appropriate qualification in the financial institutions to identify the STRs, which negatively affects on the effectiveness of the regime.

Recommendation 14

720. Turkmenistan legal system provides for protection and exemption from liability for reports to the specially authorized government agency and sets limitations on disclosure of information obtained by financial institutions in the process of performance of their AML/CFT obligations.

721. According to section 3, clause 11 of the AML/CFT Law, persons submitting the information and their employees shall be exempted from liability for any damages, loss of profit or moral damages incurred by individuals and legal entities as a result of reporting on suspicious transaction and operations in accordance with the established procedure.

722. According to clarifications of the representatives of the Parliament on protection of directors, officials and employees of the Federal Administration, the employee specified in section 12, part 2 of the Criminal Code of Turkmenistan is an individual who has labor relations with an employer. As the employee performs operations related to specific specialization, profession, category, class or position on the basis of his or her labor contract, the employer shall mean any legal entity or individual person and any individual who works for the employer (including but not limited to the chief manager of the employer) and has relations with the employer shall be the employee of this employer.

723. In this connection Turkmenistan legal system protects the Federal Administration and its directors, officials and employees from any criminal or administrative responsibility for information disclosure.

724. According to section 8, clause 3 of the AML/CFT Law, disclosure of information on transactions and operations involving monetary or other assets as well as transactions and operations subject to compulsory control to the authorized government agency in accordance with the requirements of the AML/CFT Law shall not constitute a disclosure of any official, commercial, bank, tax or communication secrets (as related to information on money transfers).

725. Management and employees of the authorized government agency and other governmental authorities including but not limited to the former ones who have or had access to information from persons submitting the information under the abovementioned Act shall bear criminal or other responsibility for unlawful disclosure and/or usage of any official, commercial, bank, tax or communication secret (as related to information on money transfers) and abuse of their official positions in accordance with Turkmenistan law. At the same time Turkmenistan law includes no express prohibition for disclosure of the fact of submission of STR or related information to FIU.

Additional elements

726. Turkmenistan law includes nothing related to confidentiality of the names and personal data of the employees of financial institutions who submit information.

Recommendation 25

727. In the process of negotiations, representatives of the authorized agency informed the team of experts that in case bank reports on financial transactions and operations contain any mistakes it informs the bank for the mistake correction, i. e. in fact this is the only channel for feedback.

728. The supervisory authorities and the Financial Monitoring Administration have issued no guidelines with description of AM/FT methods and techniques that could be used by financial institutions to ensure efficiency of AML/CFT measures.

729. The authorized agency has issued no special guidelines and/or typologies in relation to methods of money laundering and financing of terrorism.

Recommendation 19

730. Any types of transactions subject to compulsory control under sections 4 and 5 of the AML/CFT Law shall be reported to the Financial Monitoring Administration even if they are preformed in cash (see the Preamble to clause 3.7.1 of this Report).

Additional elements

731. Representatives of FIU informed the evaluating experts that transaction reports received by the authorized agency are maintained in electronic form.

3.7.2 Recommendations and comments

Recommendation 13

732. In general Turkmenistan legal system reflects the requirements of Recommendation 13 but the system of reports on suspicious transactions has been implemented not so long ago and it is difficult to evaluate its efficiency. As the non-banking financial sector faces many issues of AML/CFT management for the first time the regulatory authorities of Turkmenistan shall pay special attention to performance of the established procedures by organizations of the non-banking financial sector.

733. It is necessary to criminalize insider transactions and manipulation of the market to prevent the influence on the scope of STR requirements.

Special recommendation IV

734. Turkmenistan has taken necessary measures required by Special Recommendation 14.

735. Turkmenistan should take legislative measures to extend the STR requirement so that it covers attempted transactions related to terrorism financing.

Recommendation 14

736. It is necessary to bring employees and managers of legal entities to administrative and legal responsibility for disclosure of information on reports to the Financial Monitoring Administration of suspicious transactions and information related to such reports including but not limited to information on additional inquiries.

Recommendation 25

737. FIU shall provide financial institutions and DNFBPs with more information on the progress and results of financial investigations conducted on the basis of their reports and extend feedback according to the cases and examples listed in the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.

738. Turkmenistan shall hold ML/FT typology workshops with participation of the FIU, regulatory authorities and representatives of the private sector. As the DNFBPs in the Turkmenistan are less prepared for AML/CFT measures than the banking sector it is necessary to pay special attention to the outreach activities for DNFBPs.

Recommendation 19

739. This Recommendation is observed completely.

3.7.3. Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2) and Special Recommendation IV

№	Rating	Summary of the underlying factors
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R.13	LC	<ul style="list-style-type: none"> • Deficiencies in criminalization of ML/FT affect effective implementation of the requirements of Recommendation 13. • A small number of STRs indicates a low level of effectiveness of the STR system in general.
SR.IV	LC	<ul style="list-style-type: none"> • A small number of STRs indicates a low level of effectiveness of the STR system in general.
R.14	PC	<ul style="list-style-type: none"> • Turkmenistan law includes no express prohibition for disclosure of the fact of submission of STR or related information to FIU.
R.25	NC	<ul style="list-style-type: none"> • No guidelines or recommendations describing methods and techniques of ML/FT have been issued for institutions engaged in transactions with monetary or other assets. • Insufficient access to information on the results of financial investigations conducted by the FIU for financial institutions. <p>Other underlying factors for R.25 rating are presented in Sections 3.10 and 4.3 of this Report.</p>
R.19	C	This Recommendation is observed completely.

3.8. Internal control, compliance, audit and foreign branches (Recommendations 15 and 22)

3.8.1. Description and analysis

Recommendation 15

740. Turkmenistan AML/CFT Law contains a definition of internal control (Article 1). Under it, internal control is an activity of organizations whose operations are related to money or other property, to provide to an authorized state body information about any operations subject to mandatory control and other operations with money or other property that are related to money laundering and financing of terrorism.

741. Such a definition provides a too narrow understanding of internal control - only as informing an authorized state body about operations with money and other property. It leaves out the CDD measures, as well as control over complex and major operations etc.

742. The definition is also inaccurate, as its main subject concerns "organizations whose operations are related to money or other property", which are not defined by the Law.

743. The logic of the AML/CFT Law allows for a conclusion that the term "organizations whose operations are related to money or other property" means precisely the persons who provide the information. Article 1 of the Law provides a closed list of such persons. Regulatory by-laws of Turkmenistan, such as the Procedure of providing the necessary AML/CFT information, approved by Order No. 16 of the Ministry of Finance of Turkmenistan, dated February 25, 2010, use another term for such persons - the subjects of financial monitoring. Notably, the list established by the Law and the list established by the Procedure are absolutely identical. As it was discovered during the mission, such manipulation of terminology causes no reservations with application of the Turkmenistan AML/CFT Law and by-laws by the supervisory authorities and private companies, including financial institutions.

744. However, it should be born in mind that enforcement effectiveness throughout the AML/CFT System is enhanced by using precisely consistent terms, definitions and notions in the AML/CFT legislation.

745. Any drawbacks in the internal control definition are compensated by the fact that the AML/CFT Law provides for a broad range of tasks and goals. Those are: preventing and detecting any activities related to ML/FT, creating legal basis for the operation of a government agency in the sphere of AML/CFT. Moreover, the internal control provisions of the Internal Control Rules of commercial banks that use the risk-based approach apply to a much wider system of relationships than the one covered by the internal control definition provided by the AML/CFT Law. Those banks develop much more detailed internal control goals, based on the activity of any given bank, the work of its employees and its risk management efforts.

746. Some ICRs for commercial banks contain broader definitions of internal control. For the purposes of AML/CFT, internal control is defined as a set of measures taken by the bank for the purposes of AML/CFT. Other ICRs stipulate that internal control of AML/CFT is part of the bank's internal control. No definition of internal control is provided, but its goals are set. Under those ICRs, those are minimization of risks, stabilization of the banking system, protection against criminal capitals penetration, and timely communication to the authorized body. Any persons providing the information, including financial institutions of Turkmenistan, must, under the AML/CFT Law (Par. 9, Art. 3) develop internal control rules (hereafter referred to as the ICR) for AML/CFT and the procedures of its implementation.

747. The AML/CFT Law contains no detail on the issues of organizing internal control in the financial sector of Turkmenistan. The Law also provides no requirements for the ICR composition, procedure of acceptance, approval and communication to the employees and supervisory authorities, including ICRs of financial organization.

748. The AML/CFT Law gives generalized benchmarks on supervision over the internal control organization. Pursuant to Par. 14, Art. 3 of the AML/CFT Law, supervisory authorities oversee the internal control organization in accordance with their competence and under the procedure stipulated by the laws of Turkmenistan. If no supervisory authorities exist in certain companies' sphere of business, this control is performed by the authorized state body of Turkmenistan. This enables the Turkmenistan side to claim that the relevant industry ministries and agencies, as well as the Central Bank of Turkmenistan and the authorized state body, are entitled to accept ICRs, including standard ones, for the persons providing information within the scope of their control, or to approve (and sometimes endorse) the ICRs of the organizations under their control.

749. Per the Turkmenistan side, precisely this work was conducted in Turkmenistan. Thus, as of the moment of the mission, the Ministry of Justice of Turkmenistan (Order No. 14 dated June 01, 2010 - not included) and the Committee for Precious Metals and Stones with the Central Bank of Turkmenistan (Order No. 33/2 dated June 23, 2010) developed and accepted ICRs, including Standard ICRs. As of the moment of the mission, the Central Bank of Turkmenistan was also developing Standard ICRs for commercial banks.

750. It should be noted that the AML/CFT laws of Turkmenistan did not establish any requirements with regard to the "internal control procedures" mentioned in the Law and did not disclose their contents. The legislator did not stipulate which steps exactly must financial institutions take while performing those procedures, and which of those are mandatory.

751. The conducted interviews revealed that ICRs' significance for organizing the AML/CFT efforts in financial organizations is clearly understood. As it was stated to the expert team, all commercial banks (despite the absence of Standard ICRs), as well as non-banking financial institutions of Turkmenistan, developed and accepted their own ICRs.

752. As per the information received from the representatives of financial institutions and supervisory authorities of Turkmenistan, in some cases financial institutions would get their ICRs approved by the supervisory authorities and the authorized state body, while in other cases the ICRs accepted by financial institutions were sent to the supervisory authorities and the authorized state body. I.e., in Turkmenistan assessors discovered various forms of interaction between the state bodies and the financial sector in the sphere of ICR.

753. The representatives of the banking sector stated that the relevant ICR accepted by commercial banks of Turkmenistan are being successfully implemented. The banks designated special officials responsible for the development and implementation of ICR and other internal organizational measures.

754. The ICRs of commercial banks that apply risk-based approach imply that the Bank has various programs, including those which are an integral part of the IRC. Thus, one bank's ICR include such programs as the program of identification, the program of determining operations subject to mandatory control, programs of information verification and documenting, employee training program etc. Another bank, using a risk-based approach, also provides for ICR implementation programs, with a designated Bank employee responsible for their implementation.

755. The Turkmenistan side reports that an internal control service has been created and operating in commercial banks. It is charged with the functions of monitoring the AML/CFT system in the bank, including control over the bank's compliance with the laws and by-laws of Turkmenistan in the sphere of AML/CFT, as well as over its employees' compliance with the ICR accepted by the bank.

756. During the conducted meetings, the representatives of the supervisory authorities, as well as financial institutions of Turkmenistan communicated to the assessors that all financial institutions have designated employees responsible for compliance with the requirements of the AML/CFT Law.

757. Besides, commercial banks, the State Insurance Institution, State National Postal Company Turkmenpochta appoint a designated employee in each affiliated office (branch, division).

758. The team of assessors was informed that the designated employee at least once a year presents the AML/CFT Law compliance report. The team of assessors has no information about the receiver of the report, the rules of its preparation, as well as the results of its review.

759. The Turkmenistan side reports that the responsible employees of commercial banks have a broad range of authority required for achieving the goals/fulfilling the tasks related to AML/CFT in a commercial bank. The designated employee is entitled to receive the necessary documents, including settlement and accounting documents, access any facilities of the bank and issue instructions about suspending an operation within the established period.

760. The ICRs of commercial banks using the risk estimation-based approach, which were actually presented to the assessors, contain requirements on designating a responsible employee, determine his/her rights and responsibilities, competence, the procedure of communicating with the bank's management, as well as qualification pre-requisites for the responsible employee. Those ICRs provide that the responsible employee acts independently and reports directly to the bank's management. He/she must have a higher education in law or economics and at least one year experience in management. He/she has access to the bank's documents, facilities and databases and is authorized to give instructions regarding banking operations, including those regarding their suspension. The responsible employee is also bound by obligations to ensure information confidentiality and integrity. The responsible employee is the owner of the organization of the bank's efforts aimed at ICR implementation and the Programs of their implementation, and charged with functions of developing the ICR and the relevant programs, organizing the presentation of the required information to the authorized body, and the at least annual presentation of a written report to the Bank's Management Board.

761. No information about a responsible employee is presented in the ICR of the insurance organization and the ICR of the commercial bank, where risk estimation-based approach is not used. Due to the absence of ICR in SNPC Turkmenpochta, as well as in other financial organizations, the assessors cannot evaluate the procedure of the responsible employee's appointment and activity in those institutions. Representatives of supervisory authorities and the private sector of Turkmenistan have on more than one occasion informed the assessors that the responsible employees are designated and operating in **all** financial institutions in Turkmenistan.

762. One should bear in mind that no job descriptions of responsible employees of financial institutions of Turkmenistan were presented to the assessors.

763. During the meetings conducted in Turkmenistan the assessors were told multiple times that the financial institutions have developed employee training programs that, in addition to the forms, methods and topics of instruction, provide for the employees' knowledge and skills check. During the training, the employees are familiarized with laws, international treaties and other information relevant for the purposes of AML/CFT.

764. Out of the presented ICRs, only those of the commercial banks using risk-based approach provided for employee training norms. Thus, a bank stipulates that the organization of the AML/CFT training effort for the bank's employees is within the competence of the responsible employee. This bank provides for its employees training in the AML/CFT laws, the ICR and its Implementation Programs, hands-on skills.

765. Another bank provides for a more detailed treatment of training issues in its ICR. All the employees must undergo training. There is initial training for new hires, a training for newly appointed key positions (introductory, primary training), qualification improvement training (annual, routine) and on-demand training (targeted, emergency training). Also, a designated responsible employee checks the knowledge of the bank's employees (annually or after one month, for introductory training). Both banks provide Employee training programs.

766. In other ICRs presented to the assessors (by an insurance institution and a commercial bank not applying risk estimation-based approach), the issues of personnel training were not addressed. The assessors find it difficult to evaluate the situation with personnel training in the financial institution that failed to present their ICR.

767. Amendments to the procedures for collection and analysis of information for AML / CFT came into force on January 1, 2011 (approved by Decree of Ministry of Finance of Turkmenistan number 52) define the responsibilities of all entities to assign persons responsible, in consultation with the Department of Financial Monitoring of the Ministry of Finance of Turkmenistan. These officials are appointed for the purposes specified in the Order, ie collection and reporting, working with complex, particularly large and unusual transactions and transactions. In accordance with this Order the responsible officer should meet qualification requirements and pass the training that are described in the Regulations "On the training and development of the Department of Financial Monitoring staff" (approved by Order of the Minister of Finance of Turkmenistan on December 27, 2010 № 97). These provisions set out such qualifications as appropriate education (legal, economic), work experience, special knowledge (foreign language FATF documents), and passing the verification. It is also required to pass the preliminary (for employment), periodic (at least 1 time per year), and targeted training.

768. The AML/CFT law and by-laws of Turkmenistan contain no provisions that would bind financial institutions to check all their employees' knowledge of AML/CFT issues, including new hires check.

769. The AML/CFT Law provides for no special check for newly hired employees of financial institutions, or with regard to the current employees (including those designated as responsible persons). During the mission it became clear that the issues of employee check before hiring (or before promotion to an important position), or during their performance of their job obligations are regulated by other legal norms, such as labor, state service, commercial banks and banking activity. As per the Turkmenistan side, the scope of the checked issued should include AML/CFT issues, though the assessors did not get a clear confirmation of that.

770. The assessors managed to familiarize themselves with the procedures of the relevant checks, the criteria of the employee performance and knowledge review, including the subject of criminal prosecution and corruption, only applying to state employees and persons pursuing management positions in commercial banks.

771. The banking sector provides for professional fitness evaluation of a bank's management (upon hiring or transfer to another management position). In accordance with the Regulation of the Central Bank of Turkmenistan "On the procedure of evaluating professional fitness of the management of a bank (branch of a foreign bank) by the Evaluation Commission of the Central Bank of Turkmenistan" dated November 21, 1996, the evaluation applies to the bank's director, his/her deputies, Chief accountant, Head of the credit department and FX operations management. Qualification pre-requisites include knowledge of banking legislation, the regulatory acts of the Central Bank, the procedure of making settlements and payments, as well as the principles of administrative and human resources management of a bank.

772. Using generalized statements allows for a conclusion that during the professional fitness evaluation the bank's management will likely confirm the knowledge of AML/CFT issues as well. Also, the ICR of a commercial bank include a requirement for the responsible employee to check the employees' knowledge. The check is performed annually and upon hiring (transfer to another position). Those ICRs contain no regulations regarding the results of the check and its legal consequences for the employee. However, Labor legislation provides for regulation of the employer/employee relationship (both upon hiring and further on) in case the results of such a check are negative.

773. The assessors were also demonstrated the Law of Turkmenistan "On selecting government leaders and officials for government offices in Turkmenistan". Per the Turkmenistan side, the specified Law applies to the employees of state-owned or state-controlled (probably, through a controlling share) companies, and the employees of such financial institutions are considered state employees. This means that the employees of such institutions must comply with the requirements established for state employees upon hiring (have the required knowledge, qualifications, clean record and no other characteristics unacceptable for state service). The check is performed while a candidate is being hired for government service. Ongoing check of already hired state employees is also conducted.

774. Partially the Law "On selecting government leaders and officials for government offices in Turkmenistan" closes the gaps in regulating the issues of employees check upon hiring and during employment. This concerns only state employees. It should also be noted that the very

procedure of employees check upon hiring for state service (including the criteria for evaluating compliance with the Law) was not presented to the assessors.

775. Therefore, the issues of employees check upon hiring and during further employment (including knowledge) are regulated in Turkmenistan as follows:

- in the banking sector - by the Regulation "On the procedure of evaluating professional fitness of the management of a bank (branch of a foreign bank) by the Evaluation Commission of the Central Bank of Turkmenistan", some ICRs, the Law "On selecting government leaders and officials for government offices in Turkmenistan" (if the bank's employee is equalized to a state officer),

- in other institutions - only by the Law "On selecting government leaders and officials for government offices in Turkmenistan" (if the financial institution's employee is equalized to a state officer).

- when hiring (appointing) responsible officer (in all cases).

776. Therefore, regulation does not apply to cases when a financial institution is not a state institution, when attestation commission is not required and when the ICR (or other internal regulatory acts) do not require preliminary check upon hiring and during employment, as well as employee knowledge check.

777. Despite the reasonable statement of the Turkmenistan side that most financial institutions of Turkmenistan are subject to the above regulatory acts, the team of assessors think that regulating the issues of employee background and knowledge check upon hiring and during employment must apply to the whole scope of the relationship. In that case gaps in regulations applied to any financial institutions are even less permissible. This concerns both the existing financial institutions and financial institutions that may be created in future.

778. The AML/CFT law vests the authorized state body of Turkmenistan with a significant scope of authority, enabling it to influence the contents of certain ICRs of persons providing information, including financial institutions (regardless of any supervisory authority in place).

779. Under Par. 2, Art. 6 of the AML/CFT Law, an authorized state body, within the scope of its authority, develops and implements measures to identify, stop and prevent any operations and deals that are suspicious and/or related to ML/FT, and gives relevant explanations. It also requires that the persons providing information would take measures to address AML/CFT and acts to prevent and prosecute money laundering.

780. Audit in Turkmenistan is performed in accordance with the Law of Turkmenistan "On audit". For most types of financial institutions of Turkmenistan, audit is mandatory. Article 6 stipulates as mandatory and audit performed by auditors or auditing organizations in banks, credit institutions, stock exchanges, insurance companies, investment institutions, joint stock companies, limited liability partnerships, companies with foreign investments, their branches and representations, as well as subsidiaries.

781. The notion of audit contained in the Law "On audit" does not allow for a direct conclusion that Turkmenistan has established an obligation to include AML/CFT laws compliance check in the scope of audit.

782. Audit implies an independent check of whether accounting and financial reporting are organized correctly and comply with the laws, for the purposes of providing an opinion about whether the audited entity truthfully, accurately and fully reflects its assets, liabilities, capital and financial results in the reported year (Article 1). However, the law does not preclude additional conditions of check in the relevant contract, one of which may be checking compliance with the AML/CFT laws.

783. Internal control services may be created for internal inspections of financial and economic activity under the legal acts of Turkmenistan.

784. In commercial banks, the creation and operation of the audit service is regulated by Art. 18 of the Law "On commercial banks and banking activity". Creating an internal audit service is mandatory for commercial banks. It is created for at least three years, reports to the Bank's Council and must check the bank's financial status during the year. In addition to inspecting the bank's accounts and entries, the bank's auditing service must monitor compliance with the laws and rules the banks applies and report to the Bank's Council thereabout. This implies that the bank's internal audit must check the bank's compliance with the laws, by-laws and internal documents addressing the AML/CFT issues.

785. The Law of Turkmenistan "On commodity and material exchanges" contains no provisions that would regulate internal audit of commodity and material exchanges, but also does not prohibit creating an internal audit service. A similar situation exists in regulating the operation of investment institutions and stock exchanges, as well as leasing companies (the Laws of Turkmenistan "On securities and stock exchanges in Turkmenistan", "On leasing").

786. Insurance sector also does not provide for mandatory creation of internal audit. The Law of Turkmenistan "On insurance" only prescribes that insurance companies must undergo a mandatory audit based on annual results (Article 32).

Effectiveness

787. Because internal control in the financial institutions of Turkmenistan was created only in 2010 and has no practical experience, as well as because the enforcement practice is insignificant, it is yet too early to evaluate the effectiveness of the measures taken in Turkmenistan.

Recommendation 22

788. Financial institutions in Turkmenistan have no affiliated offices or branches abroad. At the same time, the laws of Turkmenistan lack the regulatory basis addressing creation of affiliated offices and branches by financial institutions (except for the banking sector).

789. Art. 2 of the AML/CFT Law stipulates that its scope applies to financial operations on the territory of Turkmenistan, so the AML/CFT Law would not apply to foreign affiliated offices and branches, even if they did exist. The regulatory acts issued pursuant to the above Law, also do not mention foreign affiliated offices and subsidiaries of financial institutions.

3.8.2. Recommendations and Comments

Recommendation 15

790. Turkmenistan should, at the legislative level, stipulate the obligation for mandatory training for its employees for the purposes of efficient work on AML/CFT issues.

791. A more precise definition of internal control must be provided, to apply to a broader range of relations in this sphere.

792. Internal control standards (criteria) should be introduced to provide, in addition to informing the authorized state body, for the procedures and step-by-step action plan for client and operation survey, as well as for the financial institution's other obligations in AML/CFT.

793. Turkmenistan must introduce a legal requirement for employees background check upon hiring and provide for possibility of adequate check of the already hired employees of financial institutions throughout the financial sector of Turkmenistan.

794. Establish the requirements for the financial institutions to communicate to their employees the internal procedures, the policy in the AML/CFT sphere, as applicable to all financial institutions.

Recommendation 22

795. Establish the requirement for the financial institutions to control their foreign affiliated offices/subsidiaries compliance with the AML/CFT measures as required by the host country.

796. Establish the requirement for the financial institutions to control their foreign affiliated offices/subsidiaries compliance with the AML/CFT measures in those countries where the FATF Recommendations are not or insufficiently complied with.

797. Establish requirements for foreign affiliates and subsidiaries of financial institutions to comply with higher AML/CFT standards, as much as the local laws and regulatory acts allow, in the countries where the AML/CFT requirements are minimal.

798. Establish a requirement for financial institutions to inform the regulator about the inability of foreign affiliates and subsidiaries to comply with the AML/CFT measures because of the requirements of the host country.

3.8.3. Compliance with Recommendations 15 & 22

	Rating	Summary of factors underlying rating
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P.15	PC	<ul style="list-style-type: none"> • The requirement of mandatory training for the employees of financial institutions with respect to AML/CFT issues is not established, the standards of such training are not developed; • No requirement is established for mandatory background check of the employees of financial institutions upon hiring and during employment; • The norms on independent audit must be adjusted to include the AML/CFT issues check; • The effectiveness of internal control measures cannot be assessed since they were just recently implemented.
R.22	NC	<ul style="list-style-type: none"> • No requirements of R.22 were implemented by the legislation.

3.9. Shell Banks (R.18)

3.9.1. Description and analysis

Recommendation 18

799. Shell banks are prohibited in Turkmenistan. The laws of Turkmenistan defines shell banks as banks registered in such countries and on such territories where they are not physically present.

800. Under the Law of Turkmenistan "On AML/CFT", banks of Turkmenistan are prohibited from contacting or relating to shell banks. Banking structures located in offshore areas must be regarded very closely, as such areas are most likely to house such banks. In order to prevent relations with non-existent banks, the financial institutions of Turkmenistan rely on the lists of offshore areas and take control measures established by the current legislation of Turkmenistan for the anti-money laundering purposes.

801. Financial institutions entitled to open and maintain bank accounts are not entitled to establish or continue direct correspondent relations with shell banks and must take precautions against any deals and operations with foreign correspondent financial institutions that allow shell banks to use their accounts.

802. Pursuant to Par. 6, Art. 3, Section II of the AML/CFT Law, banks and other credit institutions entitled to open and maintain bank accounts are not entitled to establish direct correspondent relations with any banks registered in offshore areas, their affiliated entities, subsidiaries or independent divisions that are not independent legal entities.

803. This restriction does not apply to direct correspondent relations with affiliates registered in offshore areas whose head offices are located (registered) outside of offshore areas.

804. At the same time in the legislation of Turkmenistan there is no definition of "physical presence". However, as the representatives of Turkmenistan informed, the registration system of commercial banks eliminates the possibility of creation of shell-banks.

805. According to the Order № 5490 of the Central Bank of Turkmenistan, commercial banks are allowed to open correspondent accounts only in first-class banks ("A" category), which also excludes the possibility of establishing correspondent accounts with foreign banks which do not have physical presence in country of registration.

3.9.2. Recommendations and Comments

806. Requirements of this Recommendation are fully implemented.

3.9.3. Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	C	<ul style="list-style-type: none">• The Recommendation is fully observed.

Regulation, Supervision, Guidance, Monitoring and Sanctions

3.10. The Supervisory and Oversight System – Competent Authorities and SROs. Role, Functions, Duties and Powers (Including Sanctions) (R.23, 29, 17 & 25)

3.10.1. Description and analysis

Recommendation 23

807. The system of regulation and supervision of financial organizations in Turkmenistan in AML/CFT is based on the AML/CFT Law of Turkmenistan, partially on industrial laws and regulatory legal acts addressing their activity. Control over the compliance of physical persons and legal entities with this Law in recording, storage and presenting information about deals and operations subject to mandatory control, as well as over the organization of internal control, is vested to the relevant supervisory authorities according to their competence and per the procedure established by the laws of Turkmenistan, as well as the authorized body, the Financial Monitoring Administration of the Ministry of Finance of Turkmenistan - if no supervisory authorities exist in the sphere of operation of certain organizations performing deals and operations with money or other property.

808. The system of supervision over the financial organizations of Turkmenistan looks as follows:

Financial organizations	Supervisory Agency
Banks, other financial and credit organizations, including pawnshops (<i>as of the moment of the mutual assessment mission, financial and credit organizations were not present in the financial market of Turkmenistan</i>), FX exchanges	The Central Bank of Turkmenistan (hereafter referred to as the CBT).
Insurance organizations (<i>as of the time of the mutual assessment mission, only one insurance organization, the state-owned Turkmengosstrakh was operating in the financial market of Turkmenistan</i>), commercial participants of the security market	Turkmenistan Ministry of Finance
Leasing Companies	Leasing operations are mainly performed by commercial banks under a license issued by the National Bank of Turkmenistan.
Post and Telegraph operators	Turkmenistan Ministry of Communications

809. The CBT is the primary government authority that controls and supervises commercial banks and banking activity. Per the Law "On the Central Bank of Turkmenistan", one of the primary tasks of the CBT is to ensure the functioning of a stable banking system of Turkmenistan. The same Law stipulates that the CBT must control the banks it licenses in order to prevent financing of terrorism. It must be noted that the Law "On commercial banks and banking activity" prohibits receiving from legal and physical persons monetary deposits and other means of payment and issue credits on its own account on the territory of Turkmenistan without a license issued by the CBT (Article 7).

810. The Ministry of Finance of Turkmenistan is entitled to generally supervise the insurance market and the security market, however its authority with respect to supervision in AML/CFT in the context of those markets are not clearly stipulated by the Law of Turkmenistan "On insurance" and "On securities and stock exchanges in Turkmenistan", and are solely based on the AML/CFT Law of Turkmenistan and the Law on Licensing.

811. As per the Statute on the Ministry of Communication approved by Resolution No. 1711 the President of Turkmenistan, dated March 16, 1994, the Ministry of Communication of Turkmenistan, in accordance with the tasks it is charged with, inter alia, issues licenses for the types of activity of legal and physical persons related to providing communication services in Turkmenistan, accounts for them, controls compliance with the licensing conditions.

Recommendation 30

812. Supervisory authorities in AML/CFT, except for CBT, have no adequate organizational structure or staffing for the AML/CFT purposes.

813. AML/CFT efforts are supervised by the CBT Chair. The Supervisory Administration is the responsible division. The Administration develops CBT regulatory acts on AML/CFT and supervises financial institutions' compliance with AML/CFT laws. Turkmenistan provided no information about the staffing structure of the Administration and the number of the employees involved in the AML/CFT effort.

814. The Ministry of Finance has no division handling AML/CFT issues. All the employees of the supervisory authorities must comply with the requirements applicable to government officers of Turkmenistan, including the level of professional education, professional experience, knowledge and skills needed for performing professional obligations.

815. The structure of the FMA does not provide for an administration/department for coordinating cooperation with supervised and supervisory bodies. FMA did not organize adequate training for the employees of the supervisory authorities. Supervisory bodies participated in instructional trainings on the issues of AML/CFT conducted as part of the IMF, EG and the World Bank, as well as other international organizations. Nevertheless, a large scale AML/CFT training must be provided for the non-banking supervision employees, due to their low level of competence in this sphere.

Recommendation 29

816. The mechanism of AML/CFT supervision, monitoring and sanctions is currently being established in Turkmenistan. The only exception is the banking sector that has the supervisory mechanism including procedures for detection of non-compliance with laws and a number of sanctions, which may also apply to the AML/CFT context.

Banking Institutions and Non-Bank Credit Institutions

817. Pursuant to the Laws of Turkmenistan on Anti-Money Laundering and Combating the Financing of Terrorism, "On the Central Bank of Turkmenistan", "On commercial banks and banking activity", the Central Bank has sufficient powers to monitor and ensure compliance by commercial banks with the requirements of the AML/CFT legislation.

818. Under Article 51 of this Law, the CBT is vested with the following powers:

- to issue relevant rules, guidelines and manuals, or other regulatory acts, to ensure normal functioning of the financial system in accordance with legislative acts, by issuing relevant licenses and introducing control norms and procedures;
- to visit any banking institutions and inspect accounting records, books, documents and other materials of the banks, receive relevant information therefrom, as required for due fulfillment of its banking control functions;

- for the purposes of licensing and regulating the activity of banks and other credit institutions, determining the list of entities, countries and borders of the offshore areas, setting the conditions for deals and operations therewith and restrictions imposed thereon.

819. It should be noted that no court approval is required for exercising these powers.

820. A detailed procedure of banks inspections is set in the relevant Statute on the procedure of banks (affiliate offices) inspections by the CBT authorized representatives, approved by Order No. 22 of the CBT Board Chair, dated May 02, 2006. Under this Statute, each bank is subject to a comprehensive inspection once a year, besides, targeted inspections are also conducted, and, inter alia, they may address the activity of the credit institution in the area of AML/CFT.

821. As per this Statute, in the course of inspections of various lines of business special attention is paid to the assessment of the banks' (affiliated offices') risk management and internal control systems, and, per the Turkmenistan side, inter alia, to the existence of approved procedures and rules in the banks, related to prevention and detection of various facts of money laundering and financing of terrorism, when checking the compliance of the bank's operations with the legal and regulatory acts of Turkmenistan. Great attention is also paid to measures aimed at combating and detecting any operations with money and/or other property related to money laundering and financing of terrorism. Article 36 of the Law "On commercial banks and banking activity" stipulates the CBT's right to determine the following sanctions for violations of this Law, the CBT regulatory documents, conditions and restrictions attached to the banking license, the bank's obligations:

- to give written warnings;
- to issue instructions containing the sanctions against banks;
- to issue fines;
- in case of one-time or repeated gross violation of this Law, to temporarily or permanently remove the bank's management from its positions;
- to summon meetings of shareholders or the bank's owners in order to take measures to support the stability of the bank's financial condition;
- to freeze banks, as stipulated by this Law;
- to revoke the banking license.

822. For example, should a bank fail to comply with the CBT's instructions and regulatory legal acts, it may be charged a fine in the amount of 0.01 - 0.05 percent of the actually formed charter capital, but not higher than the minimum amount established by the CBT, on case-by-case basis, depending upon the nature of the violations.

823. In that case, the sanctions apply to all legal and physical persons violating the provisions of this Law.

824. Per the CBT's information about the non-banking credit institutions, despite their absence in the financial market of Turkmenistan, draft amendments to the current legislation, including provisions regulating their activity, were prepared as of the moment of the mutual assessment mission.

825. As per CBT, currently enforcement measures and sanctions are used against banks and management thereof for failure to fulfill or for undue fulfillment of obligations, pursuant to the Statute "On using enforcement measures against banks and managers thereof for banking violations" approved by CBT order No. 117 dated August 10, 2010. Pursuant to that Statute, the basic enforcement measures include, besides the above sanctions, the following: a requirement for the bank to perform financial restructuring, restriction or prohibition for the bank to perform certain operations provided by the issued license, for a certain period, prohibition to open affiliated offices and representations.

826. Also, if a bank violates (fails to comply with) the laws of Turkmenistan, the CBT regulatory acts, or if such violations or and operations performed by the bank posed a real threat to the interests of the creditors (depositors), the CBT may restrict or prohibit for a certain period certain operations and deals in national and foreign currency, as stipulated by the CBT's license. Those criteria also apply to possible facts of non-compliance or incomplete compliance with the legislation and regulatory acts, with respect to AML/CFT.

Securities Sector

827. The Law of Turkmenistan on securities and stock exchanges in Turkmenistan provides no clear powers for the Ministry of Finance of Turkmenistan as a supervisory authority in the sphere of security market with respect to AML/CFT for commercial players of the security market.

828. Under the Statute on the administration of financial markets, insurance and audit business, approved by Order No. 101 of the Minister of Finance of Turkmenistan, dated December 29, 2010 (hereafter referred to as the Statute on Administration), the Administration is a structural division of the Ministry of Finance of Turkmenistan, one of whose tasks is to coordinate the activity of the licensees (insurers, reinsurers, insurance brokers, auditors, auditor organizations, professional players of the security market, lottery organizers) with respect to compliance with the AML/CFT laws of Turkmenistan. In its turn, one of the functions of the above Administration in the security market is to control that professional players of the security market comply with the AML/CFT Law.

829. The Administration is entitled to:

- receive from the organizations it supervises materials required in order to fulfill its tasks and functions;
- check that other licensees, including professional players of the security market, comply with the regulatory acts of Turkmenistan with respect to AML/CFT and that they present accurate reports;
- require that professional security market players, inter alia, provide established reports on their business and information about their financial situation, within the scope of their available competence.

830. Given that, the above powers of the Administration related to obtaining the necessary materials from the organization it supervises require express clarification with respect to the

requirement to provide any data, documents or information related to compliance monitoring, or to gain access thereto.

831. Nevertheless, the AML/CFT Law, the Law on Licensing and the Statute on Administration remain the general legal basis for the Ministry of Finance of Turkmenistan to perform its AML/CFT activity with respect to commercial players of the security market.

832. The Law of Turkmenistan on securities and stock exchanges in Turkmenistan stipulates that for the purposes of protecting the interests of investors, the Ministry of Finance of Turkmenistan and its on-site agencies are entitled to perform random checks of information provided in issue prospectuses.

833. However, it is necessary to develop a separate, more detailed procedure for the Ministry of Finance to inspect commercial players of the security market, including, inter alia, the AML/CFT issues.

834. Professional players' activity in the security market is licensed by the Ministry of Finance of Turkmenistan under the Resolution of the President of Turkmenistan, dated August 14, 2009. №10595. The Ministry of Finance of Turkmenistan controls the activity of the professional players of the security market and makes a decision to revoke the issued license if a violation of the Turkmenistan law on securities is committed.

835. Besides, Par. 3, Art. 7 of the Law of Turkmenistan on securities and stock exchanges in Turkmenistan, stipulates that if issuers or investment companies that, upon agreement with the issuer, sell securities to their initial owners, indicate in the issue prospectuses inaccurate or incomplete information, or violate the requirements of the current laws of Turkmenistan or this Law, the Ministry of Finance of Turkmenistan is entitled to declare failure of securities issues, to suspend the issues or to refuse to register them.

836. Per the Ministry of Finance of Turkmenistan, it can use sanctions against Turkmenistan security market players, in the form of license suspension or revocation, as well as sanctions based on Art. 167¹⁴ of the Code of Administrative Offenses of Turkmenistan (a fine equal five times the amount of minimum salary - for individuals and up to ten times the minimum salary - for heads of enterprises, institutions and organizations).

Insurance Sector

837. The Law of Turkmenistan on insurance provides no clear powers for the Ministry of Finance of Turkmenistan as a supervisory authority on insurance companies AML/CFT issues in the sphere of insurance.

838. Under Art. 30 of the Law of Turkmenistan on insurance, government supervision over the insurance companies' business is performed for the purposes of compliance with the laws of Turkmenistan on insurance, the effective development of insurance services, protection of the rights and interests of insured parties, insurers, other stakeholders.

839. Under this Law, the Ministry of Finance of Turkmenistan, within its insurance business supervision functions, is entitled to:

require that insurance companies, insurance brokers etc. present standard reports on insurance business, the information about their financial situation;

conduct inspections of insurance organizations' and brokers' compliance with the laws of Turkmenistan on insurance and of the accuracy of their reports;

should insurance organizations and brokers be discovered to violate this Law - instruct them to eliminate the violations, and in case of failure to comply with the instructions - suspend or restrict the validity of their licenses until the violations are eliminated, or make decisions to revoke the licenses.

840. Under the Statute on Administration, the Administration is a structural division of the Ministry of Finance of Turkmenistan, one of whose tasks is to coordinate the activity of the licensees (insurers, reinsurers, insurance brokers, auditors, auditor organizations, professional players of the security market, lottery organizers) with respect to compliance with the AML/CFT laws of Turkmenistan. In its turn, one of the functions of the above Administration in the sphere of insurance is to control that insurance organizations comply with the AML/CFT Law.

841. The Administration is entitled to:

- receive from the organizations it supervises materials required in order to fulfill its tasks and functions;

- check that insurers, reinsurers and insurance brokers comply with the regulatory acts of Turkmenistan with respect to AML/CFT and that they present accurate reports;

- require that insurers, reinsurers and insurance brokers, inter alia, provide established reports on their business and information about their financial situation, within the scope of their available competence.

842. Given that, the above powers of the Administration related to obtaining the necessary materials from the organization it supervises require express clarification with respect to the requirement to provide any data, documents or information related to compliance monitoring, or to gain access thereto.

843. Nevertheless, the AML/CFT Law, the Law on Licensing and the Statute on Administration remain the legal basis for the Ministry of Finance of Turkmenistan to perform its AML/CFT activity with respect to insurance organizations.

844. However, just as in case of the security sector, it is necessary to develop a separate, more detailed procedure for the Ministry of Finance to inspect insurance organizations, including, inter alia, the AML/CFT issues.

845. Thus, per the Ministry of Finance of Turkmenistan, it can use sanctions against insurance companies, in the form of license suspension or revocation, as well as sanctions based on Art.

167¹⁴ of the Code of Administrative Offenses of Turkmenistan (a fine equal five times the amount of minimum salary - for individuals and up to ten times the minimum salary - for heads of enterprises, institutions and organizations).

Postal Service Operators Sector

846. under Article 29 of the Law of Turkmenistan "On communication", communication business is licensed by the Ministry of Communication of Turkmenistan, under the laws of Turkmenistan. Besides, the Ministry of Communication of Turkmenistan performs state regulation and control over communication business, including postal service.

847. As per the Statute on the Ministry of Communication approved by Resolution No. 1711 of the President of Turkmenistan, dated March 16, 1994, the Ministry of Communication of Turkmenistan, in accordance with the tasks it is charged with, inter alia, issues licenses for the types of activity of legal and physical persons related to providing communication services in Turkmenistan, accounts for them, controls compliance with the licensing conditions, controls compliance with legislative and other regulatory acts on the issues of communication.

848. Besides, the Ministry of Communication of Turkmenistan has the right to request the necessary materials from the supervised enterprises, institutions and organizations.

849. Given that, the above powers of the Ministry related to obtaining the necessary materials from the organization it supervises require express clarification with respect to the requirement to provide any data, documents or information related to compliance monitoring, or to gain access thereto.

850. In its turn, under Subpar. 1), Art. 11 of the Law on licensing, the Licensing provisions bind the licensee to comply with the laws of Turkmenistan. The Laws of Turkmenistan include the AML/CFT Laws.

851. Per the representatives of the Ministry of Communication of Turkmenistan, this Ministry is entitled to conduct inspections of postal operators. Currently the only institution that performs money transfers in the sphere of postal communication is the state-owned postal company Turkmenpochta.

852. However, it is necessary to develop a separate, more detailed procedure for the Ministry of Communication to inspect postal service operators, including, inter alia, the AML/CFT issues.

853. Sanctions in the form of license suspension or revocation, as well as sanctions based on Art. 167¹⁴ of the Code of Administrative Offenses of Turkmenistan can be also used against the postal service operators.

Recommendation 17

854. The regime of sanctions for non-compliance with AML/CFT legislation in Turkmenistan is not established in all sectors.

855. Direct sanctions for violation of the AML/CFT laws, in particular - for violations of the rules stipulated by the AML/CFT Law, by persons providing information (if such actions have no constituent elements of an offense), are provided by Art. 167¹⁴ of the Code of Administrative Offenses of Turkmenistan (a fine equal five times the amount of minimum salary - for individuals and up to ten times the minimum salary - for heads of enterprises, institutions and organizations). Given the above, that article is formulated as "Violation of rules stipulated by the AML/CFT Law of Turkmenistan, by persons providing information (if such actions have no constituent elements of an offense)". Such phrasing is deemed limited, as it does not provide sanctions for violation of other AML/CFT acts, besides the basic Law. This sanction also does not apply to legal entities.

856. Along with this sanction, the supervisory authorities also use their sanctioning powers considered above. Such sanctions also apply to legal entities. Therefore, the full set of sanctions provided by the industry acts and the Code of Administrative Offenses, allows for a conclusion that they are proportionate and sufficiently diverse.

857. As of 2010, 2 sanctions had been used against banks with respect to the AML/CFT from the launch of the AML/CFT system of Turkmenistan. However, no information about the nature of those sanctions was provided. It was also not specified whether those sanctions were used under the CBT powers or under the Code of Administrative Offenses.

858. The security market of Turkmenistan is at an emerging stage and its size is very insignificant, no structured security market is formed yet, and no sanctions had so far been applied against its players from the launch of the AML/CFT system of Turkmenistan as of the moment of mutual assessment.

859. The Turkmenistan insurance market, as of the moment of its mutual evaluation, was represented by the sole state-owned company Turkmengosstrakh, and no sanctions had been used against it as of the moment of the mutual assessment, from the launch of the AML/CFT system in Turkmenistan.

860. No information was provided on sanctions used against the postal service operator.

Recommendation 23 (Market Entry)

861. The Law on licensing is partially a general legal basis for the AML/CFT supervision of organizations. Supervisory authorities whose activity had been considered above, are also licensing their supervised organizations. The Ministry of Finance is a licensing authority, inter alia, for banks operating in the security market.

862. Under Par. 1, Art. 8 of the Law on Licensing, licensing authorities:

- 1) issue or refuse to issue licenses;
- 2) reissue licenses;
- 3) suspend, extend, renew or early terminate the license;
- 4) annul the license or initiate a lawsuit to annul the license in other cases;

- 5) prepare databases for the state register of licenses on the types of activity that they license;
- 6) in cases provided by this Law, file a claim with a court.

863. Under the above Article, the licensing authorities also check information about the license candidate and about the activity of the licensee.

864. The Statute on the procedure of opening and terminating the operation of banks in Turkmenistan approved by the Central Bank of Turkmenistan on November 10, 1995, establishes a procedure of licensing for the banks' activities. In particular, in order to get a license to perform banking operations, a certain list of documents must be presented to the Central Bank of Turkmenistan, which must include information about professional competence of the two top managers, chief accountant and head of the credit department recommended by the founders, shareholders and members, which must have banking experience and have clean records with respect to offenses against the government, crimes against property, economic crimes, official crimes, or any other grave offenses (confirmed by the Ministry of Internal Affairs of Turkmenistan).

865. Under this Statute, the following persons cannot be founders, shareholders or members of a bank: a) government authorities and administrative bodies (except for cases when a state-owned bank is founded); b) political parties; c) public organizations and specialized public funds (including charity funds); d) any companies and organizations that have an illiquid balance and were declared insolvent under the current laws of Turkmenistan.

866. This list must be expanded to include criminals and their accomplices in the context of AML/CFT.

867. Under the Regulation on the procedure of evaluating professional fitness of the management of a bank (branch of a foreign bank) by the Evaluation Commission of the Central Bank of Turkmenistan" dated November 21, 1996 (hereafter referred to as the Regulation) persons previously convicted of embezzlement, bribery and other acquisitive offenses, cannot occupy management positions and positions related to material responsibility. This Regulation defines the range of persons subject to mandatory certification, the qualification prerequisites for candidates for management positions of a credit institution etc.

868. It is also advisable to include in this Regulation a requirement that criminals and their accomplices related to AML/CFT cannot occupy management positions in a bank.

869. Despite the fact that, per the Turkmenistan side, there are pre-requisites for founders of credit institutions aimed at preventing questionable persons from becoming members or beneficiary owners of a major or controlling share, occupying management positions, which includes being members of an executive body, the Board of Directors etc., no regulatory acts were presented to the assessors that would clearly confirm the existence of such requirements for detailed survey and analysis.

870. Similar requirements should be provided for the remaining financial organizations as well.

Recommendation 23 (Ongoing Supervision and Monitoring)

871. The legislation of Turkmenistan does not contain regulations that would obligate commercial banks, the insurance sector and the securities sector to apply the Core Principles under the AML/CFT system. The only exception are certain elements of the licensing procedure. Thus, the Provisions on licensing of professional activity in the security market and activity in insurance approved by Resolution No. 10595 of the President of Turkmenistan, dated August 14, 2009, expressly provides that one of the prerequisites for licensing that the candidate or licensee must comply with is fulfilling the requirements of the AML/CFT Laws,

872. Financial services related to FX operations on the territory of Turkmenistan are permitted solely to commercial banks.

873. Financial services on money transfers on the territory of Turkmenistan are performed only by commercial banks and postal service operators.

874. All the above organizations are licensed and regulated by the relevant supervisory bodies, in particular - the CBT and the Ministry of Communication of Turkmenistan.

875. Financial leasing is a licensed activity that, under Resolution No. 10281 of the President of Turkmenistan, "On the issues of organizing licensing work in Turkmenistan", is subject to CBT licensing. However, the Law of Turkmenistan "On leasing" contains no provisions regulating the functions and powers of the supervisory authority with respect to leasing organizations in AML/CFT. As the experts were informed, currently there are no leasing companies in Turkmenistan, however, given the presence of the legislative basis (the Law of Turkmenistan "On leasing"), in order for those to be created and operate in the financial market of Turkmenistan, the issues of their AML/CFT supervision must be addressed much more clearly and comprehensively in a specific law on leasing.

Effectiveness

876. In 2010, the following numbers of inspections were conducted, including those related to AML/CFT issues: commercial banks - 29; insurance organizations - 1, postal service operators - 1.

877. Because of the fairly limited statistics, it is impossible to comprehensively analyze the effectiveness of the supervision, monitoring and sanctions systems.

Recommendation 25

878. The main AML/CFT guideline for financial institutions and DNFBPs is the standard Internal Control Rules that in accordance with the AML/CFT Law are developed and approved by the respective oversight, licensing and registration authorities jointly with the FIU or, whether they do not exist, by the FIU. These Internal Control Rules regulate the customer identification process and also contain a set of criteria for suspicious transactions with due consideration for the specificities of each sector. However, such rules were not presented to the assessors.

879. However, these Internal Control Rules are not the guidelines in a sense envisaged by the FATF Recommendations, i.e. are not guidelines intended for assisting financial institutions to comply with the AML/CFT legislation requirements since they are part of this legislation. In this respect, no guidelines for private sector exist.

880. Apart from that, the supervisory authorities and the FIU have not issued any guidelines describing ML and FT methods and techniques.

3.10.2. Recommendations and Comments

Recommendation 17

881. The responsibilities and powers of the supervisory bodies must be more clearly established by all industrial laws regulating the activity of the financial organizations, with respect to control over financial organizations' compliance with the requirements of the AML/CFT Law and imposing enforcement measures (sanctions) for non-compliance.

882. It is necessary to ensure direct application of the entire range of sanctions (starting from fines through withdrawal of licenses) to all noncredit financial institutions for AML/CFT violations, inter alia, through adopting individual regulations by the competent authorities.

883. Sanctions must be imposed not only for violating the procedure of registration and communicating with the FIU, but must also cover non-compliance with all the AML/CFT requirements (identification, document storage etc.).

884. The scope of applicability of Article 167¹⁴ of the Code of Administrative Offenses must be expanded.

Recommendation 23

885. The responsibilities and powers of the supervisory bodies must be more clearly established by all industrial laws regulating the activity of the financial organizations, with respect to control over financial organizations' compliance with the requirements of the AML/CFT Law and imposing enforcement measures (sanctions) for non-compliance.

886. The Law "On Leasing" must include a provision clarifying that the powers to license financial leasing services are within the CBT competence.

887. Supervisory authorities have to develop certain regulatory acts addressing the issues of supervision with respect to enforcement measures and sanctions against insurance organizations, commercial players of the security market and postal operators, as well as conducting inspections of their activity, including those in AML/CFT.

888. The provisions on licensing of commercial banks, insurance organizations, security market entities, postal operators must include detailed requirements for the founders (shareholders), management of those organizations, providing that criminals or their accomplices cannot be beneficiary owners of a majority or controlling share in stock, or occupy management positions, including those in executive or supervisory boards, boards of directors etc.

889. It is necessary to ensure appropriate application by financial institutions of the Core Principles for the AML/CFT purposes.

Recommendation 25

890. The supervisory authorities should issue special guidelines for the private sector which would facilitate a more effective performance of obligations by financial institutions, including description on new ML/FT trends and typologies. Such guidelines should take into account the specificities of the activity of supervised entities.

Recommendation 29

891. All supervisory and oversight authorities should develop regulations governing the issues pertaining to application of sanctions for violation of the AML/CFT requirements, inspections of insurance organizations, professional players of the security market, postal service operators. The Statute on the procedure of banks (affiliate offices) inspections by the CBT authorized representatives, approved by Order No. 22 of the CBT Board Chair, dated May 02, 2006, and the statutes on inspections of insurance companies, professional players of the security markets, postal service operators that will be developed, must specifically provide that inspections of such organizations are aimed at checking that the banks have in place approved procedures and rules related to prevention and detection of various facts of money laundering and financing of terrorism; besides, such procedures and rules are reviewed to verify compliance with the AML/CFT legislation.

892. In order to implement the AML/CFT measures the oversight authorities of Turkmenistan should ensure application of the broadest possible range of sanctions against financial institutions and their managers (except for the banking sector).

893. Industrial laws regulating the activity of the banks, insurance organizations, professional players of the security markets, postal service operators should expressly authorize the supervisory authorities to require that such organizations present any data, documents or information relevant to compliance monitoring, or to get access thereto.

3.10.3. Compliance with Recommendation 17, 23, 25 & 29

	Rating	Summary of factors underlying overall rating
R.17	NC	<ul style="list-style-type: none"> • The possibility to apply a broad range of sanctions against all the remaining types of financial institutions (except for the banking sector) has not been specifically established; • The phrasing of Art. 167¹⁴ of the Code of Administrative Offenses does not provide sanctions for violation of other AML/CFT acts, besides the basic Law; • Limited information about the practice of applying sanctions in AML/CFT does not allow for objective evaluation of their

		effectiveness.
R.23	PC	<ul style="list-style-type: none"> • The supervision and monitoring regulatory framework for the AML/CFT purposes is not established in sectoral laws; • No information is available on application of the Core Principles for the AML/CFT purposes in the banking, insurance and securities sectors; • The market entry procedures are specified in detail only for the banking sector; • No supervision and monitoring powers in the Law on Leasing; • The AML/CFT supervision and monitoring system is only emerging, and the lack of sufficient results does not allow for assessing its effectiveness.
R.25	NC	<ul style="list-style-type: none"> • Detailed guidelines for the private sector which would facilitate a more effective performance of obligations by financial institutions, including description on new ML/FT trends and typologies, have not been issued.
R.29	PC	<ul style="list-style-type: none"> • Only the CBT has the possibility to apply broad range of sanctions against the supervised financial institutions; • The supervisory authorities have just started to undertake efforts in the AML/CFT sphere and there are no sufficient results which would allow for assessing effectiveness of the undertaken measures.

3.11. Money or Value Transfer Services (SR.VI)

3.11.1. Description and analysis

Special Recommendation VI

894. Money transfers in Turkmenistan can be performed through commercial banks and the State Postal Service Company Turkmenpochta.

895. Per the Turkmenistan side, commercial banks perform money transfers in foreign currency only using the Western Union system, with authorization from the Central Bank of Turkmenistan. In order to perform the above transfers, commercial banks make contracts with Western Union. As the assessors were informed, no other legal or physical persons performing services related to transfer of money or valuables, other than those specified, were registered in Turkmenistan.

896. Under the Law on commercial banks and banking activity, commercial banks operate under licenses issued by the Central Bank of Turkmenistan.

897. Under Article 1 of the Law of Turkmenistan "On communication", postal service provides acceptance, storage, processing, transportation and delivery (hand-in) of mail, money, including other targeted payments and other additional services. Article 31 of the Law of Turkmenistan "On communication" names operations on postal money transfers among the types of services provided by government postal service operators. The Rules of postal service (no details of the document were presented, but, according to the Turkmenistan side, they are approved by the Resolution of the Turkmenistan Cabinet of Ministers, Ordinance No. 2, dated January 13, 1994) names money transfers (postal, telegraph) in the list of domestic mail. Assessors concluded that, in accordance with the laws of Turkmenistan, postal money transfers are included in communications services (are one of the types of communication services).

898. The legal basis of licensing certain types of activity in Turkmenistan are provided by the Law of Turkmenistan "On licensing certain types of activity (hereafter - the Law on licensing)". The list of licensed types of activity (Art. 20) names banking and communication operations.

899. Turkmenistan has accepted all the necessary regulatory acts addressing the procedure of issuing banking licenses (see Section 3.10 of the Report) and communication services licenses, while creating all the necessary conditions for organizing this work.

900. Communication activity is licensed by the Ministry of Communication of Turkmenistan (Article 29 of the Law on Communication). Resolution No. 10281 of the President of Turkmenistan "On organizing licensing efforts in Turkmenistan", dated February 27, 2009, names the above Ministry the authority issuing such licenses. The Statute on licensing communication activity (approved by Resolution No. 11266 of the President of Turkmenistan, dated September 17, 2010) establishes the rules and procedures required for licensing communication activities.

901. Under the specified Law (Article 21), state-owned enterprises and institutions created according to the established procedure, based on the decision of the Cabinet of the Ministers of Turkmenistan, given that the above decision provides for the relevant activities, may operate without a license.

902. Per the Turkmenistan side, Turkmenpochta is a state-owned company, and the decision of the Cabinet of Ministers of Turkmenistan about its establishment covers all the range of postal services. Thus, the Ministry of Communication of Turkmenistan is a founder of Turkmenpochta, which operates under an approved Charter, which covers communication services. No special license is required for Turkmenpochta. However, neither this Decision of the Cabinet of Ministers on creating Turkmenpochta, nor the Charter thereof were presented to the assessors. Moreover, the Resolution on licensing communication activity stipulates that licenses for a certain code are issued solely by Turkmenpochta.

903. Meanwhile, assessors acknowledge that in the environment when the requirement to obtain a license to perform money transfers and the procedure of licensing are clearly established by the law, and the postal money transfers are performed only by a state-owned company

(Turkmenpochta), the probability of operation non-compliance with the Law on Licensing is negligible.

904. The assessors concluded that in Turkmenistan money transfers can only be performed under special licenses (for banking, communication activities), and that all the required conditions for licensing have been created. Also the constituent elements of administrative violations and criminal offenses are established in Turkmenistan with respect to conducting any activity that is subject to licensing, without adequate licenses, i.e. conditions are created to ensure administrative and criminal prosecution of persons providing illegal money transfer services.

905. The AML/CFT Law classifies all organizations performing "de facto" money transfers in Turkmenistan - commercial banks, postal and telegraph service organizations, - as persons providing information. Therefore, while performing money transfers, commercial banks and Turkmenpochta must comply with the AML/CFT Law and any by-laws of Turkmenistan pursuant thereto. This Report addresses compliance of regulation of such organizations operation with FATF Recommendations and any identified gaps.

906. Per the Turkmenistan side, no other entities provide services related to money and valuables transfers, or acceptance of payments and money transfers for physical persons. Alternative systems of money transfers are illegal. At the same time, no information on comprehensive measures taken by the designated authorities to detect such facts was provided. Therefore, as of today, speaking about complete absence of risks related to MVT service operators acting outside the formally regulated financial system (e.g. hawala, fei chen) would be premature. However, the assessors were advised that no such transfer operators had been identified.

3.11.2. Recommendations and Comments

907. Turkmenistan must take measures to prosecute any activity related to money or valuables transfers outside of the official financial system, inter alia, by taking legislative and other measures against *illegal* alternative transfer systems (ATS). It is also necessary to correct all flaws and deficiencies in the AML/CFT measures in the banking and postal system, which are also applicable in the context of bank and postal money transfers.

3.11.3. Compliance with Special Recommendation VI

	Rating	Summary of factors underlying overall rating
SR.VI	PC	<ul style="list-style-type: none"> No information is available on legislative or other measures taken in relation to MVT service operators acting outside the formal financial system; All flaws and deficiencies noted in relation to the AML/CFT measures in the banking and postal system sector are also applicable in

		the context of money transfer.
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4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

Preamble: types of DNFBPs subject to AML/CFT measures

908. The AML/CFT Law provides for appropriate measures in respect of virtually all categories of DNFBPs specified by the FATF, except for trusts and organizations which establish and service legal entities.

909. Besides the DNFBPs specified by the FATF, AML/CFT measures also apply to the organizations which register immovable property with the State (registrars) and institutions which provide the services associated with registering the rights to immovable property with the State.

910. For the purposes of this report, the DNFBPs subject to the AML/CFT laws shall be referred to as the “supervised organizations”.

4.1. Customer Due Diligence and Record-Keeping (R.12)

(applying R.5, 6 and 8-11)

4.1.1. Description and Analysis

Recommendation 12

911. Under the AML/CFT Law, supervised DNFBPs are subject to the same rules and regulations as the financial institutions.

912. According to the Turkmen party, their supervisory bodies have developed and approved Internal Control Rules (hereinafter the “ICR”) for the supervised organizations. Certain ICR are regarded as standard ICR on the basis of which DNFBPs should develop and approve their own ICR; in certain cases, DNFBPs (for example, persons supervised by the Ministry of Justice of Turkmenistan, i.e. lawyers, notaries, and independent jurists) shall apply the ICR developed by the Government Agencies without implementation.

913. It turns out that certain Government Agencies, though not obliged by the AML/CFT Law, have approved necessary Standard ICR in respect of the supervised DNFBPs. These ICR have been notified to the DNFBPs and the authorized government agency. However, the assessors have been unable to ascertain the degree of coordination of the AML/CFT activities carried out by all supervisory bodies and the authorized government agency, including the degree of coordination of the activities undertaken when adopting regulations and taking practical decisions.

914. The assessors have been provided with the ICR of the Precious Metals and Precious Stones Committee (hereinafter the “Committee”), a real estate organization (whose name was not specified), and of a casino.

915. The casino’s and the Committee’s ICR are approved by the casino and the Committee. The real estate organization’s ICR do not provide any information as to their approval and look like standard ICR.

916. The assessors have not been provided with the ICR of the dealers in precious metals and precious stones, pawnshops, organizations which register immovable property with the State, institutions which provide the services associated with registering the rights to immovable property with the State, lawyers, persons carrying out notarial services, and other independent jurists and accountants.

917. It should be noted that the activities carried out by the majority of the DNFBPs, which, under the AML/CFT Law, qualify as the persons obliged to provide information, are subject to licensing in Turkmenistan. Thus, under the Law “On Licensing Certain Kinds of Activities”, the activities associated with gambling, bookmaking, providing auditing services, dealing in real estate, providing legal assistance, and dealing in precious metals and precious stones are subject to licensing.

918. Turkmenistan does have the necessary infrastructure and mechanisms to license the abovementioned kinds of activities, monitor licensees’ compliance with the conditions of their licenses, and prosecute the licensees violating such conditions. The term “jewelry and other household jewelry items or their scrap” have been removed from the definition of the precious metals and precious stones given in the Law “On Foreign Exchange Regulation”. The term “dealers in items made of precious metals and precious stones” previously used in the AML/CFT Law has been replaced with the term “dealers in precious metals and precious stones.”

919. According to the list of activities subject to licensing approved by Resolution of the President of Turkmenistan No. 10281 dated February 27, 2009, wholesale and retail dealing in jewelry made of precious metals and precious stones qualifies as an activity involving the use of precious metals and precious stones and is subject to licensing.

920. This kind of activity is licensed in accordance with the Regulations for Licensing the Activities Involving the Use of Precious Metals and Precious Stones (approved by Resolution of the President of Turkmenistan No. 11010 dated March 26, 2010). It should be noted that the definitions of precious metals and precious stones used therein include jewelry and other jewelry items (cut stones).

921. According to the Turkmen party, there have been no difficulties with the application of the Laws in practice, since determining whether a person is obliged to provide information (as required by the AML/CFT Law) depends on whether the person has a license for carrying out an activity associated with precious metals and precious stones. The assessors consider the position of the Turkmen party fully justified and support it. Indeed, the abovementioned list of activities subject to licensing include such kinds of activities associated with precious metals and precious

stones as wholesale and retail dealing in precious metals, precious stones and items made thereof, commission business, pawnbroker's business, etc.

922. That is, according to the Turkmen AML/CFT system, all persons holding a license for conducting transactions with precious metals and precious stones, including jewelers and dealers in precious metals and precious stones (including pawnshops and commission merchants), qualify as the persons obliged to provide information (persons subject to financial monitoring), in the sense in which dealing in precious metals and precious stones is defined in the FATF Recommendation.

923. However, according to the AML/CFT Law, dealers in precious metals and precious stones become obliged to provide information only when making cash transactions above a certain threshold amount. Such transactions are mainly occasional transactions conducted by dealers in precious metals and precious stones with individuals only (according to the Turkmen party, cash settlements between legal entities are forbidden).

924. Such a condition allows these persons avoid applying the CDD measures in other cases provided for by the Law, including when establishing business relations, suspecting ML/FT, or having doubts as to reliability of the information provided. The unjustifiably high threshold amount suggests that control over the ML/FT activities (including the CDD measures) on Turkmen market of precious metals and precious stones may be insufficient.

925. The list of the grounds for applying the CDD measures provided for by the Committee's ICR is bigger and provides for suspected ML/FT, which, in addition to the threshold amount, include the use of forged payment documents, suspected use of counterfeit money, transactions with unhallmarked jewelry items, transfer of funds to third-party accounts, and regular pawning of property without redemption. These give rise to the application of the CDD measures provided for by Turkmen laws, both in respect of the customer and of the beneficial owner and third parties acting on the customer's behalf. However, the Committee's ICR apply to the Committee's activities only and do not extend to other dealers in precious metals and precious stones. The assessors have not been given an opportunity to examine the ICR of such other dealers.

926. The AML/CFT Law does not provide for any exemptions for the DNFBPs regarding the rights and obligations of the persons obliged to provide information. Therefore, the DNFBPs carrying out the activities subject to the AML/CFT regulations are subject to the same CDD obligations and have the same rights as Turkmen financial institutions.

927. Under the AML/CFT Law, both the financial institutions and the DNFBPs are subject to the same identification requirements and other CDD measures. However, ICR of certain financial institutions (especially those using risk-based approach) provide for additional CDD obligations and clarify the procedure for applying the CDD measures. The submitted DNFBPs' ICR provide for virtually no additional CDD requirements. As regards identification requirements and other CDD measures, these institutions' ICR either refer to, or cite, the requirements of the AML/CFT Law, i.e. part 3 of article 3 (the ICR of the real estate

organization). It should be noted that all ICR provide for identification of both the customer and of the beneficial owner and third parties acting on the customer's behalf.

928. Therefore, Recommendation 5 deficiencies regarding identification and other CDD requirements identified in the report hold true for the DNFBPs as well.

929. The AML/CFT requirements (including the CDD measures) oblige the DNFBPs to check the value of occasional transactions against the threshold amount (Order of the Ministry of Finance of Turkmenistan No. 17 dated February 25, 2010, "On Establishing the Threshold Amount of the Transactions and Deals in Foreign and National Currencies Subject to Mandatory AML/CFT Monitoring").

930. The DNFBPs apply the CDD measures if the value of a transaction or deal exceeds 570,000 manat (approximately 200,000 US dollars) (in the case of transactions and deals with funds); and 1,425,000 manat (approximately 500,000 US dollars) (in the case of transactions and deals with other property).

931. It should be noted that a peculiar feature of the DNFBPs listed in the AML/CFT Law is that they mainly conduct occasional transactions and deals (pawnshops, persons conducting transactions with immovable property, organizers of tenders and auctions, and organizers of gambling games) without establishing long-term relations. Therefore, the major impediment to evaluating their activities is the too high threshold amount.

932. For example, the identification requirements are very likely to apply to only the occasional transactions and deals with immovable property exceeding 500,000 US dollars. Given that the majority of transactions with immovable property are occasional operations, a considerable portion of the real estate market (all transactions below 500,000 US dollars) evades the AML/CFT monitoring. The real estate organization's ICR do not provide for any additional (as compared to the AML/CFT Law) grounds for carrying out mandatory identification or applying other CDD measures.

933. It should be noted that the casino's ICR, as well as the Committee's ICR (see above) provide for applying mandatory identification procedures and other CDD measures in the event of suspected ML/FT. Identification procedures and other CDD measures are carried out if an operation is suspected of being intended for ML/FT purposes (irrespective of the threshold amount). The casino's ICR provide that the signs of a suspicious operation include the use, and suspected use of, payment documents, funds, or lottery tickets which are forged or have been withdrawn from use, cashless settlements via a totalizator, suspected conspiracy to use, or use of, special technical devices, and regular pawning of property without redemption. It should be noted that the requirement to identify the customer and apply other CDD measures provided for by the casino's ICR and the Committee's ICR is a legal consequence of suspecting an operation of being carried out for ML/FT purposes.

934. The deficiencies of Turkmen CDD Laws and regulations applicable to the DNFBPs are similar to those applicable to Turkmen financial institutions.

935. Thus, no statutory requirements to implement verification have been provided for; issues relating to determining the goals and nature of business relations and ensuring permanent customer control have been poorly handled; relations associated with registering the CDD results and handling the existing customers have not been sorted out. Nor the issues associated with risks and permanent data updating have been resolved. As regards the consequences of impossibility of applying the CDD measures (negative CDD result), Turkmen laws provide for the same grounds (failure to provide the documents required for identification purposes, evidence of involvement in terrorist activities, and provision of suspicious documents) and the same consequences (refusal to establish business relations, and denial of preparation and consummation of a transaction) in respect of the DNFBPs as in respect of the financial institutions. In the case of the DNFBPs, the issue of the legal consequences of impossibility of applying other CDD measures has not been resolved completely. However, if the ICR of financial institutions do fill up some of the gaps of the AML/CFT Law in respect of the above problems (see Recommendation 5), the ICR of the DNFBPs do not. Only occasional regulations (such as, for example, the ICR of the real estate organization) regard the transactions conducted in respect of the customers located in the so-called “non-cooperative states” as bearing an increased AM/FT risk. However, none of the submitted DNFBPs’ ICR applies the risk-based approach.

936. It should be noted that the AML/CFT Law allows for termination of agreements subject to the following grounds: failure to provide the documents required for identification purposes, provision of suspicious documents, or evidence of the person’s involvement in terrorist activities. Such termination may be effected only by commercial banks and only in respect of account holding customers and depositors. The DNFBPs have no such powers.

937. Turkmen laws do not provide for any special treatment of politically-exposed persons. This holds true for both the activities of the financial institutions and of the DNFBPs. Turkmenistan has failed to implement Recommendation 6.

938. The AML/CFT Law does not forbid establishment of customer relations without the customer’s (customer representative’s) presence. The same holds true for the DNFBPs (Recommendation 8). However, many representatives from the private sector and supervisory bodies have reported during the meetings that Turkmen DNFBPs do not conduct their transactions without the customer’s (customer representative’s) presence, and that certain DNFBPs (for example, notaries and pawnshops) cannot even conduct such transactions without the customer’s (customer representative’s) presence for procedural reasons.

939. The DNFBPs are not allowed to rely on third parties when implementing the CDD measures (Recommendation 9).

940. The provisions of the AML/CFT Law and of other Turkmen Laws and by-laws (e.g. the Law on Archives; Basic File Register Handling Rules for Archives) specifying the procedure for storing information and providing authorized agencies with access thereto (Recommendation 10) apply to all persons obliged to provide information, including the DNFBPs.

941. Therefore, Turkmenistan fulfills the requirements of Recommendation 10 in respect of the DNFBPs to the same extent as in respect of the financial institutions, i.e. in the majority of cases Recommendation 10 is properly implemented. Minor implementation shortcomings associated with the financial institutions which have been revealed during the visit hold true for the DNFBPs.

942. As regards the obligation to record the circumstances of complex, unusual large transactions and deals (Recommendation 11), the requirements of the AML/CFT Law (clause 3 of article 4) also apply to all persons obliged to provide information, including the DNFBPs. According to the Law, the persons obliged to provide information shall record in writing the actually ascertained circumstances of complex, unusual large transactions and deals, or, as the case may be, of the transactions, deals, and money transfers that have no economic purpose and are conducted using an unusual pattern.

943. Certain ICR of the DNFBPs mention such transactions and deals. Thus, the real estate organization's ICR provide that complex, suspiciously large transactions and deals as well as transactions, operations, and money transfers that have no economic purpose and are conducted using an unusual pattern constitute grounds for documenting the information thereon. These ICR also provide that a transaction which is inconsistent with the corporate objectives provided for by the organization's constitutional documents or believed to be conducted for the purpose of avoiding mandatory control procedures also constitutes grounds for documenting the information thereon. The procedure for recording, on paper media, the information obtained through mandatory control procedures prescribed by the real estate organization's ICR applies only to the operations that are subject to mandatory control, suspicious transactions, customer questionnaires, other participants in such transactions and deals, and to the activities containing elements of an offense.

944. It should be noted that the issues relating to treatment of complex, unusual large transactions and deals have not developed any further in the submitted DNFBPs' ICR.

945. Turkmen authorities do not require the DNFBPs to study the history, the grounds, and the objectives of complex, unusual large transactions and deals, and record the obtained information.

946. The evaluation of the DNFBPs' fulfillment of Recommendation 11 requirements is also affected by the gaps in the AML/CFT Law and the relevant by-laws regarding the procedure for monitoring customers' transactions and deals. Therefore, the DNFBPs may interpret the requirement for recording the circumstances of complex, unusual large transactions and deals as a requirement for monitoring suspicious transactions, and the transactions and deals subject to mandatory control, with all legal consequences ensuing therefrom.

947. The analysis of the AML/CFT Law and the relevant by-laws suggests that the DNFBPs are subject, to the same extent as the financial institutions, to the provisions regulating:

- procedure for storing the recorded information on the "actually ascertained circumstances of complex, unusual large transactions and deals and of the transactions, operations, and money transfers that have no economic purpose and are conducted using an unusual pattern"; and

- procedure for interacting with the authorized agency, including for the purpose of providing the authorized agency with access to the information on complex, unusual large transactions and deals.

948. Moreover, the examined DNFBPs' ICR provide for identical requirements for storing documents and information. Some DNFBPs' ICR provide for an obligation to supply, upon the authorized government agency's written request, the necessary data and grant access to relevant information systems and databases for carrying out financial monitoring for AML/CFT purposes.

949. Therefore, Recommendation 11 is properly implemented in Turkmenistan in respect of the DNFBPs.

Effectiveness

950. Since the AML/CFT activities required of the DNFBPs were only being developed at the time of the visit, the effectiveness of applying the existing AML/CFT measures cannot be regarded as sufficient.

4.1.2. Recommendations and Comments

951. Turkmenistan should take measures to ensure compliance with all requirements of Recommendations 5, 6, 8, 10, and 11 in respect of the DNFBPs to correct the identified deficiencies.

4.1.3. Compliance with Recommendation 12

	Rating	Summary of factors underlying overall rating
R.12	NC	<ul style="list-style-type: none"> • As regards to R.5 it is not required to: <ul style="list-style-type: none"> - Undertake CDD measures with regard to occasional transactions and deals (including those below 200,000 US dollars in the case of transactions and deals with funds, and below 500,000 US dollars in the case of transactions and deals with other property) (for all DNFBPs); - Examine the customer's previous transactions; - Update identification data; - Undertake CDD measures with regard to the existing customers (for all DNFBPs); - Regulate the issues relating to checking the beneficiary, including the obligation to apply the CDD measures to the beneficiary; - Regulate the legal consequences of impossibility of applying the CDD measures; - Set forth the obligation to identify beneficiary owner and implement

		<p>verification in greater detail.</p> <ul style="list-style-type: none"> • R.6, R.8. The laws contain no provisions for DNFBPs required by these Recommendations. • As regards R.10: <ul style="list-style-type: none"> - No requirements for storing documents in a format ensuring that they can be easily assessed by the competent authorities. • R.11. There is no obligation to pay special attention to complex, large and unusual transactions in the non-banking sector. • There is no detailed procedure for control over complex, unusual and extra large transactions and operations. • Turkmen laws do not provide for the necessary measures in respect of trusts and organizations which establish and service legal entities; • Since the DNFBPs' internal controls have not yet been accomplished (approved), the current AML/CFT measures cannot be properly evaluated.
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4.2. Suspicious Transaction Reporting (R.16)

(applying R.13-15 and 21)

4.2.1. Description and Analysis

Recommendation 16

952. Turkmen DNFBPs are subject to the same provisions of the AML/CFT Law and the relevant by-laws (as required by Recommendations 13-15 and 21) as the financial institutions.

953. The AML/CFT Law obliges the DNFBPs to report the same transactions and deals as the financial institutions, i.e. transactions and deals that are subject to mandatory control, and the suspicious transactions (Recommendation 13).

954. The DNFBPs, just as the financial institutions, are obliged to consider submitting an STR to the authorized government agency if a customer fails to provide the documents required for identification purposes, provides suspicious documents, or evidence becomes available that a customer is involved in terrorist activities (clause 2 of article 3 of the AML/CFT Law).

955. The AML/CFT Law, however, does not provide for an obligation to suspend the transaction involving the persons who have been reported to be involved in terrorist and terrorist financing activities and submit the information thereon to the authorized government agency. This obligation is provided for in respect of commercial banks and other financial institutions only (clause 10 of article 3 of the AML/CFT Law).

956. The list of transactions and deals that are subject to mandatory control is provided for by article 5 of the AML/CFT Law and applies to all persons obliged to provide information.

957. A tentative list of signs of suspicious deals and/or transactions is provided for by Order of the Ministry of Finance of Turkmenistan No. 16 dated February 25, 2010, and includes a separate list for noncredit organizations. The list is intended to provide general guidance only and is not exhaustive.

958. The submitted ICR of certain DNFBPs also list the transactions considered suspicious in the context of the activities pursued by such DNFBPs. Thus, in the case of casinos, suspicious transactions include unusual (non-cash) payment methods used by the customer to pay for the game; suspected use of funds, securities, payment documents, and lottery tickets which are forged or have been withdrawn from use; suspected “cheating at play” (use of special technical devices; conspiracy); pawning the property without redemption. According to the real estate organization, suspicious transactions are mutual transactions; transfer of funds to third-party and anonymous accounts; use of forged documents or counterfeit money; lack of information; certain transactions and deals listed in the Ministry of Finance’s Order No. 16. According to the ICR of the Precious Metals Committee, suspicious transactions and deals are: transactions and deals with unhallmarked jewelry items; transactions and deals conducted using forged (suspicious) payment documents, funds, and securities; pawning the property without redemption; transfer of funds to third-party accounts.

959. It is noteworthy, that conducting a transaction or making a deal of a value equaling or exceeding the threshold amount is listed in the ICR as a separate criterion of a suspicious transaction.

960. The procedure for submitting STRs on attempted suspicious transactions by the DNFBPs has not been set forth in sufficient detail.

961. According to article 5 of the AML/CFT Law, the major criterion for subjecting a transaction to mandatory control is reaching the threshold amount. The same criterion is also included in the tentative list of signs of suspicious deals and/or transactions. Therefore, as regards the STRs, the DNFBPs are prone to the same inefficiencies resulting from the too high threshold amount as the financial sector.

962. The DNFBPs and their employees are indemnified from the liability for providing information to the authorized government agency to the same extent as the financial institutions (Recommendation 14). The deficiencies identified in section 3.7 regarding Recommendation 14 hold true for the DNFBPs as well.

963. Obligation to develop ICR and procedures for their application applies to the DNFBPs as well (Recommendation 15). The Law does not provide for any exemptions for the DNFBPs in this respect. However, the regulatory deficiencies and the deficiencies of the current legal practice related to the implementation of this Recommendation are also characteristic of the DNFBPs.

964. Thus, Turkmen AML/CFT system is characterized by a significant degree of government regulation. Government agencies have developed and approved IRC for the supervised organizations (DNFBPs). These are both Standard ICR and the ICR of “direct effect” (for example, ICR for the persons supervised by the Ministry of Justice of Turkmenistan, i.e. lawyers, notaries, and independent jurists) which contradict the law. It should be noted that the Law does not oblige the state supervisory bodies to develop and approve IRC. Nor the Law obliges them to resolve the issues relating to the approval of the ICR developed by the supervised organizations or to the appointment of responsible persons. However, the ICR approved by the supervisory bodies have been notified to the DNFBPs and the authorized government agency. According to the Turkmen party, the majority of the DNFBPs have developed and approved their own ICR and appointed responsible persons.

965. The assessors have assessed ICR of only three DNFBPs since they have not been provided with the ICR of any other DNFBPs (kinds of DNFBPs) (see Recommendation 12).

966. The DNFBPs are affected by the same gaps in the government regulation as the financial institutions. These are, in the first place, the inadequacies of the legislative definition of internal controls limiting their use. Thus, there is a tendency to restrict the internal controls to submitting reports only. It is noteworthy that the definition of internal controls has not improved any further in the submitted DNFBPs’ ICR (compared to the ICR of certain financial institutions).

967. The AML/CFT laws do not oblige the DNFBPs to appoint responsible persons; the issues relating to personnel training and checking the personnel (other than the civil servants) for AML/CFT purposes both at the recruitment stage and during their employment have not been resolved; no qualification requirements have been provided for. However, as the assessors were told in the course of several meetings, the majority of the DNFBPs have appointed responsible persons, as well as check and train their employees. The issues relating to the appointment of responsible persons, their rights, obligations and competencies, relations with the management personnel, qualification requirements, and submission of the annual report have been addressed in one of the submitted DNFBPs’ ICR only. Two other ICR mention a person performing certain functions of the responsible employee when dealing with the submission of STR. This is either the head of a unit or the “employee submitting information to the authorized government agency”.

968. Under the AML/CFT Law, the DNFBPs, being the persons obliged to provide information, are required to pay special attention to the business relations, deals and transactions with organizations and persons from the states and jurisdictions which do not or insufficiently apply recommendations of international organizations, including subsidiary organizations, branches, and representative offices whose parent companies are registered within such states and jurisdictions (“non-cooperative states”). The list of such states and jurisdictions is approved by the Cabinet of Ministers of Turkmenistan, as advised by the authorized government agency. Relevant regulations (Regulations for Measures to be Applied to the Countries with Inadequate AML/CFT Systems approved by Order of the Ministry of Finance of Turkmenistan No. 102 dated December 29, 2010) have been provided to the assessors (see Recommendation 7); these regulations also apply to the DNFBPs. However, the obligation to pay special attention to transactions with these states applies to financial institutions only (clauses 6 and 7 of the

Regulations). It should be noted that the obligation to pay special attention to the transactions with persons from the “non-cooperative states” is provided for by the AML/CFT Law (clause 13 of article 3). This provision of the Law is a provision of direct effect and therefore applies to all entities that are subject to financial monitoring, including the DNFBPs.

969. None of the submitted DNFBPs’ ICR regards the transactions and deals with the persons from these states as suspicious and therefore does not provide for submission of STRs. The assessors have found only one instance in which the DNFBPs’ ICR provide for regarding transactions with persons from those states as high-risk transactions.

970. Therefore, the assessors believe that the procedure for treatment of persons from the “non-cooperative states” by the DNFBPs (including submission of STRs) needs improvement.

971. No special rules for studying, as far as possible, the history and objectives of the business relations with persons from these states have been laid down; no obligation to record the results of such studying in writing and store them in a manner ensuring easy access thereto for the competent authorities and auditors for at least 5 years has been provided for. Just as in the case of financial institutions, these results will be stored to comply with the general provisions of the AML/CFT Law for storing, providing access to, and using the relevant information as evidence (clause 9 article 3).

972. Some of the submitted DNFBPs’ IRC include intricate or suspicious nature of a transaction that has no apparent or visible economic or lawful purpose among the criteria for suspicious transactions. However, this is not enough for recognizing all kinds of DNFBPs specified in Recommendation 16 as compliant therewith (i.e. lawyers and notaries). Not to mention the fact that the assessors have been provided with the ICR of a real estate organization, a casino, and of the Precious Stones Committee only.

973. All submitted ICR provide for storing documents and information in the same manner as the AML/CFT Law. But, irrespective of whether the ICR have such provision or not, all Turkmen DNFBPs are subject to the provisions of the AML/CFT Law and the relevant by-laws for storing documents and information in Turkmenistan (see Recommendation 10).

Effectiveness

974. At the time of evaluation, the DNFBPs did not have any practical experience of submitting reports to the authorized government agency and were only developing their internal controls.

4.2.2. Recommendations and Comments

975. Turkmenistan should correct all deficiencies relating to the implementation of Recommendations 13-15, and 21, in respect of all DNFBPs.

4.2.3. Compliance with Recommendation 16

	Rating	Summary of factors underlying overall rating
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P.16	NC	<ul style="list-style-type: none"> • Turkmen laws do not provide for the necessary measures in respect of trusts and organizations which establish and service legal entities; • Effectiveness cannot be properly evaluated, due to insufficient practical experience. <p>Recommendation 13:</p> <ul style="list-style-type: none"> • ML/FT criminalization shortcomings affect the effectiveness of implementing Recommendation 13; • A small number of STRs indicate a low level of effectiveness of the STR system in general. <p>Recommendation 14:</p> <ul style="list-style-type: none"> • Prohibition on, and liability for, informing customers of the submitted STRs have not been provided for in respect of employees and officers of financial institutions. <p>Recommendation 15:</p> <ul style="list-style-type: none"> • • DNFBPs are not obliged to train their employees in handling the AML/CFT issues; no training standards have been established; • DNFBPs are not obliged to check their employees (other than the civil servants) at the recruitment stage and during their employment; • The effectiveness of internal controls cannot be evaluated, due to a short period of their application. <p>Recommendation 21:</p> <ul style="list-style-type: none"> • At the time of the visit, the effectiveness of the measures implemented could not be evaluated.
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4.3. Regulation, Supervision, and Monitoring (R.24-25)

4.3.1. Description and Analysis

Recommendation 24

Supervision and sanctions in respect of casinos

976. Pursuant to Resolution of the President of Turkmenistan No. 2395 dated November 15, 1995, “On State Licensing of the Gambling Business in Turkmenistan” and Resolution of the President of Turkmenistan No. 10281 dated February 27, 2009, “On Establishing the Licensing Practices in Turkmenistan”, the activities pursued by Turkmen casinos are subject to licensing by the State Committee for Tourism and Sport.

977. According to the Regulations for the State Committee for Tourism and Sport approved by Resolution of the President of Turkmenistan No. 5715 dated May 21, 2002, the State Committee may issue, in the prescribed manner, licenses to organizations conducting gambling games and accepting bets with predetermined monetary or other property gain, monitor the compliance with the license requirements, and suspend or revoke the licenses;

978. According to the Turkmen party, in the event that any license requirements and the terms and conditions of carrying out the licensed activity are found violated, the State Committee for Tourism and Sport, acting within its competence, may issue an order to remedy the discovered violations, suspend the license for a period of up to one month, revoke the license, and check the casino’s activities for compliance with the requirements of the AML/CFT Law. However, the Regulations for the State Committee for Tourism and Sport of Turkmenistan should be supplemented so as to include express powers to require the casinos to submit any data, documents or information required for compliance monitoring purposes, or provide access thereto; check the casino’s activities (including for compliance with the requirements of the AML/CFT laws); apply disciplinary actions and sanctions for their violation. It would be advisable to adopt regulations intended specifically for handling these issues.

979. According to the representatives of the State Committee for Tourism and Sport, no violations of the requirements of the AML/CFT Law by Turkmen casinos were discovered at the time of mutual evaluation.

980. The State Committee of Turkmenistan issued two licenses for carrying out gambling activities:

- one for state enterprise “Kumush Ay” (casino and a slot-machine parlor); and

- the other for subsidiary enterprise “Tursen Turism” (casino, slot-machine parlor, and sports forecasting).

981. These organizations have developed internal control rules for AML/CFT purposes.

982. Besides the State Committee of Turkmenistan, control over the compliance with the laws regulating these activities is also exercised by the Ministry of Internal Affairs and the Main Tax Administration of Turkmenistan.

983. The current laws do not allow economic entities to operate online casinos.

984. Regulations for the Procedure for the State Licensing of the Gambling Business in Turkmenistan approved by resolution of the President of Turkmenistan No. 2395 dated November 15, 1995, define the terms and conditions for granting and denying the licenses to operate casinos. The grounds for the denial are as follows:

- The documents submitted by the applicant contain unreliable or distorted information; and
- Negative expert opinion evidencing that the conditions required for engaging in the gambling business do not meet the relevant safety requirements, including the risk of the legal entity getting involved in criminal activities.

985. However, in order to comply with the AML/CFT requirements, the grounds for the denial should include an express provision banning criminals or their accomplices from becoming beneficial owners of a considerable or the controlling stake in, or holding executive positions at, casinos.

Lawyers and Notaries

986. Lawyers, legal entities, independent jurists which provide legal services, and notaries which register the rights to immovable property with the State and provide the services associated therewith are licensed by the Ministry of Justice, pursuant to the Regulations for the Ministry of Justice of Turkmenistan approved by Resolution of the President of Turkmenistan No. 9944 dated August 06, 2008, and subject to Resolution of the President of Turkmenistan No. 10281 dated February 27, 2009, “On Establishing the Licensing Practices in Turkmenistan”.

987. The Regulations for the Ministry of Justice allow the Ministry to request and obtain from institutions, organizations, and officials the information, documents, and materials required for the performance of the tasks entrusted to the Ministry.

988. Besides, the Ministry organizes and manages the activities carried out by state notary’s offices, as well as checks, analyzes, and summarizes their practices. The Ministry may also require bar associations to remedy the discovered violations of Turkmen laws. In addition to that, the Minister may propose to the bar’s presidium to take disciplinary action against certain lawyers.

989. At the same time, the Regulations for the Ministry of Justice should provide for, and clearly state, the powers to require auditors and lawyers to provide any data, documents, or information required for compliance monitoring purposes, or access thereto; check their activities (including for compliance with the requirements of the AML/CFT laws), apply disciplinary actions and sanctions for their violation. It would be advisable to adopt regulations intended specifically for handling these issues.

990. Since the assessors have not been provided with any statistical data on supervision and sanctions, effectiveness cannot be evaluated.

Supervision of dealers in precious metals and precious stones

991. The Regulations for Licensing the Activities Involving the Use of Precious Metals and Precious Stones approved by Resolution of the President of Turkmenistan No. 11010 dated March 26, 2010, set forth the relevant licensing requirements and the requirements to be met by the license applicant. One of these requirements and conditions is compliance with the requirements of the Turkmen laws regulating the licensed activity and with the AML/CFT laws; if these requirements are violated, the licensing authority (in particular, the State Precious Metals and Precious Stones Fund of Turkmenistan) may suspend the license. The license may also be

suspended if the licensee unreasonably refuses to provide the documents requested by the licensing or other supervisory and authorized bodies carrying out a check.

992. The Regulations prescribe that the activities involving the use of precious metals and precious stones may be carried out by profit-oriented legal entities of any legal form (subject to being provided for by their articles of association), and by individuals, pursuant to the license issued by the State Precious Metals and Precious Stones Fund of Turkmenistan.

993. Besides, the Regulations prescribe that such activities as checking the information set out in the documents provided by the license applicant, including reviewing such information for compliance with the licensing requirements provided for by the Regulations and the AML/CFT regulations, appraising the specialists' performance, and reviewing the licensee's activities are carried out by the licensing commission (consisting of specialists from the licensing authority) whose members and work procedures are approved by the licensing authority's order.

994. At the same time it would be advisable to supplement the Regulations with a provision depriving criminals or their accomplices of the possibility of becoming beneficial owners of a considerable or the controlling stake in, or holding executive positions at, the legal entities intending to engage in the activities associated with precious metals and precious stones.

995. The Regulations for Licensing the Activities Involving the Use of Precious Metals and Precious Stones should include the express powers to check the persons engaged in activities involving the use of precious metals and precious stones (including for compliance with the requirements of the AML/CFT laws) and apply disciplinary actions and sanctions for their violation. It would be advisable to adopt regulations intended specifically for handling these issues.

996. The assessors have not been provided with any statistical data on AML/CFT checks and sanctions applied in this sector.

Real estate agents

997. Persons acting as real estate agents are licensed by the Ministry of Economics and Development of Turkmenistan, pursuant to the Regulations for the said Ministry approved by Resolution of the President of Turkmenistan No. 9515 dated February 14, 2008. However, the Ministry's powers pertaining to checking compliance with the AML/CFT requirements lack clarity. The Ministry's powers pertaining to checking the real estate agents for compliance with the requirements of the AML/CFT laws, applying disciplinary actions and sanctions for their violation, and requesting any data, documents or information required for compliance monitoring purposes, or provide access thereto should be set forth in sufficient detail.

998. The Regulations for Licensing Real Estate Agents' Activities approved by Resolution of the President of Turkmenistan No. 10496 dated June 25, 2009, need to be improved to restrict the involvement of criminals in managing/owning real estate organizations, including by providing for a statutory prohibition for having a bad reputation or outstanding convictions. Besides, these Regulations should provide for and clearly state the powers pertaining to checking the real estate agents' activities (including for compliance with the requirements of the

AML/CFT laws), and applying disciplinary actions and sanctions for their violation. It would be advisable to adopt regulations intended specifically for handling these issues.

999. No information on monitoring the accountants' activities has been provided.

Recommendation 25

1000. Supervisory authorities and FIU have not issued any guidelines describing the ML/FT techniques and methods.

4.3.2. Recommendations and Comments

Recommendation 24

1001. Turkmenistan should provide for the legislative measures ensuring efficient supervision of the casinos' compliance with the AML/CFT measures, including by taking additional measures precluding criminals from managing/owning casinos, including by providing for a statutory prohibition for having a bad reputation or outstanding convictions. Turkmenistan also needs to improve its casino licensing practices, by incorporating relevant AML/CFT provisions.

1002. The activities pursued by the dealers in precious metals and precious stones and other DNFBPs should be effectively monitored for compliance with the AML/CFT measures.

Recommendation 25

1003. Supervisory bodies should issue special guidelines (describing, *inter alia*, new ML/FT trends and typologies) for the DNFBPs to help the DNFBPs fulfill their obligations more effectively. These guidelines should allow for the specificities of the activities carried out by the supervised persons.

4.3.3. Compliance with Recommendations 24 and 25 (criteria 25.1, DNFBPs)

	Rating	Summary of factors underlying overall rating
R.24	NC	<ul style="list-style-type: none"> • There are no powers of the supervisory bodies relating to the supervision of, and imposition of sanctions on, casinos and other DNFBPs for failure to comply with the AML/CFT requirements in the sectoral laws and regulations for such supervisory bodies; • Casino licensing procedure doesn't include the AML/CFT requirements; • Low level of effectiveness of the DNFBPs' AML/CFT monitoring practices and regulatory framework; • Turkmen laws do not provide for the necessary measures in respect of trusts and organizations which establish and service legal entities;

		<p>and</p> <ul style="list-style-type: none"> • It appears that no monitoring procedures apply to accountants.
R.25	NC	<ul style="list-style-type: none"> • No special private sector guidelines (describing, <i>inter alia</i>, new ML/FT trends and typologies) to help financial institutions fulfill their obligations more effectively have been issued. <p>See other factors underlying rating in Section 3.7 and 3.10 of this Report.</p>

4.4. Other Non-Financial Businesses and Professions. Modern Secure Transaction Techniques (R.20)

4.4.1. Description and Analysis

Recommendation 20

1004. Besides the financial institutions and the DNFBPs, AML/CFT measures also apply to pawnshops, auditors, and organizations conducting lotteries and other risk-based games. These organizations are subject to the same requirements of the basic AML/CFT Law as the financial institutions.

1005. For the purpose of improving the monetary system of Turkmenistan, promoting non-cash settlements, accelerating the turnover of funds within the national economy, and attracting the population's cash funds into cashless payment systems by encouraging the use of international and local bank cards, the Regulations for Using Payment Card Systems in Turkmenistan were approved by Resolution of the President of Turkmenistan No. 5393 dated October 01, 2001.

1006. The currency of Turkmenistan is the manat. One US dollar equals 3.5 manats. Money in circulation are represented by banknotes and coins issued by the Central Bank of Turkmenistan. According to the information provided by the Ministry of Finance of Turkmenistan to the assessors, the monetary funds were redenominated in January 2010, at the rate of 5000 old manats to 1 new manat.

1007. The maximum denomination of Turkmen banknotes is 100 manats (approximately 30 US dollars).

1008. According to the information provided by the representatives of Turkmenistan during the visit, cash settlements between legal entities are forbidden. This prohibition reduces the risk of money laundering using cash.

4.4.2. Recommendations and Comments

1009. This Recommendation has been complied with in full.

4.4.3. Compliance with Recommendation 20

	Rating	Summary of factors underlying overall rating
R.20	C	<ul style="list-style-type: none">• This Recommendation has been complied with in full.

5. LEGAL ENTITIES AND ARRANGEMENTS, AND NOT-FOR-PROFIT ORGANIZATIONS

5.1. Legal Entities: Access to Information on the Beneficial Owners of, and the Persons Controlling the, Legal Entities (R.33)

5.1.1. Description and Analysis

Recommendation 33

1010. Issues relating to state registration and liquidation of the for-profit and not-for-profit organizations are regulated by Resolution of the President of Turkmenistan No. 8054 dated September 08, 2006, “On the Regulations for Improving the State Registration of Legal Entities and Investment Projects, and the State Registration and Liquidation (Termination of Business) of Economic Entities”.

1011. The authority which registers legal entities with the State and with the Unified State Register of Legal Entities is the Department for State Registration of Legal Entities and Investment Projects of the Ministry of Economics of Turkmenistan. The Department has local branches at the Finance and Economics Headquarters of the country’s oblasts and of Ashkhabad (hereinafter the “local branches”).

1012. All enterprises (their branches and representative offices) and other entities (other than unincorporated sole entrepreneurs and entities that are subject to special registration procedures) having the legal capacity provided for by Turkmen laws and operating in Turkmenistan must be registered with the State and the Register. Also, the information on enterprises (their branches and representative offices), organizations, and institutions of Turkmenistan registered abroad must be registered with the Register.

1013. Applicants intending to have a legal entity (legal entity’s branch or representative office) registered with the State, personally submit the documents (drawn up in Turkmen and Russian) required by Turkmen regulations and the Regulations for Taking Account of, and Registering, Legal Entities with the State, to the Registration Office. Documents drawn up in other foreign languages must be accompanied by their copies translated into Turkmen or Russian and attested in the prescribed manner.

1014. Documents which comply with the requirements of the Regulations are accepted by the Registration Office (local branch), and the respective entry is made in the applications register. Documents accepted by the Registration Office (local branch) are subject to an expert review on the basis of which the relevant resolution is issued.

1015. Resolution of the Registration Office to grant (deny) registration with the State becomes effective pursuant to the resolution of the Interagency Commission for Registering Legal Entities

with the State. Regulations for the Interagency Commission are approved by the supervising Deputy Prime Minister of Turkmenistan.

1016. Resolution of the President of Turkmenistan No. 8054 dated September 08, 2006, provides that the Interagency Commission for Registering Legal Entities with the State shall consist of representatives of various ministries and agencies of Turkmenistan.

1017. Pursuant to the resolution of the Interagency Commission, a provisional extract from the Register (drawn up in the form corresponding to that given in annex No. 1) is issued (along with the copy of the articles of association approved by the Ministry of Economics and Finance of Turkmenistan) to the registration seeker. The entity then submits these to the statistics authority (to obtain statistical codes), tax authority (to register for tax purposes), and to a banking institution (to open an account). Registering the entity for statistical and tax purposes and opening an account is done within three business days from the day on which resolution to grant registration is passed. Once these procedures have been completed, the entity is issued with the extract from the Register and the Certificate of State Registration. The Certificate is valid only if accompanied by the extract from the Register.

1018. According to the law “On the Joint-Stock Companies of Turkmenistan” dated November 23, 1999, companies (including those established with the participation of foreign capital or by privatizing state enterprises) are registered with the State in the order prescribed by Turkmen laws. Company information from the State Register of Legal Entities must be regularly published by registration authorities in the newspapers of public record.

1019. Newly established non-state enterprises, their branches and representative offices are registered with the State, as well as with the Register, pursuant to the resolution of its founder(s).

1020. Documents submitted for registration:

Standard application form;

The resolution to establish an enterprise (branch or representative office) drawn up in the form of a protocol, agreement, or other document provided for by Turkmen laws, or the resolution of the Cabinet of Ministers of Turkmenistan (in the case of an enterprise in which the State has an interest), and a copy of the founder’s (being an individual) passport;

Constitutional documents (articles of association, regulations) in duplicate;

A document evidencing that the contribution has been assessed (if the contribution to the newly established enterprise is made in non-monetary form);

A document evidencing that the relevant part of the authorized capital has been paid before registering the enterprise with the State;

A document evidencing that the enterprise has a registered address; and

A document evidencing that the registration fee has been paid.

1021. Newly established enterprises with the participation of foreign investments and their affiliates, as well as branches and representative offices of foreign legal entities are registered with the State, as well as with the Register, pursuant to the resolution of its founder(s), or the resolution of the Cabinet of Ministers of Turkmenistan (in the case of an enterprise in which the State has an interest).

1022. Documents submitted for registration:

Standard application form;

The resolution to establish an enterprise (branch or representative office) drawn up in the form of a protocol, agreement, or other document provided for by Turkmen laws, or the resolution of the Cabinet of Ministers of Turkmenistan (in the case of an enterprise in which the State has an interest);

Constitutional documents (articles of association, regulations) in duplicate;

A copy of the articles of association of the foreign founder legalized in the prescribed manner by the consular office of Turkmenistan located abroad or the Ministry of Internal Affairs of Turkmenistan, unless an international treaty to which Turkmenistan is a party provides otherwise;

An extract with information on the foreign founder from the commercial register issued by such founder's local registration authority and a letter of recommendation from the bank (a letter of recommendation from the bank and a copy of passport in the case of the individuals not resident in Turkmenistan) legalized in the prescribed manner by the consular office of Turkmenistan located abroad or the Ministry of Internal Affairs of Turkmenistan, unless an international treaty to which Turkmenistan is a party provides otherwise;

A document evidencing that the contribution has been assessed (if the contribution to the newly established enterprise is made in non-monetary form);

A document evidencing that the relevant part of the authorized capital has been paid before registering the enterprise with the State;

A document evidencing that the enterprise has a registered address;

Personal details and a copy of passport of the founder(s) (if the founder is an individual) and of the manager; power of attorney executed in the prescribed manner in the name of the manager of the branch or representative office; and

A document evidencing that the registration fee has been paid.

1023. Therefore, the analysis of the laws applicable to the registration of legal entities suggests that, at the time of submission of the registration documents, authorized government agencies do not attempt to identify beneficial owners of, and persons controlling the, legal entities.

1024. Registration of a legal entity with the State may be denied if:

The activities pursued by the registration seeker are prohibited by Turkmen laws;

The resolution to establish an enterprise contradicts Turkmen laws; and

In other cases provided for by Turkmen laws.

1025. The above information suggests that Turkmen laws do not ensure sufficient transparency in respect of the beneficial owners of, and the persons controlling the, legal entities.

1026. According to the AML/CFT Law, Turkmen FIU may access (use) the databases (registers) which are established and (or) maintained by government agencies. It should be noted that law-enforcement agencies may also access the Register of Legal Entities for investigation purposes. However, such access does not allow them to identify the beneficial owners of, and the persons controlling the, legal entities.

1027. According to the Law “On the Joint-Stock Companies”, joint-stock companies may issue registered shares only (article 17 of the Law).

5.1.2. Recommendations and Comments

1028. In order to comply with the AML/CFT requirements, Turkmenistan needs to amend the existing procedures for registering legal entities.

1029. Turkmenistan needs to provide for legislative measures aimed at identifying and verifying the information on beneficial owners of legal entities.

5.1.3. Compliance with Recommendation 33

	Rating	Summary of factors underlying overall rating
R.33	PC	<ul style="list-style-type: none"> • No legislative measures for identifying and verifying the information on beneficial owners of legal entities are in place; and • Existing procedures for the registration of legal entities are not used for AML/CFT purposes.

5.2. Legal Arrangements: Access to Information on the Beneficial Owners of, and the Persons Controlling the, Legal Arrangements (P.34)

5.2.1. Description and Analysis

Recommendation 34

1030. No legal arrangements, including trusts, in the sense in which these terms are used in the FATF Recommendations, may be established in Turkmenistan, since Turkmen legal system, just as the legal systems of other countries maintaining continental legal tradition, forbids splitting the title, i.e. transferring the legal title to the relevant property to the trustee, along with the burden of ownership, and the equitable title, to the beneficiary.

1031. Turkmen laws provide for an arrangement called “trust management”, which differs from the trusts established in the countries which use the common law systems, due to its being merely a variation of commitment relations. For example, according to article 736 of the Civil Code, “placing a property into a trust management does not entail the transfer of the title thereto to the trustee”, thus contradicting the fundamental condition for creating a trust. Nor the notion matches the definition of “settlor” given in the FATF Methodology, which provides for the “transfer of the right to possess property”. The trust management may be carried out by both legal entities and individuals in respect of enterprises, other assets, and exclusive rights. When interacting with third parties, the trustee acts as the owner exercising the owner’s powers.

1032. Turkmen laws do not forbid Turkmen nationals to participate in the trusts established abroad. The law applicable in this case shall be the law chosen by the parties or, if no law is chosen, by the law of the country in the closest connection with the trust.

5.2.2. Recommendations and Comments

1033. Not applicable.

5.2.3. Compliance with Recommendation 34

	Rating	Summary of factors underlying overall rating
R.34	N/A	Not applicable

5.3. Not-For-Profit Organizations (SR.VIII)

5.3.1. Description and Analysis

Special Recommendation VIII

1034. The activities carried out by the not-for-profit organizations in Turkmenistan are regulated by Resolution of the President of Turkmenistan No. 8054 dated September 08, 2006, “On the Regulations for Improving the State Registration of Legal Entities and Investment Projects”, the Law “On Public Associations”, the Law “On Freedom of Religion and Religious Organizations”, and by Resolution of the President of Turkmenistan No. 6539 “On Registration of Religious Organizations”. According to the national laws, NPOs of two kinds may operate in Turkmenistan: public associations and religious organizations.

Public associations

1035. According to article 6 of the Law “On Public Associations”, public associations subdivide into public organizations, social movement organizations, public funds, and grassroots organizations.

1036. All public associations are registered with the Ministry of Economics and Development of Turkmenistan. Public associations whose charters provide for participation in elections may not accept financial and other assistance intended for preparing and holding elections from foreign states, organizations, or individuals.

1037. Public associations are registered subject to the submission of the following documents: the application; the charter of the public association in duplicate; the minutes of the foundation meeting (conference) or a general meeting evidencing the establishment of the public association, approval of its charter, and establishment of the management body and internal control bodies; a document with the information on the founders; a document evidencing payment of the registration fee; a document evidencing that the public association has a

registered address.

1038. Registration of an international public association requires, in addition to the abovementioned documents, a document evidencing the existence of an overseas unit (organization, department (branch), or representative office) located outside Turkmenistan. Registration of the units of overseas public associations in Turkmenistan also requires the submission, in the prescribed manner, of notarized copies of the constitutional documents of the parent public association established abroad.

1039. According to article 25 of the above Law, public associations may finance their activities from the following sources:

- Admission fee and membership fees;
- Voluntary contributions and donations;
- Special-purpose financing and contributions (in the form of grants) made by legal entities, including overseas not-for-profit and state-financed organizations, in the manner prescribed by Turkmen laws;
- Earnings from lectures, exhibitions, lotteries, auctions, sports and other events held in accordance with the public association's charter;
- Income from entrepreneurial activities and civil transactions; and
- Other earnings not prohibited by Turkmen laws.

1040. According to article 27 of the Law "On Public Associations", a public association may carry out the entrepreneurial activities provided for by its charter, subject to using the income earned therefrom for attaining the objectives specified in the charter only. Public associations carry out entrepreneurial activities in accordance with the Civil Code of Turkmenistan and other Turkmen regulations.

1041. According to article 28 of the above Law, compliance of the activities pursued by public associations with their statutory objectives is monitored by the Ministry of Justice of Turkmenistan. The Ministry may request constitutional documents from the management bodies of public associations; participate, through its representatives, in the events held by public associations; obtain explanations from members of public associations and other individuals regarding compliance with the charter; send warning letters to public associations upon discovering that such public associations violate Turkmen laws or do other things inconsistent with their statutory objectives.

1042. Should a public association be sent two warning letters or requests to remedy the discovered violations, within a year, or fail to provide, within a year, the Ministry of Justice of Turkmenistan with the updated information that is subject to registration, the Ministry may file an application for liquidation of the public association.

1043. The sources of public associations' income, the amounts of funds received, and the taxes paid are monitored by the financial and tax authorities in accordance with Turkmen laws.

1044. The Ministry of Justice of Turkmenistan provides, in the manner prescribed by Turkmen laws, the FIU with the information on grants, as well as projects and programs for the provision

of foreign financial and humanitarian aid of a value which exceeds the threshold amount or is unusual for the public association receiving the aid.

1045. It should be noted that the threshold amount requiring the submission of suspicious transaction reports is set at too high a level: 200,000 US dollars in the case of transactions with funds and 500,000 US dollars in the case of transactions with other property. It remains questionable whether the AML/CFT mechanisms in the NPO sector operate properly and are efficient.

Religious organizations

1046. According to article 8 of the Law “On Freedom of Religion and Religious Organizations”, a religious organization is a voluntary association of Turkmen nationals established for the purpose of collective confession and propagation of their faith, performing worship services and other services and ceremonies and registered in the manner prescribed by Turkmen laws.

1047. Religious organizations are registered in accordance with article 11 of the above law by the Ministry of Justice of Turkmenistan. Religious organizations become legal entities upon being registered and entered into the Unified State Register of Legal Entities.

1048. Religious organizations are registered subject to the submission of the following documents: the application signed by the religious organization’s founders and members, setting out their place of residence, full names, and birth dates; the religious organization’s charter; the minutes of the foundation meeting; a document evidencing that the religious organization’s registered address; a document evidencing payment of the registration fee. The application for registration of a religious organization is dealt with within one month from the date of submission. The Ministry of Justice of Turkmenistan may request additional materials and obtain an expert opinion from the relevant authorities.

1049. According to article 7 of the Law “On Freedom of Religion and Religious Organizations”, activities of religious organizations are regulated by the Department for Religious Affairs under the President of Turkmenistan. The Department establishes, in accordance with its powers, a data bank in respect of religious organizations operating in Turkmenistan.

1050. According to article 10 of the law, religious organizations may carry out their activities pursuant to a charter only. Religious organizations may not engage in the activities promoting terrorism (article 5 of the Law).

1051. The activities carried out by religious organizations are monitored by the Ministry of Justice of Turkmenistan in accordance with article 25 of the law. The Ministry may request constitutional documents from the management bodies of religious organizations; participate, through its representatives, in the events held by religious organizations; obtain explanations from members of religious organizations and other individuals regarding compliance with the charter; send warning letters (setting out the grounds for sending the warning) to religious organizations upon discovering that such religious organizations violate Turkmen laws or do other things inconsistent with their statutory objectives.

1052. Should a religious organization be sent two warning letters or requests to remedy the discovered violations, within a year, or fail to provide, within a year, the Ministry of Justice of Turkmenistan with the updated information that is subject to registration, the Ministry may file an application for liquidation of the religious organization.

1053. Resolution of the President of Turkmenistan No. 6539 “On Registration of Religious Organizations” requires that religious organizations submit information on the initiators of their establishment. However, the Resolution neither defines the term “initiators” nor sets forth the procedure for the provision of documents thereon.

1054. Therefore, a conclusion may be drawn that the laws do not require that an NPO be registered with the submission of documents relating to its founders and potential owners, and do not provide for the procedure for ascertaining the beneficial owner.

1055. At the same time, it should be noted that Resolution of the President of Turkmenistan No. 6446 dated 2003, sets forth the procedure for registering grants, as well as projects and programs for the provision of foreign technical, financial, and humanitarian aid to public associations and religious organizations registered in Turkmenistan.

1056. The said procedure prescribes how to register grants, as well as projects and programs for the provision of foreign technical, financial, and humanitarian aid with the State, and maintain the Unified State Register of foreign technical, financial, and humanitarian aid and grants (hereinafter the “Register”).

1057. Registration of grants, as well as projects and programs for the provision of foreign technical, financial, and humanitarian aid (described in sufficient detail) with the State constitutes final official administrative act authorizing implementation of such projects, programs, and provision of such grants in accordance with the current Turkmen laws.

1058. The Register constitutes an arranged data collection which includes information on all kinds of the aid and grants registered in Turkmenistan and provided by foreign states, international organizations, financial institutions, overseas companies, public associations, religious organizations, and foreign nationals to their recipients in Turkmenistan.

1059. The projects and programs are registered subject to the submission of the following documents: a document specifying the grounds for the conclusion of the relevant contract (governmental agreement, etc.); resolution of the recipient’s management; recipient’s scope statement; contract and/or agreement for a project or program for the provision of foreign technical, financial, and humanitarian aid and grants; information on the parties to the project; a brief summary of implementation progress of the relevant project, program, or grant at the time of submission of the application; a power of attorney or other document evidencing the powers of the coordinator of the relevant project, program, or grant; the final report on the accomplished project, program, or grant. The documents must be drawn up in Turkmen and Russian. Documents drawn up in other foreign languages must be accompanied by attested translations into Turkmen and Russian.

1060. It should be noted that although the established system does provide for appropriate

monitoring of the funds received by NPOs from abroad, it is not used for combating the financing of terrorism. In particular, the system does not aim to identify the beneficiary owners of the NPOs, or the persons controlling or managing their activities, including senior officers, board members, and trustees.

1061. Certain failures to satisfy other criteria of SR VIII should also be mentioned. In particular, Turkmenistan has not been taking any steps to ensure regular assessment of the NPO sector for potential vulnerability to being used for the financing of terrorism.

1062. Turkmenistan does not take the appropriate measures to protect the NPO sector from being used for the FT purposes.

1063. Turkmenistan has not reviewed the current laws in respect of the not-for-profit organizations. Turkmenistan has failed to provide any examples of measures taken to raise the awareness of the FT risks associated with this sector and improve the transparency of NPOs' financial environment and management.

1064. All investigation and cooperation mechanisms available to the law-enforcement and other authorities have been addressed in R. 27, 28, and 31, and are used in respect of the NPOs.

5.3.2 Recommendations and Comments:

1065. Turkmenistan should take all necessary measures to amend its laws so as to ensure compliance with all provisions of Special Recommendation VIII.

5.3.3 Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	PC	<ul style="list-style-type: none"> • No measures are taken to identify the FT risks in the NPO sector; • No measures are taken to identify characteristics and types of the NPOs vulnerable to the FT; • No methods for reviewing new information on potential vulnerability of the sector to terrorist activities are available; • No clear-cut mechanisms for identifying beneficiary owners of the NPOs, or the persons controlling or managing their activities, including senior officers, board members, and trustees, are in place: and • NPOs' transparency and accountability raise concerns.

6. NATIONAL AND INTERNATIONAL COOPERATION

6.1. National Cooperation and Coordination (R.31)

6.1.1. Description and Analysis

1066. In Turkmenistan, there are no regulations empowering the Financial Monitoring Authority to coordinate activities of agencies that participate in anti-money laundering and combating the financing of terrorism. By the period of the mission, appraisers were informed that no coordinating authority had been established for the purposes of ensuring concerted action of government agencies in AML/CFT.

1067. The State Anti-Terrorism Commission has been established in Turkmenistan by now, though it fails to give due consideration to AML/CFT issues. Generally, political coordination of AML/CFT issues requires greater attention.

1068. By the time of appraisal by the competent authority of Turkmenistan, no Agreements pertaining to AML/CFT have been executed with state authorities concerned.

1069. Issues concerning operational coordination among law-enforcement authorities were considered in section 2.6 of the report.

Efficiency

1070. Cooperation between FIUs and law-enforcement authorities on the issues of AML/CFT is generally inefficient, since there is no coordinating authority and no agreements on AML/CFT with the state authorities concerned.

Additional Issues

1071. During appraisal, no system for provision of mutual consultations among competent authorities, financial sector and other sectors (including DNFBP) has been established.

6.1.2. Recommendations and Comments.

1072. A mechanism for cooperation/coordination of the law-enforcement and supervisory authorities in development of the integrated AML/CFT policy should be created.

6.1.3. Compliance with Recommendation 31.

	Rating	Summary of Underlying Factors
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R.31	NC	<ul style="list-style-type: none"> • There is no mechanism in place for cooperation/coordination of the law-enforcement and supervisory authorities in development of the integrated AML/CFT policy. ..
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6.2. United Nations Conventions and Special Resolutions (R.35 and SR.I)

6.2.1. Description and Analysis

Recommendation 35

1073. According to Turkmenistan officials, multilateral conventions with Turkmenistan as a state party include:

- United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. Vienna Convention was ratified by Turkmenistan on June 18, 1996 pursuant to the resolution of the Turkmenistan Parliament;
- United Nations Convention against Transnational Organized Crime, 2000. Turkmenistan joined the Palermo Convention on April 14, 2005;
- United Nations International Convention for the Suppression of the Financing of Terrorism, 1999 was ratified by Turkmenistan on January 7, 2005.

1074. The level of Conventions implementation is affected by insufficient degree of ML and FT criminalization, which is described in detail in respective sections of the report (see Recommendation 1 and Special Recommendation II).

1075. Alongside with that, some aspects of the Palermo Convention are not adequately implemented, viz. *Art. 18: cl. 1 (b) as pertaining to identification of beneficial owners*.

Additional Issues

1076. The problem of joining the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime, 1990 was not considered.

1077. No information has been provided on whether Turkmenistan is the member to the Agreement of Members-States of the Commonwealth of Independent States Concerning Anti-Money Laundering and the Financing of Terrorism that was signed on October 5, 2007, in Dushanbe. No information concerning ratification of the Agreement were provided to appraisers.

Special Recommendation II

1078. Turkmenistan joined the United Nations International Convention for the Suppression of the Financing of Terrorism, 1999. The Convention implementation is affected by FT criminalization, which is described in detail in respective sections of the report (see Special Recommendation II).

6.2.2. Recommendations and Comments

Recommendation 35

1079. Turkmenistan must fully implement provisions of:

- Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism in terms of criminalization of nuclear theft and illegal actions against fixed platforms located at continental shelf;

1080. It is necessary that Turkmenistan considers the issue of ratification/joining the Agreement of Members-States of the Commonwealth of Independent States Concerning Anti-Money Laundering and the Financing of Terrorism that was signed on October 5, 2007, in Dushanbe.

Special Recommendation I

1081. Turkmenistan should implement provisions of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism in terms of criminalization of nuclear theft and illegal actions against fixed platforms located at continental shelf.

6.2.3. Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of Underlying Factors
R.35	LC	<ul style="list-style-type: none">Provisions of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism are not observed in terms of criminalization of nuclear theft and illegal actions against fixed platforms located at continental shelf.
SR.I	PC	<ul style="list-style-type: none">Provisions of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism are not observed in terms of criminalization of nuclear theft and illegal actions against fixed platforms located at continental shelf.Shortcomings in implementation of United Nations Security Council Resolutions 1267 and 1373.

6.3. Mutual Legal Assistance (R.36-38, SR.V)

6.3.1. Description and Analysis

Recommendation 36

1082. In Turkmenistan, international agreements (bilateral and multilateral), the Constitution and the National Law form legal framework for mutual legal assistance (MLA). Turkmenistan is the party to many UN and CIS principal treaties on provision of international legal assistance in criminal proceedings.

1083. Bilateral treaties and agreements on legal matters were signed with the Republic of Azerbaijan, the Republic of Armenia, the Republic of Belarus, the Republic of Georgia, the Islamic Republic of Iran, the People's Republic of China, the Republic of Kazakhstan, the Slovak Republic, the Russian Federation, the Republic of Uzbekistan, Ukraine and other states. Application thereof in one case or another depends on the particular motion of the requested party and on availability of effective regulatory documents. **The complete list of executed agreements is given in Appendix 7.**

1084. Within the CIS, Turkmenistan is the party to the following international treaties concerning mutual legal assistance.

- Convention on the Legal Assistance and Legal Relations in Civil, Family and Criminal Cases signed in Minsk on January 22, 1993. In effect for Turkmenistan since May 19, 1994 (date of ratification, approval).
- Agreement on Legal Information Exchange signed in Moscow in October 1994, joined by Turkmenistan on February 10, 1995.

1085. Legal relationships with the states that have not signed regulatory documents concerning legal assistance are governed by provisions of the respective international conventions ratified by Turkmenistan. If the respective international treaty with Turkmenistan does not exist, international legal assistance in criminal proceedings shall be based on the principle of reciprocity.

1086. **The fundamental regulatory document governing MLA issues is the Criminal Procedure Code of the Republic of Turkmenistan.** According to art. 542-549 of the Criminal Procedure Code of Turkmenistan (as amended in 2009, article 52 'Legal Assistance in Criminal Proceedings'), procedural actions stipulated in the Code and other actions envisaged by other laws and international treaties of Turkmenistan may be taken in order to provide legal assistance to investigatory agencies and courts of foreign states that have international treaties on legal assistance with Turkmenistan, or on a mutually agreed basis. According to these regulations, legal assistance may be provided through execution of single procedural actions, viz. by means of search, taking out and seizure of property; sending and delivery of material evidence; interrogation of accused, witnesses and experts; examination of parties and other persons; judicial survey, service of process, sending case files; execution and sending of documents; execution of other procedural actions.

1087. Described and 'other' investigatory actions performed in rendering of MLA are fully compliant with the existing provisions of Recommendation 36.

1088. The Criminal Procedure Code provides elaborate regulation of each procedural step in rendering various types of MLA, which ensures prompt, positive and efficient adoption of the respective measures. This work is envisaged *inter alia* by organization and establishment of the General Prosecutor's Office where all operations in the sphere of international cooperation are performed by the *Foreign Relations Office*.

1089. Relations with foreign law-enforcement authorities that have no agreements on legal assistance with Turkmenistan are managed by the Foreign Office of Turkmenistan.

1090. Legislation of Turkmenistan contains no provisions that could excessively restrict rendering of MLA. Since tax crimes are predicate in relation to ML, there are no limits for execution of MLA requests concerning tax cases. At the same time it should be pointed out that there exists no procedure for determination of the optimum territorial jurisdiction.

1091. The CPC regulations concerning MLA make no special provision to accessing documents that constitute financial secret, which would be different from general rules envisaged by the CPC on this issue.

Recommendation 37

1092. In execution of MLA requests according to cl. 6 of art. 545 of the CPC of Turkmenistan, the text of the MLA request should contain reference to the article of the Criminal Code of Turkmenistan that describes elements of a similar crime ('information about actual circumstances of the crime and its classification, text of the respective article of the Criminal Code of Turkmenistan'). Besides, at the meeting of appraisers and representatives of the Supreme Court it was explained that technical differences in legislation of the states produce no obstacle for rendering of MLA, including that in case of extradition. In other cases, MLA shall be provided to the maximum possible extent based on the principles of reciprocity and in compliance with the legislation of Turkmenistan.

1093. Upon receipt from the foreign competent authority of a request executed in compliance with all rules, provided there exist statutory grounds for extradition of a person, such person may be apprehended and arrested for purposes of extradition (as a restraint).

1094. According to art. 553 of the CPC of Turkmenistan, in the following cases extradition is not applied or the extradition request is dismissed, if:

- 1) the person being the subject of the extradition request of a foreign state is the citizen of Turkmenistan;
- 2) Turkmenistan has granted the right asylum to the person requested for extradition;
- 3) the deed that makes a ground for the extradition request is not recognized as a crime according to the legislation of Turkmenistan;
- 4) the person has been already sentenced for the crime in question, or proceedings in the case have been terminated;
- 5) criminal proceedings may not be instituted, or sentence may not be enforced under the law of Turkmenistan due to expiry of periods of limitations or any other statutory grounds.

6). Extradition may be refused, if the crime making the ground for extradition request was committed inside or outside the territory of Turkmenistan, but directed against the interests of Turkmenistan.

1095. If the extradition request may not be executed, all received documents (with explanation of reasons that prevent execution of the request) shall be returned by the receiving agency or via diplomatic channels to the competent authority of the foreign state that filed the request. The request shall be returned without being executed, if it either contradicts the law of Turkmenistan, or if execution thereof may impair sovereignty, national independence, politics and permanent neutrality, or national security of Turkmenistan.

Recommendation 38

1096. International investigatory instructions and requests concerning implementation of procedural actions in the territory of Turkmenistan including those pertaining to property confiscation shall be executed in accordance with, and in line with procedures set out in, the Criminal Procedure Code.

1097. This being the case, general rules envisaged by the Criminal Procedure Code apply to ML/FT. In order to ensure enforcement of judgment for tort, other recoveries of property or potential property confiscation, interrogating officer, investigator, prosecutor, judge, or court shall have the right to seize the property of the suspected, accused, defendant or any individuals who are financially liable for their actions according to the law of Turkmenistan (art.169 of the Criminal Procedure Code).

1098. As with implementation of Recommendation 3, rendering of mutual legal assistance obviously makes no provision for confiscation of property of the equivalent value or for the indirect proceeds of crime. Also, Turkmenistan cannot render mutual legal assistance relating to the confiscation of proceeds derived from insider trading and market manipulation, since these actions are not criminalized.

1099. According to Article 52 of the Criminal Procedure Code of Turkmenistan, the procedure for rendering MLA to foreign states has been established. Thus, according to art. 542, procedural actions stipulated in the Code and other actions envisaged by other laws and international treaties of Turkmenistan may be taken in order to provide legal assistance to investigatory agencies and courts of foreign states that have international treaties on legal assistance with Turkmenistan, or on a mutually agreed basis.

1100. Also, Article 52 stipulates the procedure for cooperation in rendering legal assistance, subject matter of requests for execution of procedural actions, provisions for execution of MLA requests. It should be noted in this respect that the due procedure and mechanisms for rendering of MLA in criminal suit to foreign states exist in Turkmenistan.

1101. According to information provided by the Turkmen party, an appropriate pool of confiscated property has been established in Turkmenistan, which is meant to support law-enforcement authorities, though this is a general pool. On the other hand, no legislative

instruments regulating the procedure and arrangements for distribution of confiscated property were provided.

1102. By the period of the visiting mission inspection, no mechanism has been established with regard to distribution of confiscated property among the states whose coordinated actions resulted in property confiscation.

Efficiency

1103. Turkmenistan failed to submit statistics on mutual legal assistance and property confiscation, which renders evaluation of the system efficiency impossible.

6.3.2. Recommendations and Comments

1104. Turkmenistan should develop the procedure for selection of the optimum territorial jurisdiction in order to ensure due legal prosecution of the accused which are liable to legal prosecution in more than one state.

1105. It is necessary to maintain statistical records of international requests for MLA in terms of ML and FT, of predicate crimes, and of the nature, results and terms of execution of such requests.

1106. Turkmenistan should introduce the standard for confiscation of property of the equivalent value, develop and apply the procedure for coordination of actions taken jointly with foreign states in order to seize or confiscate the property, and to distribute such property afterwards, if the property was confiscated with assistance of competent authorities of a foreign state.

6.3.3. Compliance with Recommendation 36-38 and Special Recommendation V

	Rating	Summary of Underlying Factors
R.36	LC	<ul style="list-style-type: none"> • The Criminal Procedure Code and other regulatory documents stipulate no procedures for selection of the optimum venue (jurisdiction) for prosecution of the accused; • Turkmenistan failed to submit statistics on mutual legal assistance, which renders evaluation of the system efficiency impossible.
R.37	C	This Recommendation is fully complied with.
R.38	PC	<ul style="list-style-type: none"> • No provision was made for confiscation of property of equivalent value; • Turkmenistan failed to submit statistics on mutual legal

		<p>assistance, which renders evaluation of the system efficiency impossible;</p> <ul style="list-style-type: none"> • Shortcomings in ML criminalization may restrain potential execution of confiscation; • Turkmenistan failed to consider the issue of distribution of confiscated property among competent authorities of the states whose actions contributed to property confiscation.
SR.V	PC	<ul style="list-style-type: none"> • The Criminal Procedure Code and other regulatory documents stipulate no procedures for selection of the optimum venue (jurisdiction) for prosecution of the accused; • No provision was obviously made for confiscation of property of equivalent value; • Turkmenistan failed to submit statistics on mutual legal assistance, which renders evaluation of the system efficiency impossible; • Turkmenistan failed to consider the issue of distribution of confiscated property among competent authorities of the states whose actions contributed to property confiscation.

6.4. Extradition (R.37, 39 and SR.V)

6.4.1. Description and Analysis

1107. According to the criminal law of Turkmenistan, money laundering, terroristic acts and financing of terrorism are criminal offenses that in certain cases provide grounds for extradition. The procedure for international extradition is governed by Art. 550-560 of the Criminal Procedure Code of Turkmenistan and is implemented in accordance with provisions of international treaties and agreements.

1108. The Criminal Procedure Code makes no provision for extradition from Turkmenistan to foreign states; it only stipulates conditions that makes extradition to the foreign state impossible. Grounds for extradition refusal according to Art. 553 of the Criminal Procedure Code of Turkmenistan are as follows:

- 1) the person being the subject of the extradition request of a foreign state is the citizen of Turkmenistan;
- 2) Turkmenistan has granted the right asylum to the person requested for extradition;

3) the deed that makes a ground for the extradition request is not recognized as a crime according to the legislation of Turkmenistan;

4) the person has been already sentenced for the crime in question, or proceedings in the case have been terminated;

5) criminal proceedings may not be instituted, or sentence may not be enforced under the law of Turkmenistan due to expiry of periods of limitations or any other statutory grounds.

6) extradition may be refused, if the crime making the ground for extradition request was committed inside or outside the territory of Turkmenistan, but directed against the interests of Turkmenistan.

1109. The request of the foreign competent authority concerning the extradition (for the purposes of further criminal investigation) of a citizen of Turkmenistan having committed an offense in the foreign territory and returned to Turkmenistan shall be considered by the General Prosecutor of Turkmenistan. In such case, preliminary investigation and judicial proceedings shall be carried out in compliance with the Code.

1110. The legal validity of evidence obtained by a competent authority or an official within their competence in the course of investigation of the case in the territory of the foreign state shall be equal to that of already existing evidence, if investigation continues in Turkmenistan.

1111. If a citizen of Turkmenistan commits a criminal offense in the foreign territory and returns to Turkmenistan prior to institution of a criminal case, the criminal case against such person may be instituted according to the present Code by preliminary investigation authorities of Turkmenistan based on case materials and records pertaining to such crime provided by competent authorities of the foreign state to the General Prosecutor of Turkmenistan. Authority in charge of maintaining the criminal case shall notify the General Prosecutor of Turkmenistan of final judgment in the case and submit a copy of the judgment to the General Prosecutor.

1112. If no international treaty exists, perpetrators may be extradited to foreign states based on the principle of reciprocity including extradition under the respective signed and ratified International Conventions, provided that the law of Turkmenistan is complied with. However, Turkmenistan cannot render extradition in relation to ML of proceeds derived from insider trading and market manipulation, since these actions are not criminalized.

Additional Issues

1113. The existing legislation of Turkmenistan makes no provision for simplified extradition procedure through direct exchange of extradition requests between the respective national departments.

Recommendation 37

1114. In execution of MLA enquiries according to cl. 6 of art. 545 of the CPC of Turkmenistan, the text of the MLA enquiry should contain reference to the article of the Criminal Code of Turkmenistan that describes elements of a similar crime ('information about actual circumstances of the crime and its classification, text of the respective article of the Criminal

Code of Turkmenistan’). Besides, at the meeting of appraisers and representatives of the Supreme Court it was explained that technical differences in legislation of the states produce no obstacle for rendering of MLA, including that in case of extradition. In other cases, MLA shall be provided to the maximum possible extent based on the principles of reciprocity and in compliance with the legislation of Turkmenistan.

Efficiency and Statistics

1115. Since appraisers did not obtain the respective statistical data, evaluation of the system efficiency is impossible.

6.4.2. Recommendations and Comments

1116. It is necessary to maintain consolidated annual statistical records of extradition requests, including statistics classified by ML and FT, by predicate crimes, and by the nature, results and terms of execution of such requests.

1117. Turkmenistan should establish procedures for selection of the optimum jurisdiction for prosecution of the accused, eliminate shortcomings in criminalization of ML and FT so that they would stop impeding MLA and extradition procedures.

6.4.3. Compliance with Recommendation 39, 37 and Special Recommendation V

	Rating	Summary of Underlying Factors
R.37	C	This Recommendation is fully complied with.
R.39	LC	<ul style="list-style-type: none"> • The Criminal Procedure Code and other regulatory documents stipulate no procedures for selection of the optimum venue (jurisdiction) for prosecution of the accused; • Shortcomings in ML criminalization may restrain possibilities of extradition; • Turkmenistan failed to submit statistics on extradition, which renders evaluation of the system efficiency impossible.
SR.V	PC	See other rating factors in sections 6.3 and 6.5

6.5. Other Forms of International Cooperation (R.40 and SR.V)

6.5.1. Description and Analysis

1118. Prosecution, investigation and judicial authorities cooperate with their foreign partners according to ratified Conventions, signed and executed multilateral and bilateral agreements, treaties and memorandums, which in terms of terms and conditions of cooperation are governed by such treaties and the national legislation of Turkmenistan. Upon request of their foreign counterparts, all law-enforcement authorities of Turkmenistan may carry out the whole range of procedural actions including joint investigations.

FIU

1119. **According to Art. 7 of the Act of Turkmenistan Concerning AML/CFT**, FIU shall pursuant to international treaties with Turkmenistan cooperate with competent authorities of foreign states at the stage of collection of information, preliminary investigation, judicial proceedings and execution of judgments pertaining to anti-money laundering and combating the financing of terrorism.

1120. FIU and other governmental and regulating authorities of Turkmenistan that perform activities related to anti-money laundering and combating the financing of terrorism shall provide any relevant information to competent authorities of foreign states at requests of the latter or on their own initiative under the procedure and on the grounds stipulated in the international treaties with Turkmenistan, upon consent of the President of Turkmenistan.

1121. Provided no relevant Conventions exist, delivery to competent authorities of foreign states of information pertaining to discovery, seizure and confiscation of proceeds of crime and/or to financing of terrorism shall be performed upon consent of the President of Turkmenistan, unless such delivery impairs the national security of Turkmenistan.

1122. When executing the request, FIU as a rule notifies its counterparts that the information provided as a response (first of all the information from the FIU's own data base and data bases of third-party agencies) is confidential and constitutes the property of the Financial Monitoring Authority and thus may not be disclosed to third parties, entered into a criminal record or used as the evidence in court without approval of the FMA. At the same time, there is no information about agreements between the FIU and its foreign counterparts.

Customs Service

1123. Authorities of customs service of Turkmenistan pertaining to international cooperation in AML/CFT are described in detail in section 2.7.

Law-Enforcement Authorities

1124. Contractual legal framework of international cooperation of Turkmenistan envisages execution of investigative work upon requests of competent authorities of foreign states, if such work complies with, and is governed by, the national legislation of Turkmenistan.

1125. According to Art.4 of the Act Concerning the General Prosecutor's Office of Turkmenistan, the General Prosecutor's Office of Turkmenistan shall within its cognizance cooperate with competent authorities of foreign states and with international organizations and participate in resolution of issues arising from the international treaties of Turkmenistan.

1126. During the visit of experts team to the Ministry of Internal Affairs, representatives of the latter voiced that, except for the specified information communication channels, the Ministry of Internal Affairs uses the channel provided by their National INTERPOL Office. In such cases, information exchange is quick and positive.

1127. At the same time, no information was provided about the practice of international cooperation between law-enforcement authorities in AML/CFT.

Supervisory Authorities

1128. There is no international cooperation in AML/CFT between supervisory authorities.

1129. The law of Turkmenistan contains no regulations prohibiting the competent authorities of Turkmenistan from direct exchange of information with their counterparts. At the same time, due to the lack of information, the expert team failed to determine whether there are any obstacles to prompt and efficient information exchange and whether the competent authorities of Turkmenistan respond to their counterparts' requests promptly enough.

Efficiency and Statistics

1130. Representatives of the competent authorities of Turkmenistan failed to provide any information about the statistics on cooperation with their foreign counterparts.

6.5.2. Recommendations and Comments

1131. The existing procedures for international cooperation are not employed actively enough.

1132. Turkmenistan should enhance international cooperation in AML/CFT between supervisory authorities and FIU.

1133. It is necessary to ensure that the competent authorities, including the FIU, have powers to carry out investigations on behalf of their foreign counterparts.

6.5.3. Compliance with Recommendation 40 and Special Recommendation V

	Rating	Summary of Underlying Factors
R.40	PC	<ul style="list-style-type: none"> • Lack of international cooperation in supervision; • No effective mechanisms or channels to facilitate the exchanges of information by the FMD with its foreign counterparts have been established.; • No information was provided about the practice of international cooperation between law-enforcement authorities in AML/CFT. • Low efficiency of the system in terms of international cooperation

		and information exchange with FIU.
SR.V	PC	<ul style="list-style-type: none"> • Lack of international cooperation in supervision; • Low efficiency of the system in terms of international cooperation and information exchange with FIU; • No information was provided about the practice of international cooperation between law-enforcement authorities in AML/CFT. <p>See other rating factors in sections 6.3 and 6.4</p>

7. OTHER ISSUES

7.1. Resources and Statistics (R.30 and 32)

1134. Description, analysis and suggestions with regard to compliance with Recommendations 30 and 32 is present in all relevant sections of the report, viz. in section 2, some clauses of sections 3, 4, and in section 6. Common rating is applied to these Recommendations, despite the fact they are discussed in different sections of the report. To begin with, section 7.1 provides the table that specifies the rating and underlying factors.

	Rating	Summary of Underlying Factors
R.30	NC	<ul style="list-style-type: none"> • Staff size and structure of supervisory authorities have not been properly adjusted for the purposes of supervision in AML/CFT; • Supervisory authorities were not provided with specific training in supervisory procedures applied in AML/CFT; • No AML/CFT-oriented subdivisions exist in law-enforcement authorities, customs service, etc.; • Employees of the Authority need training in execution of financial investigations; • No supervisory subdivision exists within the framework of the Authority.
R.32	NC	<ul style="list-style-type: none"> • Evaluation of AML/CFT procedures is not performed; • No statistical data is available with regard to the amounts of property frozen pursuant to UNSC Resolutions • Dedicated statistics on description of Art. 274¹ ‘financing of terrorism’ and 242 ‘money laundering’ is not maintained;

		<ul style="list-style-type: none">• No statistical data concerning mutual legal assistance was provided;• LEAR (Law-Enforcement Authorities' Reports) statistics is inconsistent.
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7.2. Other Appropriate Measures or AML/CFT Issues

1135. There are no other issues expedient to this section.

7.3. General Structure of AML/CFT System (see also Section 1.1)

1136. There are no other issues pertaining to the general structure of AML/CFT system.

TABLES

Table 1. Rating of Compliance with FATF Recommendations

Compliance with FATF Recommendations shall be estimated by four levels of compliance specified in Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC), or in some cases may be specified as Not Applicable (N/A)). These ratings are based on significant criteria only, and are determined as follows:

Compliant	The Recommendation is fully complied with in all significant criteria
Largely Compliant	There are only minor shortcomings, while most significant criteria are observed completely
Partially Compliant	The state has undertaken a series of important measures and complies with some of significant criteria
Non-Compliant	There are major shortcomings, while most significant criteria are not observed
Not Applicable	The requirement or any part thereof is not applicable due to structural, legal or institutional peculiarities of the state, for example, if a specific type of financial institutions does not exist in the country

Forty Recommendations	Rating	Summary of Underlying Factors ¹³
Legal System		
1. ML offence	LC	<ul style="list-style-type: none"> • Disposition of Art. 242 does not cover indirect proceeds of crime; • possession and use are not covered to the full extent envisaged by Conventions requirements; • The Criminal Code does not criminalize such ‘established categories of offense’ as insider trading and market manipulation; • The ML offence is not effectively implemented, as there have been no investigations or prosecutions for ML.
2. ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> • Criminal liability for ML does not extend to legal persons. • The ML offence is not effectively implemented, as

¹³ These factors should only be described, if the rating is less than Compliant.

		there have been no investigations or prosecutions for ML.
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • Confiscation of proceeds of insider trading and market manipulation is impossible, since these acts are not criminalized; • No provision is made for confiscation of property owned or possessed by any third party; • No provision was made for confiscation of property of equivalent value; • No provision is made for possibility of confiscation of property that constitutes indirect proceeds of crime, including income, revenue or any other benefits from proceeds of crime.
Preventive Measures		
4. Secrecy laws consistent with Recommendations	LC	<ul style="list-style-type: none"> • As for supervisory authorities (except for the Central Bank), the issues concerning exercise of their authorities in the field of commercial secrets in respect of supervised institutions are not clear enough.
5. Customer Due Diligence	PC	<ul style="list-style-type: none"> • Threshold required for CDD in the case of occasional transactions exceeds 15,000 USD/€; • There no requirements to verify the identity of the beneficial owner using reliable sources; • Legal consequences of non-performance of CDD (negative findings of CDD) are only possible with regard to identification of, and availability of information about, association with terrorism; • The issue of CDD with regard to persons who has already been the customers of the financial institution, and of CDD on permanent basis remain unclear; • There is no requirement to carry out verification of data provided by the client, except for identity document examination; • After the adoption of the AML/CFT Law there was no prohibition of opening and maintaining of anonymous accounts as well as no requirement for their closure in case

		<p>of signs of anonymity;</p> <ul style="list-style-type: none"> The refusal to open an account and to carry out operation only depends on the failure to identify documents (providing with suspicious documents), or terrorist activities and doesn't on other measures of CDD; <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> The mechanisms for implementation of such CDD measures as the following are not sufficiently defined: identification of the beneficial owner, verification, determining the purposes and the nature of business relations with the client and on-going monitoring of the client relations; Absence of supervisory practice renders evaluation of efficiency impossible.
6. Politically-Exposed Persons	NC	<ul style="list-style-type: none"> There are no legislative or other measures required by Recommendation 6.
7. Correspondent Banking	PC	<ul style="list-style-type: none"> No elaborated procedure exists with regard to AML/CFT evaluation of the respondent bank, no special procedure for recording of such information; Obligation to collect and keep information about the correspondent bank is established as part of general CDD regulations and requires specification when applied to correspondent banking; The issue of assignment of responsibilities in AML/CFT at establishment of cross-border correspondent relations has not been duly worked out; AML/CFT issues associated with transit accounts are not regulated.
8. New Technologies and non face-to-face business	PC	<ul style="list-style-type: none"> Weak regulation of AML/CFT issues with regard to transactions that involve new technologies and transactions without the personal presence of the customer, especially as regards nonbanking financial institutions; There are no requirements to nonbanking financial institutions concerning performance of ML/FT risk-management in application of new technologies and execution of transactions without the personal presence of

		the customer.
9. Third Parties and introducers	N/A	Not Applicable
10. Record keeping	LC	<ul style="list-style-type: none"> • No requirements exist with regard to storage of documents in the format that would ensure prompt access to information for competent authorities.
11. Unusual Transactions	PC	<ul style="list-style-type: none"> • Nonbanking financial institutions are not obligated to pay special attention to execution of complicated, major and unusual transactions; • The procedure for monitoring of complicated, major and unusual transactions and deals is not elaborated thoroughly; • Since these measures have been taken quite recently, it is hard to evaluate their efficiency.
12. DNFBP - R.5, 6, 8-11	NC	<ul style="list-style-type: none"> • As regards R.5, there are no requirement: <ul style="list-style-type: none"> - to exercise CDD in relation to one-off transactions and deals (up to USD 200,000 for monetary assets, and up to USD 500,000 for real property) for all DNFBP; - to study any previous transactions of the customer; - to update identification data; - to exercise CDD with regard to existing customers (for all DNFBP); - to regulate the issues related to verification of the beneficial owner, including the mandatory CDD in relation to the beneficiary owner; - to regulate legal consequences of non-performance of CDD for lack of grounds; - to settle obligations to identify the beneficial owner and to perform verification more precisely. • R.6, R.8. In legislation, there are no regulations concerning DNFBP according to provisions of these Recommendations. • As regards R.10:

		<p>- no requirements exist with regard to storage of documents in the format that would ensure prompt access to information for competent authorities.</p> <ul style="list-style-type: none"> • R.11. Nonbanking financial institutions are not obligated to pay special attention to execution of complicated, major and unusual transactions; • The procedure for monitoring of complicated, major and unusual transactions and deals is not elaborated thoroughly; • The law of Turkmenistan does not cover trusts and organizations that establish and service legal entities; • Since the internal control system in DNFBP is just emerging (being validated), it is hard to evaluate the efficiency of AML/CFT measures taken
13. Suspicious transaction reporting	LC	<ul style="list-style-type: none"> • Inefficient ML criminalization impairs the efficiency of implementation of R.13; • A small number of STRs indicates a low level of effectiveness of the STR system in general.
14. Protection and no tipping-off	PC	<ul style="list-style-type: none"> • The law of Turkmenistan envisages no express prohibition on disclosure of the fact that a STR or any relevant information is submitted to the FIU.
15. Internal control, compliance and audit	PC	<ul style="list-style-type: none"> • No requirements are established with regard to mandatory training of employees of financial institutions on AML/CFT issues, no standards for such training exist; • No requirement is established with regard to mandatory check of employees of financial institutions during recruitment and employment; • Regulations concerning independent audit should be updated for the purposes of inclusion thereof into AML/CFT check; • Internal control regulations may not be adequately evaluated, since they have been employed quite recently.
16. DNFBP - R.13-15 and 21	NC	<ul style="list-style-type: none"> • The law of Turkmenistan does not cover trusts and organizations that establish and service legal entities; • Efficiency is difficult to evaluate since there is little

		<p>practice.</p> <p>Recommendation 13:</p> <ul style="list-style-type: none"> • Inefficient ML/FT criminalization impairs the efficiency of implementation of R.13; <p>Recommendation 14:</p> <ul style="list-style-type: none"> • Employees and executives of financial institutions are not prohibited from notifying the customers of STRs, no responsibility for such notification is envisaged. <p>Recommendation 15:</p> <ul style="list-style-type: none"> • No requirements are established with regard to mandatory training of employees of DNFBP on AML/CFT issues, no standards for such training exist; • No requirement is established with regard to mandatory check of employees of DNFBP during recruitment and employment (except for public servants); • Internal control regulations may not be adequately evaluated, since they have been employed quite recently. <p>Recommendation 21:</p> <ul style="list-style-type: none"> • Evaluation of measures taken was not possible at the moment of the audit.
17. Sanctions	NC	<ul style="list-style-type: none"> • Except as the banking sector is concerned, the possibility to apply a wide range of sanctions to all other types of financial institutions for AML/CFT offenses is not regulated specifically; • Disposition of Article 167¹⁴ of the Administrative Code makes no provision for sanctions for violations of other AML/CFT regulations, except for the main Law; • Insufficient information about the practice of application of AML/CFT sanctions makes unbiased assessment thereof impossible.
18. Shell Banks	C	This Recommendation is fully complied with
19. Other forms of reporting	C	This Recommendation is fully complied with.
20. Other NFBP and secure transaction	C	This Recommendation is fully complied with.

techniques		
21. Special attention for higher risk countries	LC	<ul style="list-style-type: none"> • Evaluation of measures taken was not possible at the moment of the audit.
22. Foreign Branches and subsidiaries	NC	<ul style="list-style-type: none"> • The legislation does not implement requirements of R.22.
23. Regulation, Supervision and Monitoring	PC	<ul style="list-style-type: none"> • Legal base pertaining to supervision and monitoring for AML/CFT purposes is not duly regulated in industry laws; • No information is provided with regard to implementation of the Core Principles for AML/CFT purposes in banking, insurance and securities sector; • The procedure for market entering is explicitly stipulated for the banking sector only; • No supervision and monitoring powers in the Law on Leasing; • The AML/CFT supervision and monitoring system is just emerging, thus available information is insufficient to evaluate efficiency.
24. DNFBP – Regulation, Supervision and Monitoring	PC	<ul style="list-style-type: none"> • There are no powers of the supervisory bodies relating to the supervision of, and imposition of sanctions on, casinos and other DNFBPs for failure to comply with the AML/CFT requirements in the sectoral laws and regulations for such supervisory bodies; • Casino licensing procedure doesn't include the AML/CFT requirements; • Low level of effectiveness of the DNFBPs' AML/CFT monitoring practices and regulatory framework; • The law of Turkmenistan does not cover trusts and organizations that establish and service legal entities; • No regulations exist with regard to monitoring of accountants activity.
25. Guidelines and Feedback	NC	<ul style="list-style-type: none"> • There are no guidelines or recommendations for institutions carrying out transactions with money or other property that provide description of AML/CFT methods and techniques; • Information on the results of financial investigations by

		<p>FIU available to financial institutions is insufficient;</p> <ul style="list-style-type: none"> • Special regulations for the private sector providing for more efficient performance by financial authorities of their obligations (including description of new trends and typologies in ML/FT) were not issued; • Special regulations for the private sector providing for more efficient performance by financial authorities of their obligations (including description of new trends and typologies in ML/FT) were not issued.
Institutional and Other Measures		
26. The FIU	PC	<ul style="list-style-type: none"> • The Authority does not publish regular performance reports. <p><i>Efficiency</i></p> <ul style="list-style-type: none"> • There is no information sharing with FIUs of foreign states; • Lack of resources supplied to the FIU affects its performance.
27. Law-Enforcement Authorities	PC	<ul style="list-style-type: none"> • The fact that law-enforcement authorities miss a systematic approach to investigation of ML/FT is one of the reasons for the absence of criminal proceedings instituted; • The General Prosecutor’s Office, the FMA and the Department of National Security have no special divisions to investigate ML/FT offenses. <p><i>Efficiency</i></p> <ul style="list-style-type: none"> • Insufficient resourcing and staffing for AML/CFT purposes determines low efficiency; • Since there is no statistical data, evaluating the performance of law-enforcement authorities is impossible.
28. Powers of Competent Authorities	C	This Recommendation is fully complied with.
29. Supervisors	PC	<ul style="list-style-type: none"> • Only the Central Bank of Turkmenistan has powers to apply a wide range of sanctions to regulated financial

		<p>institutions;</p> <ul style="list-style-type: none"> Supervisory authorities have just started their AML/CFT activities, thus the information is insufficient to evaluate their performance.
30. Resources, integrity and training	NC	<ul style="list-style-type: none"> Staff size and structure of supervisory authorities have not been properly adjusted for the purposes of supervision in AML/CFT; Supervisory authorities were not provided with specific training in supervisory procedures applied in AML/CFT; No AML/CFT-oriented subdivisions exist in law-enforcement authorities, customs service, etc.; Employees of the Authority need training in execution of financial investigations; No supervisory subdivision exists within the framework of the Authority.
31. National cooperation	NC	<ul style="list-style-type: none"> no mechanism in place for cooperation/coordination of the law-enforcement and supervisory authorities in development of the integrated AML/CFT policy.
32. Statistics	NC	<ul style="list-style-type: none"> Evaluation of AML/CFT procedures is not performed; No statistical data is available with regard to the amounts of property frozen pursuant to UNSC Resolutions Dedicated statistics on description of Art. 274¹ ‘financing of terrorism’ and 242 ‘money laundering’ is not maintained; No statistical data concerning mutual legal assistance was provided; LEAR (Law-Enforcement Authorities’ Reports) statistics is inconsistent.
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> No legislative measures exist with regard to identification and verification of information about the beneficial owners of legal entities; The system of registration of legal entities is not employed for AML/CFT purposes.
34. Legal arrangements – beneficial owners	N/A	Not Applicable.
International		

Cooperation		
35. Conventions	LC	<ul style="list-style-type: none"> • Provisions of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism are not observed in terms of criminalization of nuclear theft and illegal actions against fixed platforms located at continental shelf.
36. Mutual Legal Assistance (MLA)	LC	<ul style="list-style-type: none"> • The Criminal Procedure Code and other regulatory documents stipulate no procedures for selection of the optimum venue (jurisdiction) for prosecution of the accused; • Turkmenistan failed to submit statistics on mutual legal assistance, which renders evaluation of the system efficiency impossible.
37. Dual criminality	C	<ul style="list-style-type: none"> • This Recommendation is fully complied with.
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • No provision was made for confiscation of property of equivalent value; • Turkmenistan failed to submit statistics on mutual legal assistance, which renders evaluation of the system efficiency impossible; • Shortcomings in ML criminalization may restrain potential execution of confiscation; • Turkmenistan failed to consider the issue of distribution of confiscated property among competent authorities of the states whose actions contributed to property confiscation.
39. Extradition	LC	<ul style="list-style-type: none"> • The Criminal Procedure Code and other regulatory documents stipulate no procedures for selection of the optimum venue (jurisdiction) for prosecution of the accused; • Shortcomings in ML criminalization may restrain possibilities of extradition; • Turkmenistan failed to submit statistics on mutual legal assistance, which renders evaluation of the system efficiency impossible.

40. Other Forms of Cooperation	PC	<ul style="list-style-type: none"> • Lack of international cooperation in supervision; • No effective mechanisms or channels to facilitate the exchanges of information by the FMD with its foreign counterparts have been established. • No information was provided about the practice of international cooperation between law-enforcement authorities in AML/CFT. • Low efficiency of the system in terms of international cooperation and information exchange with FIU.
Nine Special Recommendations	Rating	Summary of Underlying Factors
SR.I Implement UN Instruments	PC	<ul style="list-style-type: none"> • Provisions of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism are not observed in terms of criminalization of nuclear theft and illegal actions against fixed platforms located at continental shelf. • Shortcomings in implementation of United Nations Security Council Resolutions 1267 and 1373.
SR.II Criminalise TF	LC	<ul style="list-style-type: none"> • The legislation does not criminalize capture, theft and use of nuclear materials and illegal actions against fixed platforms located at continental shelf • Absence of statistics makes evaluation of existing measures impossible.
SR.III Freeze and Confiscate terrorist assets	PC	<ul style="list-style-type: none"> • Low efficiency of measures taken since in freezing of assets Turkmenistan relies on criminal procedures to a great extent; • Necessary procedures for investigations and use of information about proprietors of frozen assets obtained from foreign states do not exist; • No procedure is established with regard to handling the requests for removal from the list and to timely unfreezing of assets and other property of persons that have been removed from the list;

SR.IV Suspicious transaction reporting	LC	<ul style="list-style-type: none"> • A small number of STRs indicates a low level of effectiveness of the STR system in general..
SR.V International cooperation	PC	<ul style="list-style-type: none"> • The Criminal Procedure Code and other regulatory documents stipulate no procedures for selection of the optimum venue (jurisdiction) for prosecution of the accused; • No provision was obviously made for confiscation of property of equivalent value; • Turkmenistan failed to submit statistics on mutual legal assistance, which renders evaluation of the system efficiency impossible; • Turkmenistan failed to consider the issue of distribution of confiscated property among competent authorities of the states whose actions contributed to property confiscation.
SR.VI AML requirements for money/value transfer services	PC	<ul style="list-style-type: none"> • There is no information about legislative or other measures with regard to transfer of money or valuables beyond the framework of the official financial system; • All shortcomings discovered in AML/CFT in banking and postal system are applicable to money transfer sector as well.
SR.VII Wire transfer rules	PC	<ul style="list-style-type: none"> • There are no requirements on the legislative level to maintain the information relating to the originator of the wire transfer; • Banks are not legally bound to limit or terminate business relations with financial institutions that fail to comply with the requirements of SR.VII; • No specific measures are elaborated in order to monitor compliance of financial institutions with the rules of electronic funds transfer; • There is no requirement to all financial stakeholders to deliver information about the sender through the entire transfer chain; • Procedures of risk management with regard to transfers that are not accompanied by information about the sender (including provision of such information to the FIU) are not

		<p>elaborated.</p> <ul style="list-style-type: none"> • No procedure is established with regard to termination of relations with the sending financial institution.
<p>SR.VIII Nonprofit organizations</p>	<p>PC</p>	<ul style="list-style-type: none"> • No internal examination of the NPO sector is performed in order to discover FT risks; • Characteristics and types of NPO that are subject to high risk of FT are not defined; • There are no methods of evaluation through investigation of new information about potential exposure of the sector to terrorism; • There are no clear procedures to define the beneficiary owners of NPOs, persons controlling or managing their activities, including senior officers, members of the board and trustees; • Transparency of NPO reports is doubtful.
<p>SR.IX cash couriers</p>	<p>PC</p>	<ul style="list-style-type: none"> • The existing customs control system is insignificantly used for AML/CFT purposes; • Reporting procedure does not cover negotiable instruments to bearer; • There is no possibility of international cooperation with customs authorities of foreign states; • Officials of customs authorities are ill-informed of their obligations in AML/CFT. <p><i>Efficiency</i></p> <ul style="list-style-type: none"> • Absence of statistical data renders evaluation of performance of Customs Service impossible.

Table 2. Recommended Action Plan to Improve the AML/CFT System

AML/CFT System	Recommended Action
1. General	
2. Legal System and Related Institutional Measures	
2.1. Criminalization of ML (R.1 & 2)	<p>It is necessary for Turkmenistan to criminalize the following types of "designated categories of offences" (provided for in the FATF Recommendations): insider trading and market manipulation.</p> <p>The country is also to take measures to improve the effectiveness of the application of Article 242, including by providing training to the employees of the Prosecutor's Office and judiciary.</p> <p>In order to introduce criminal liability of legal entities, Turkmenistan is recommended to introduce into the Law of Turkmenistan "On AML/CFT" provisions specifying the liability of legal entities for involvement in ML-related crimes (similar to Article 24 of the Law of Turkmenistan "On Combating Terrorism").</p> <p>In order to achieve proportionality of sanctions imposed for ML, it is recommended to amend Article 242 of the CC in terms of increasing the size of sanctions.</p> <p>It is also recommended to take steps to raise the effectiveness of implementation of Article 242, inter alia, through conducting trainings for prosecutors and judges.</p>
2.2. Criminalization of TF (SR.II)	<p>It is necessary for Turkmenistan to criminalize acts of seizure, theft and use of nuclear materials and unlawful acts against fixed platforms located on the continental shelf. It is recommended to compile detailed statistical data on FT-related criminal cases.</p>
2.3. Confiscation, freezing and seizing of proceeds of crime	<p>Confiscation shall be possible for all predicate offences. Therefore, it is necessary to criminalize predicate</p>

<p>(R.3)</p>	<p>offences that are not criminalized (insider trading and market manipulation).</p> <p>Turkmenistan shall introduce provisions for confiscation of property in possession or ownership of third parties and regulations to ensure full protection of rights of bona fide third parties as it is outlined in the Palermo Convention.</p> <p>Provisions for confiscation of property obtained indirectly from crime proceeds including income, profit or any other benefits from the proceeds of crime shall be added to the law of Turkmenistan. The legislation should also contain a provision that permits the confiscation of property of equivalent value.</p>
<p>2.4. Freezing of Funds used for TF (SR. III)</p>	<p>It is advisable to introduce specific mechanisms for reviewing and utilizing the information received from foreign countries in respect of entities subject to freezing measures.</p> <p>It is necessary to develop other laws and procedures, besides criminal-proceeding mechanisms, to establish effective mechanism for freezing terrorist assets in all instances, in line with the UNSCRs..</p> <p>It is necessary to develop effective and publicly known procedures for delisting and timely unfreezing of funds and other property of natural and legal persons excluded from the list.</p> <p>There should be regulations that fully protect the rights of bona fide third parties.</p>
<p>2.5. The Financial Intelligence Unit and its functions (R.26)</p>	<p>The issue of intensification of works on provision of the FMA with software for visualization of links between financial operations of examined persons and other ways of automation of the workflow of the FMA staff (in particular, enabling provision of access to information directly from the workplace of each analyst of the FMA with application of all necessary information protection measures) should be considered.</p>

	<p>Turkmenistan shall conclude international interagency treaties with FIUs of foreign states and initiate information exchange with financial intelligence of foreign countries (using information exchange principles of the Egmont Group).</p> <p>It is necessary to publish performance reports regularly (at least once a year) including description of the AML/CFT-related typologies and trends.</p>
<p>2.6. Law enforcement, prosecution and other competent authorities (R.27 & 28)</p>	<p>Turkmenistan should appoint an agency (agencies) to be responsible for development and implementation of a system of law enforcement measures to combat money laundering and terrorism financing and coordination of activity of other law enforcement authorities in this field.</p> <p>Special departments shall be established in the Prosecutor's Office, FMA and DHS for investigation of ML/FT-related crimes.</p> <p>The country should ensure training of investigators of law enforcement agencies, judges and prosecutors on ML/FT-related issues.</p> <p>It is necessary to create a separate category of crimes related to ML/FT in legal statistics and provide for indication of the amount of funds or property arrested during investigation and amounts of collected or forfeited funds.</p>
<p>2.7. Cross Border Declaration & Disclosure (SR.IX)</p>	<p>Turkmenistan should take legislative, institutional and other measures to improve the use of existing mechanisms of tax control and declaration for AML/CFT purposes.</p> <p>Customs authorities should be able to cooperate on the AML/CFT issues on the international level.</p> <p>Turkmenistan should include to the mode of declaration all types of bearer negotiable instruments set forth by the FATF Recommendations.</p> <p>Appropriate training workshops on AML/CFT for</p>

	customs authorities shall be held.
3. Preventive Measures – Financial Institutions	
3.1. Risk of ML or TF	
3.2. Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<p>Recommendation 5</p> <p>Turkmenistan should consider setting of the limit of transaction amount requiring customer identification to \$/EUR 15,000 (1000 USD/Euro for money transfers).</p> <p>It is necessary to provide for taking of the CDD measures in case of attempts to perform transactions to the fullest possible extent.</p> <p>The country needs to consider establishing of more clearly defined (without any ambiguity) obligation of financial institutions to conduct the CDD on a regular basis.</p> <p>It is necessary to work out all necessary CDD measures in details (not only customer identification) at the level of legislation and subordinate legislation. In particular, the mechanism and algorithm of actions of financial institution for identification of beneficiary owner, verification and permanent check and identification of purposes and nature of customer’s business relationships and update of customer information should be defined.</p> <p>Subordinate legislation shall include regulations providing for an obligation to apply necessary CDD measures including identification to beneficiaries.</p> <p>Legal consequences of absence of possibility to perform CDD (negative result of CDD) for the whole range of the CDD measures not only for identification and availability of information on involvement in terrorist activity should be defined.</p> <p>Turkmenistan should consider regulating of AML/CFT-related relations on the basis of risk assessment by all financial institutions, not only by two commercial banks. Presence of developed administrative institution in the legal system of Turkmenistan significantly simplifies work of financial institutions in the field of</p>

AML/CFT. Relations connected with processing of the results of the CDD measures applied shall be regulated in the laws on AML/CFT regime.

Financial institutions shall not allow narrowing of the scope of the AML/CFT law in their internal regulations (RIC) while regulating relations connected with application of the CDD measures.

Clear rules for application of the CDD measures to persons who have already been clients (beneficiaries and representatives) of financial institutions as of the effective date of the AML/CFT law, subordinate legislation or the rules of internal control should be established.

Recommendation 6

Turkmenistan should adopt regulatory legal acts requiring financial institutions to find out whether a customer is a politically exposed person (PEP) and seek prior approval of the management of such financial institution for establishing relations with such PEP. Financial institutions should be obliged to check the origin of PEP's funds and pay extra attention to all transactions conducted by such person.

Recommendation 7

The country should regulate AML/CFT aspects of establishing cross-border correspondent relations, including without limitation establishment of obligations of commercial banks to collect information about future non-resident correspondents which allows to identify the nature of their business reputation, compliance with international standards and quality of supervision. Also the algorithm of taking decisions on establishment of correspondent relations by the banks' management shall be defined more clearly.

Turkmenistan should develop the mechanism (criteria) for assessment of correspondent bank and the technology for recording of the results of such assessment.

The issues of storage of information received and scope of information on foreign correspondent bank also

should be reflected in special regulations of the AML/CFT law.

Turkmenistan shall consider the possibility to regulate obligations of each participant of correspondent relations in the field of AML/CFT and their documentation.

Recommendation 8

Bank regulations and regulatory framework of other financial markets should require special care and risk management procedures for new financial technologies and transactions without direct contact with client.

Establishment of relations without personal presence of client and use of new technologies by other financial institutions (non-bank) are not regulated now.

Normative acts of Turkmenistan do not contain any special provisions requiring financial institutions to develop and apply measures for prevention of use of new technologies for money laundering and terrorist financing. Separate regulations in the rules of internal control of two commercial banks are not enough.

Control of transactions and operations involving new technologies is carried out mainly under general regulations on conduction of the CDD and mandatory control established by the AML/CTF law, subordinate legislation and RIC of commercial banks. The AML/CTF law of Turkmenistan does not provide for any exemptions to the CDD measures and mandatory control for establishment of client relations and execution of transactions using new technologies.

The approach based on risk assessment should be developed to the fullest possible extent for regulation of the AML/CFT aspects for transactions being executed using new technologies and transactions without personal presence.

The law of Turkmenistan on commercial banks and banking, payment procedures, payment systems, currency regulation and currency control does not provide for the possibility to establish client relations and execute transactions using new technologies without

	<p>identification and application of the CDD measures by all participants of payment system.</p> <p>Issues of regulation of the CDD procedures and risk reduction measures while using new technologies will become particularly important as the market of financial services will develop.</p>
3.3. Third parties and introduced business (R.9)	Not applicable.
3.4. Financial institution secrecy or confidentiality (R.4)	Turkmenistan should eliminate ambiguities in the definition of information to be reported to the FIU.
3.5. Record keeping and wire transfer rules (R.10 & SR. VII)	<p><i>Recommendation 10</i></p> <p>Financial institutions should be obliged to ensure timely provision of necessary information to competent authorities in accordance with their powers.</p> <p><i>Special Recommendation VII</i></p> <p>Banks should be obliged to consider restriction or termination of business relations with those financial institutions that fail to meet the requirements of SR VII. In addition, supervisory authorities should introduce special measures for monitoring of compliance with the requirements of SR VII by financial institutions.</p> <p>Intermediary financial institutions shall be required to provide information about the sender to next participants of transfer process.</p> <p>It is reasonable to continue introduction of risk management procedure for transfers without indication of information about the sender including reporting of this information to the FIU and consideration of termination of business relations with the sending financial institution.</p> <p>Special mechanisms for control of compliance with correspondent requirements and sanctions for violation shall be implemented.</p>
3.6. Monitoring of	Recommendation 11

<p>transactions and relationships (R.11 & 21)</p>	<p>To improve the efficiency Turkmenistan should develop a mechanism of interaction of financial institutions with the authorized state authority to provide the latter with access to information and documents on complex, unusual or major transactions.</p> <p>Recommendation 21</p> <p>Financial institutions should conduct a study of compliance of other states with the FATF Recommendations together with competent authorities. Clear instructions should be given to all financial institutions (primarily for the non-banking sector) describing a mechanism of their actions in a situation when a transaction with persons from countries that participate in the international AML/CFT cooperation is not qualified as a suspicious one.</p> <p>For the insurance and stock exchange sectors it is necessary to extend the obligation to exercise special control over persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation.</p>
<p>3.7. Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)</p>	<p>Recommendation 13</p> <p>Since it is for the first time when the non-banking financial sector faces many issues pertaining to organization of the AML/CFT efforts, the supervisory authorities of Turkmenistan should pay special attention to the practice of compliance with the adopted regulations by non-bank financial institutions.</p> <p>It is necessary to criminalize insider trading and market manipulation so that they would not affect the scope of requirements to reporting of suspicious transactions.</p> <p>Recommendation 14</p> <p>It is necessary to bring employees and management of legal entities to criminal and administrative responsibility for disclosure of information on reporting of suspicious transactions to the FMA and data related to such reports including information on further</p>

	<p>requests.</p> <p>Recommendation IV</p> <p>The legislative measures should be taken to extend the STR requirement so that they cover attempted transactions related to terrorist financing.</p> <p>Turkmenistan should take legislative measures so that financial institutions would be required to report facts of terrorist financing even if provided fund are not intended for any particular terrorist act.</p> <p>Recommendation 25</p> <p>The FIU should provide financial institutions and DNFBPs with more information on the progress and results of financial investigations conducted on the basis of reports submitted by them, and also extend the feedback taking into account cases and examples listed in the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.</p> <p>Turkmenistan should hold workshops on typologies of ML/TF with the FIU, supervisory authorities and private sector representatives. As long the DNFBP in Turkmenistan is less prepared to the AML/CFT efforts than the bank sector it is necessary to pay special attention to explanatory work with DNFBP.</p>
<p>3.8. Internal controls, compliance, audit and foreign branches (R.15 & 22)</p>	<p>Recommendation 15</p> <p>Turkmenistan shall establish at the legislative level a requirement to conduct appropriate training for employees for effective work in the field of AML/CFT</p> <p>It is necessary to provide for more precise legislative definition of internal control applying to a wide range of relations in this area.</p> <p>Standards (criteria) of internal control procedures providing for procedures and algorithm of actions for study of customers and operations and performance of other actions in the field of AML/CFT in addition to reporting to the authorized state authority should be</p>

	<p>introduced.</p> <p>Turkmenistan should include to the legislation provision requiring all financial institutions to verify employees before hiring and provide for a possibility of sufficient check of existing employees of financial institutions of the whole financial sector of Turkmenistan.</p> <p>All financial institutions shall be required to inform their employees of internal procedures and policy in the field of AML/CFT.</p> <p>Recommendation 22</p> <p>Financial institutions shall be required to control compliance of the AML/CFT measures taken by all foreign branches and subsidiary companies with the requirements of the country of residence.</p> <p>Financial institutions shall be required to control compliance of the AML/CFT measures taken by all branches and subsidiary companies in the countries where the FATF Recommendations are not complied with or not complied with adequately.</p> <p>Foreign branches and subsidiary companies of financial institutions should be required to comply with higher AML/CFT standards to the fullest extent permitted by local laws and regulations in the countries where the AML/CFT requirements are minimal.</p> <p>Financial institutions shall be required to inform the regulatory authorities where it is impossible for foreign branches and subsidiaries to comply with the requirements of the country of residence as to the AML/CFT measures.</p>
3.9. Shell banks (R.18)	Requirements of this Recommendation are fully implemented.
3.10. The supervisory and oversight system - competent authorities and SROs: role, functions, duties and powers (including sanctions) (R.	<p>Recommendation 17</p> <p>It is necessary to describe more clearly responsibilities and powers of supervisory authorities in all industry laws regulating activity of financial organizations, in</p>

17,23, 29 & 25).

terms of monitoring compliance of financial organization with the requirements of the AML/CFT law and taking enforcement actions (sanctions) for violation thereof.

It is necessary to ensure direct application of the entire range of sanctions (starting from fines through termination of licenses) to all noncredit financial institutions for AML/CFT violations, inter alia, through adopting individual regulations by the competent authorities.

Sanctions should be applied not only for non-compliance with the procedure of recording and reporting to the FIU, they should cover violations of all AML/CFT requirements (identification, keeping of documents and etc.).

It is necessary to extend the scope of article 167¹⁴ of the Administrative Offences Code.

Recommendation 23

It is necessary to describe more clearly responsibilities and powers of supervisory authorities in all industry laws regulating activity of financial organizations, in terms of monitoring compliance of financial organization with the requirements of the AML/CFT law and taking enforcement actions (sanctions) for violation thereof.

It is necessary to include a provision to the Law “On Leasing” according to which licensing of financial leasing services shall be responsibility of the Central Bank of Turkmenistan.

Supervisory authorities should develop separate regulations governing the performance of the AML/CFT supervisory functions related to application of enforcement measures and sanctions to insurance organizations, corporate participants of the securities market and providers of postal services and conduction of audits of their activity including AML/CFT audits.

The regulations on licensing of commercial banks, insurance organizations, securities market participants, providers of postal services should include detailed

	<p>requirements to subscribers (shareholders), management of these organizations providing that criminals and their associates shall not be beneficiary owners of significant or controlling share or occupy executive positions including without limitation positions in executive or supervisory boards, boards of directors and etc.</p> <p>It is necessary to ensure proper application of the Basic Principles for the purposes of AML/CFT by financial institutions.</p> <p>Recommendation 25</p> <p>The supervisory authorities should issue special guidelines for the private sector promoting more effective performance of obligations by financial institutions, including description of new ML/FT trends and typologies. Such guidelines should take into account the specificities of activity of supervised entities.</p> <p>Recommendation 29</p> <p>All supervisory and regulatory authorities should develop regulations governing the application of sanctions for violation of the AML/CFT requirements (this does not apply to the Central Bank).</p> <p>In order to implement the AML/CFT measures the regulatory authorities of Turkmenistan should ensure application of a wide range of sanctions to financial institutions and their managers (except for the banking sector).</p> <p>The industry laws regulating activity of banks, insurance organizations, professional securities market participants, providers of postal services shall directly specify powers of supervisory authorities to require provision of any data, documents or information related to compliance monitoring by these organizations or to get access to them.</p>
<p>3.11. Money or value transfer services (SR. VI)</p>	<p>Turkmenistan should take measures to prevent MVT related activities carried outside the formal financial system, including application of legislative and other measures to unlawful alternative wire transfer systems (AWTS). It is also necessary to correct all flaws and</p>

	deficiencies in the AML/CFT measures in the banking and postal systems, which are also applicable in the context of bank and postal money transfers.
4. Preventive Measures – Designated Non-Financial Businesses and Professions	
4.1. Customer due diligence and record-keeping (R.12)	Turkmenistan should take measures to implement all provisions of Recommendations 5, 6, 8, 10 and 11 in relation to DNFBPs to remedy identified deficiencies.
4.2. Suspicious transaction reporting (R.16)	The country should address shortcomings in the implementation of Recommendations 13-15 and 21 in relation to all DNFBPs.
4.3. Regulation, supervision and monitoring (R. 24-25)	<p>Recommendation 24</p> <p>Turkmenistan shall take measures at the legislative level ensuring effective monitoring of performance of the AML/CFT measures by casinos, including additional measures to prevent criminals from participation in management/ownership of casinos, provisions in the legislation for refusal due to bad reputation or outstanding convictions. It is necessary to improve the legal framework of licensing of casinos and include the AML/CFT issues in it.</p> <p>It is necessary to effectively monitor the activities of dealers in precious metals and precious stones and other DNFBPs for compliance with AML/CFT measures.</p> <p>Recommendation 25</p> <p>The supervisory authorities should issue sector-specific guidelines for DNFBPs promoting more effective compliance with their respective obligations, including description of new ML/FT trends and typologies. Such guidelines should take into account the specificities of activity of supervised entities.</p>
4.4. Other non-financial businesses and professions (R.20)	This Recommendation is fully observed.
5. Legal Persons and	

Formations & Non-Profit Organizations	
5.1. Legal Persons – Access to beneficial ownership and control information (R.33)	<p>Turkmenistan should apply the existing system of legal entities registration for the AML/CFT purposes.</p> <p>It should establish measures for identifying and verifying information on beneficial ownership of legal persons.</p>
5.2. Legal Formations – Access to beneficial ownership and control information (R.34)	Not applicable.
5.3. Non-profit organizations (SR. VIII)	Turkmenistan should take all necessary measures to align the legislation with the requirements of all provisions of Special Recommendation VIII.
6. National and International Cooperation	
6.1. National cooperation and coordination (R.31)	<p>Establishment of a coordinating body will enable coordination of activity of law enforcement and supervisory authorities in order to develop a common AML/CFT policy.</p> <p>Conclusion of bilateral treaties on cooperation will enable prompt resolution of issues for specific investigations.</p>
6.2. The Conventions and UN Special Resolutions (R.35 & SR. I)	<p>Recommendation 35</p> <p>Turkmenistan shall fully implement the provisions of:</p> <ul style="list-style-type: none"> - article 2 (1) (a) of the International Terrorist Financing Convention related to criminalization of acts of theft of nuclear material and unlawful acts against the safety of fixed platforms located on the continental shelf; <p>Turkmenistan should consider ratification of the Agreement of the Member States of the Commonwealth of Independent States on Countering Money Laundering and Financing of Terrorism signed on October 5, 2007</p>

	<p>in Dushanbe city.</p> <p>Special Recommendation I</p> <p>Turkmenistan should implement provisions of article 2 (1) (a) of the International Terrorist Financing Convention related to criminalization of acts of theft of nuclear material and unlawful acts against the safety of fixed platforms located on the continental shelf;</p>
<p>6.3. Mutual Legal Assistance (R. 36-38, SR. V)</p>	<p>Turkmenistan should introduce a mechanism to determine the best venue for the interests of justice for prosecution of defendants in cases of prosecution in more than one country.</p> <p>It is necessary to keep statistics of international requests for MLA in the field of AML/CFT and predicate crimes and nature of requests, their results and terms of satisfaction.</p> <p>Turkmenistan should introduce regulations on confiscation of property of appropriate value, develop and implement the mechanism of coordination of actions on arrest or confiscation of property in cooperation with other states and further distribution of property confiscated with help of competent authorities of any foreign state.</p>
<p>6.4. Extradition (R.37 & 39, & SR. V)</p>	<p>It is necessary to keep centralized annual statistics of extradition requests including statistics in the context of the AML/CFT cases, predicate crimes and nature of requests, their results and terms of satisfaction.</p> <p>Turkmenistan should establish procedures to determine the best venue for prosecution of defendants, rectify deficiencies in criminalization of ML and FT so that they would not prevent MLA and extradition.</p>
<p>6.5. Other Forms of International Cooperation (R.40, & SR.V)</p>	<p>Turkmenistan should enhance the international AML/CFT cooperation of the supervisory authorities</p>

	<p>and the FIU.</p> <p>It is necessary to ensure that competent authorities including the FIU have powers to conduct investigation on behalf of foreign partners.</p>
7. Other Issues	
7.1. Resources and statistics (R. 30 & 32)	<p>The supervisory agencies should be adequately staffed for performing the AML/CFT supervision functions.</p> <p>Specialized AML/CFT units should be established in the Ministry of Internal Affairs, the Customs and etc.</p> <p>Turkmenistan should hold workshops on typologies of ML/TF with the FIU, supervisory authorities and private sector representatives. As long the DNFBP in Turkmenistan is less prepared to the AML/CFT efforts than the bank sector it is necessary to pay special attention to explanatory work with DNFBP.</p> <p>Investigators, prosecutors and judges working on ML and FT cases should be trained on a regular basis.</p> <p>It is necessary to maintain statistics on the property frozen under the UN Security Council Resolutions.</p> <p>It is necessary to create a separate category of crimes related to ML/FT in legal statistics and provide for indication of the amount of funds or property arrested during investigation and amounts of collected or forfeited funds. Statistical data on criminal cases, including those considered by courts (with guilty verdicts) compiled by the Ministry of Internal Affairs should be segregated into a separate category that covers ML and FT-related offences. The amount of funds or assets seized in course of investigations and amounts collected or forfeited should also be reflected.</p> <p>It is necessary to keep statistics of international requests for MLA in the field of AML/CFT and predicate crimes and nature of requests, their results and terms of satisfaction.</p> <p>It is necessary to keep statistics of audits and sanctions of supervisory authorities.</p>

Table 3. Response of authorities to the evaluation (if necessary)

Sections and paragraphs	Comments of the country
Report in general	

ANNEXES

Annex 1. List of Abbreviations and Acronyms

GDP	Growth Domestic Product
MLA	Mutual legal assistance
CC	Civil Code
DFM	Directorate of Financial Monitoring of the Ministry of Finance of Turkmenistan
EAG	The Eurasian group on combating money laundering and financing of terrorism
TIN	Taxpayer Identification Number
Conventions	Vienna and Palermo Convention
MIA	Ministry of Internal Affairs of Turkmenistan
IMF	International Monetary Fund
MFA	Ministry of Foreign Affairs
Minfin	Ministry of Finance
Minjust	Ministry of Justice
NPO	Non-profit organizations
RLA	Regulatory legal act
CDD	Customer due diligence
OSCE	Organization for Security and Cooperation in Europe
MER	Mutual evaluation report
ML	Money laundering
CSTO	Collective Security Treaty Organization
DNFBP	Designated Non-Financial Businesses and Professions
UN	United Nations
RIC	Rules of Internal Controls
PEP	Politically exposed person
AML	Anti-Money Laundering
FIU	Financial Intelligence Unit
UNSCR	United Nations Security Council Resolution
MNS	Ministry of National Security
CIS	Commonwealth of Independent States
STR	Suspicious Transaction Report
CC	Criminal Code
CPC	Criminal Procedure Code
FATF	Financial Action Task Force
FT	Financing of Terrorism
FI	Financial Institution
CB	The Central Bank
SCO	Shanghai Cooperation Organization

Annex 2. Organizations Met during the On-Site Mission

Ministries and other Government Authorities

Ministry of Finance of Turkmenistan

Ministry of Justice of Turkmenistan

Ministry of Foreign Affairs of Turkmenistan

The Supreme Court of Turkmenistan

Investigation and Law Enforcement Bodies and Public Prosecutor's Office

Prosecutor General's Office of Turkmenistan

Ministry of Internal Affairs of Turkmenistan

Ministry of National Security of Turkmenistan

The State Tax Service of Turkmenistan

The State Customs Service of Turkmenistan

Financial Sector Bodies

The Central Bank of Turkmenistan

Other Government Bodies

The State Assay Office of the Agency of Precious Metals at the Central Bank of Turkmenistan

Private Sector Representatives and Associations

Commercial banks

Stock Exchange

SPSC "Turkmenpost"

Notaries Public

Insurance company

Casinos

Appendix 3. Key laws, regulations and other documents

LAW

of

TURKMENISTAN

On Anti-Money Laundering and Combating the Financing of Terrorism

This Law is aimed to protect rights and lawful interests of the citizens, society and the state, as well as integrity of the financial system of Turkmenistan against criminal offences by creating a legal mechanism for combating money laundering and financing of terrorism.

Section I. General Provisions

Article 1. Basic Terms and Concepts Used in this Law

The terms and concepts when used in this Law shall have the following meanings:

1) proceeds of crime shall mean cash and other movable and immovable assets obtained by committing unlawful acts against the objects protected by the Criminal Code of Turkmenistan;

2) laundering proceeds of crime shall mean rendering legitimate possession, use, and disposition of cash and other assets acquired by committing offences knowingly, as well as use of the said cash or assets in carrying out entrepreneur and other economic activities, including financing of terrorism;

3) assets shall mean any assets that can be possessed, used, disposed, and acquired in unlimited quantity by any legal or natural persons, to the extent not prohibited by the law and not contradicting the moral standards;

4) suspicious transaction or operation shall mean a transaction which falls within the characteristics of suspicious transactions and operations included in this Law and the list of suspicions transactions approved by a competent governmental authority, in particular, transactions and operations which are made with cash and/or other assets with neither clear economic nor obvious legitimate rationale and which are not typical for the activity of a given legal or natural person (persons);

5) competent governmental authority shall mean a government body established by the acts of the President of Turkmenistan and authorized under this Law to collect, analyze and share information on suspicious transactions and potential financing of terrorism, as well as to take adequate measures aimed at combating money laundering and financing of terrorism;

6) financing of terrorism shall mean socially dangerous criminal acts aimed at committing terroristic activities using financial, material and technical, and other resources;

7) reporting persons shall mean any of the listed below legal and/or natural persons:

banks licensed and regulated by the Central Bank of Turkmenistan;

other financial institutions;

insurers;

leasing companies;

pawnshops;

business participants of the stock market;

commodity exchanges;

currency markets;

legal and natural persons that manage gambling business;

institutions which perform state registration of the title for immovable property and institutions which render services related to state registration of the title for immovable property or transactions with other types of property subject to state registration;

organizations of postal and telegraph service performing transfers of cash and other organizations engaged in settling and/or making payments;

real estate agents when they are involved in transactions on purchase and sale of immovable property for their clients;

dealers in precious metals and dealers in precious stones when they perform cash transactions with clients above the designated threshold;

organizers of biddings and auctions;

lawyers, notaries, other independent legal professionals and accountants, self-employed entrepreneurs providing legal services, when they prepare or perform for their clients transactions on purchase and sale of immovable property, on management of cash, securities and other assets, on management of bank, savings or securities accounts, on accumulation of funds for setting-up, operation and management of companies and for their setting-up, operation and management by legal persons or arrangements and purchase and sale of business entities;

8) mandatory controls shall mean a combination of measures taken by a competent authority and regulated by this Law and other legislative acts of Turkmenistan adopted on its basis, aimed at exercising control over transactions with cash and other assets performed based on information provided by the institutions which carry out such transactions, as well as at verification of such information in accordance with the legislation of Turkmenistan;

9) internal controls shall mean measures taken by the institutions which perform transactions with cash or other assets, on reporting to a competent governmental authority about transactions subject to mandatory controls and other transactions with cash or other assets related to laundering proceeds from criminal activity and terrorist financing;

10) beneficial owner shall mean a natural person who ultimately owns or controls a client or a person on whose behalf a transaction is performed;

11) shell bank shall mean a bank incorporated in countries or territories in which it has no physical presence;

12) offshore zones shall mean zones with particular favourable conditions for conducting bank and insurance transactions in foreign currency with non-residents.

Article 2. Object and Scope of the Law

1. The main object of this Law is to prevent and detect any activity related to laundering of proceeds of crime and terrorist financing, as well as to establish legal standards aimed at formation of a competent governmental authority authorized to collect data, to carry out analysis and to distribute information about suspicious transactions and operations and transactions subject to mandatory controls in accordance with this Law.

2. This Law shall regulate relations between citizens of Turkmenistan, foreign citizens and persons without citizenship domiciled in Turkmenistan, institutions which perform transactions with cash and/or other assets, as well as governmental authorities which exercise control over transactions with cash and/or other assets within the territory of Turkmenistan with the view to prevent, detect and deter criminal acts related to laundering proceeds of crime and financing of terrorism.

Section II. Prevention of Money Laundering and Financing of Terrorism

Article 3. Measures Aimed at Prevention of Money Laundering and Financing of Terrorism

1. Banks and other financial institutions entitled to open and maintain bank accounts have no right to open anonymous bank accounts (deposits), numbered accounts (deposits) or to perform transactions without identification of counterparts and/or clients in accordance with the legislation of Turkmenistan.

2. Banks and other financial institutions entitled to open and maintain bank accounts and other reporting persons shall refuse any legal or natural person to open bank accounts (deposits), to perform transactions on accounts or to prepare and conducts any transaction if such person fails to provide the documents required for identification of a client or if the provided documents are found obviously suspicious or if the information received in accordance with this Law reveals this person as participating in terrorist activity. In cases specified in this article banks and other financial institutions entitled to open and maintain bank accounts shall have the right to terminate the agreements made with clients (account holders) and depositors, and the reporting persons shall consider an issue on making the information available to a competent authority subject to article 4 of this Law.

3. Reporting persons shall:

- identify and verify a client's identity which means to take certain measures to identify a client being a natural person (full name, a place of registration and residence, date of birth, passport data, powers to administer funds placed on the account and other information required by the legislation of Turkmenistan);

- prove the legal status of a client being a legal person including the name of a client, its legal structure, address, officials and other information from the incorporation documents which regulate a client's activity;

- prove the authority of and identify persons entitled to perform transactions on behalf of a client with no physical presence; to identify and verify an identity of a beneficial owner;

- take other measures established by the legislation of Turkmenistan.

4. The measures listed in part 3 of this article shall be taken in the following cases:

- at building business relationship;

- at performing any individual transactions to the designated threshold amount;

- when having suspicions about laundering proceeds of crime or financing of terrorism;

- when a reporting person is having doubts about authenticity and/or adequacy of the received information related to a client's identity.

5. Reporting persons shall regularly conduct verification of business relationships.

6. Banks and other financial institutions entitled to open and maintain bank accounts shall have no right to establish direct correspondent relationships with the banks incorporated in offshore zones, with their affiliates, subsidiaries and standalone subdivisions which do not have the status of a separate legal person.

This restriction does not refer to direct correspondent relationships established with branches incorporated in offshore zones, the headquarters of which are located (incorporated) outside the offshore zones.

It is prohibited to establish shell banks.

Banks and other financial institutions entitled to open and maintain bank accounts shall have no right to establish or continue direct correspondent relationships with shell banks and shall take precautions against transactions with foreign financial institutions acting as correspondents and allowing shell banks to use their accounts.

7. A legal person having the status of a company which is incorporated in an offshore zone in accordance with the laws of a jurisdiction of its incorporation, can be neither a founder nor a shareholder of a bank being a resident of Turkmenistan.

8. For the purpose of licensing and regulating the activities of banks and other financial institutions the Central Bank of Turkmenistan shall specify a list of the offshore subjects, states and territories and determine the terms and restrictions for transactions to be performed with them.

9. Reporting persons shall:

- develop internal control measures aimed at prevention of money laundering and financing of terrorism and procedures to implement such measures;

- keep the data and records related to transactions and operations with cash and/or other assets for not less than five years from the closing date of a transaction; keep the data and records related to a client's identification, as well as the information about business relationships, business correspondence and other information for not less than five years from the date of closing an account and terminating business relationships. The information about such records shall be sufficient to reconstruct certain transactions with the view to submit proper evidence for examination and investigation;

- not disclose the information shared with a competent governmental authority. Third parties may only be notified about sharing information with a competent governmental authority only in cases expressly provided by the legislation of Turkmenistan. Employees of the reporting persons shall not be entitled to notify clients of such institutions or other persons about sharing information with a competent governmental authority.

10. Banks and other financial institutions entitled to open and maintain bank accounts shall suspend transactions being performed by natural or legal persons, in case if information has been received from a competent governmental authority about participation of such person in terrorist activity (financing of terrorism), for three days from the date fixed for execution of a client's order to perform such transaction, and shall file a report to a competent governmental authority about such transaction not later than the date of such suspension. Failing to receive within the said three days an order from a competent authority on suspension of corresponding transactions of natural or legal persons known to be participating in terrorist activity (financing of terrorism) for an additional term, banks and other financial institutions entitled to open and maintain bank accounts shall perform a transaction with cash or other assets based on the client's order.

Suspension and seizure of transactions with cash and other assets belonged to natural or legal persons known to be participating in terrorist activity (financing of terrorism) beyond the term specified in the order of a competent authority may only be effected upon a court's order or a decision of an investigating authority.

Failing to receive within the term specified in the order from a competent authority any order of the court or investigating authority approved by the prosecutor to suspend a corresponding transaction for some additional term or to seize a transaction, banks and other financial institutions entitled to open and maintain bank accounts shall perform a transaction with cash or other assets based on the client's order.

11. Reporting persons and their employees shall be held harmless against any damages, loss of profit and moral damage caused to natural or legal persons by due performance of their obligation provided hereof regarding proper reporting on suspicious transactions and operations, should such actions not violate the procedures provided by the second part of this article.

12. Suspension of transactions, refusal to open a bank account (deposit) or to operate an account as well as termination of a bank account agreement and closing an account as provided by this article and effected subject to this Law shall not create a civil or other liability for reporting persons.

13. Reporting persons shall pay special attention to business relationships and transactions and operations with institutions and persons from the countries and territories where the recommendations of international organizations are not implemented or implemented insufficiently, as well as with subsidiaries, branches and representative offices with their head offices incorporated in such countries and territories. A list of such countries and territories shall be approved by the Cabinet of Ministers of Turkmenistan as advised by a competent governmental authority.

14. Control over complying with the provisions of this Law as to recordkeeping and reporting on transactions subject to mandatory controls and over implementation of internal controls shall be exercised by corresponding supervising authorities within their competence and as required by the legislation of Turkmenistan, and by a competent authority in the absence of supervising authorities in sector where particular institutions are engaged in performing transactions with cash and other assets.

Article 4. Mandatory Control Requirements

1. Persons reporting to a competent governmental authority in due order shall report on transactions which are found to be suspicious as related to money laundering or terrorist financing as well as on transactions and operations with cash and other movable and immovable assets which fall within the criteria established for transactions subject to the mandatory controls on the part of a competent governmental authority, not later than on the first business day following the closing date of a transaction.

2. If a reporting person has any suspicions about transactions being performed for the purpose of money laundering or terrorist financing such person shall notify a competent authority on such transactions irrespective of whether they refer to the transactions specified in article 5 hereof or not.

3. Reporting persons shall, as may be required, record the findings of complex, unusually large-scale transactions and operations as well as transactions, operations, and transfers made using nonstandard schemes and with no economic rationale.

Article 5. List of Criteria against Which Transactions are Referred to Mandatory Controls

1. Any transaction or operation with cash or other assets or several associated transactions performed within ten days are subject to mandatory controls if such transaction is referred to one of the types of transactions specified in part 2 of this article and if the transaction amount in foreign and national currency equals or does not exceed the threshold designated by a competent governmental authority of Turkmenistan.

2. Transactions with cash or other assets subject to mandatory controls are:

1) domestic and cross-border transactions and operations which are performed by banks and other financial institutions entitled to open and maintain bank accounts (deposits) and which by their nature raise suspicions of their feasibility;

2) transactions or operations if one of the parties is a natural or legal person incorporated, domiciled or resident in a country (territory) where it is not required to disclose or share information about financial transactions, or if one of the parties is a holder of an account in the bank incorporated in the said country (territory);

The list of such countries and territories is defined by the Cabinet of Ministers of Turkmenistan as advised by a competent governmental authority based on the lists approved by the international organizations involved in anti-money laundering and combating the financing of terrorism.

3) other transactions and operations above the designated threshold:

- purchase and sale of foreign currency in cash;
- purchase of securities for cash by a natural person;
- exchange of banknotes of one denomination into banknotes of another;
- contributions in cash to the authorized capital made by a natural person;
- transfers of funds made by charitable and public organizations and institutions and foundations;

4) other transactions with movable and immovable assets above the designated threshold:

- keeping securities, precious metals, precious stones and other valuables in pawnshops;
- payment of insurance contributions by a natural person or receipt of insurance premium by a natural person on life insurance and other types of accumulative insurance and pension benefits;
- transactions with real estate;
- transactions with movable property;
- receipt or delivery of property under financial lease agreement (leasing agreement);
- Payoffs for winning lotteries, betting or other gambling.

5) transfers of cash above the designated threshold made by the order of a client (natural person).

3. Transactions with cash or other assets are subject to mandatory controls if at least one of the parties to such transaction or operation is a natural or legal person known to be participating in terrorist activities (financing of terrorism).

4. Transactions or operations which raise suspicions of money laundering or terrorist financing are subject to mandatory controls.

Section III. Arrangement of Activities on Anti-Money Laundering and Combating the Financing of Terrorism

Article 6. Competent Governmental Authority

1. The tasks, functions and responsibilities of a competent governmental authority established by the President's Act for combating money laundering and terrorist financing shall be determined based on this Law.

Interference of governmental authorities with the issues referred hereby to the powers of a competent governmental authority is not allowed except as provided in this Law.

2. A competent governmental authority shall within its powers:

1) collect and analyze information related to transactions and operations subject to mandatory controls;

2) set up a threshold for transactions or operations performed in foreign and national currency which are referred to in part 1 article 5 hereof;

3) require from reporting persons to implement measures aimed at anti-money laundering and combating the financing of terrorism based on this Law and other legislative acts of Turkmenistan;

4) develop and implement measures on improving the system for preventing, detecting and deterring suspicious transactions and operations, as well as transactions and operations related to money laundering and terrorist financing, as well as report details of implementing measures of anti-money laundering and terrorist financing for detection of suspicious transactions and operations and reporting of such transactions;

5) bring to the court, prosecutor, investigation and inquiry authorities the documents and other materials related to money laundering and terrorist financing following the official written inquiries on initiated proceedings in accordance with the legislation of Turkmenistan. A competent governmental authority at its own discretion may submit this information to the law enforcement agencies and court;

6) carry out activity on prevention and deterring of laundering proceeds of crime;

7) pursuant to the legislation in force have the access to the data bases (registries) that are developed and maintained by the governmental authorities;

8) request information and documents from reporting persons for the purpose of combating money laundering and terrorist financing;

9) in the presence of sufficient evidence that a transaction or operation is related to money laundering and financing of terrorism, submit corresponding information and materials to the law enforcement agencies of relevant competence.

3. A competent governmental authority shall suspend transactions or operations with cash and other assets for the period of up to five days if at least one of the parties involved in such

transaction or operation is a natural or legal person known to be participating in terrorist activity (financing of terrorism).

Section IV. International Cooperation in Anti-Money Laundering and Combating the Financing of Terrorism

Article 7. Information Exchange and Legal Assistance

1. Pursuant to the international agreements concluded by Turkmenistan a competent governmental authority shall cooperate with competent authorities of foreign countries at the stages of data collection, preliminary investigation, court proceedings and enforcement of judgments when combating money laundering and terrorist financing.

2. A competent governmental authority together with other governmental and administrating authorities of Turkmenistan involved in activities related to anti-money laundering and combating the financing of terrorism shall disclose the corresponding information to the competent authorities of foreign countries following requests of the latter or at their own discretion in the order and to the extent provided by the international agreements concluded by Turkmenistan, with the approval of the President of Turkmenistan.

3. Information related to detection, seizure and confiscation of the proceeds of crime and/or terrorist financing shall be disclosed to competent authorities of foreign countries with the approval of the President of Turkmenistan in case such disclosure is not detrimental to the interests of national security of Turkmenistan.

4. Information related to detection, seizure and confiscation of the proceeds of crime and/or terrorist financing shall be disclosed at the request of a competent authority of a foreign country provided it is not used without a prior consent of the corresponding governmental and administrating authorities of Turkmenistan which have disclosed it, for the purposes not specified in the request.

5. A competent governmental authority that has sent a request to a competent authority of a foreign country shall ensure the received information is kept confidential and used for the purpose specified in the request only. Governmental and administrating authorities of Turkmenistan involved in the activities on anti-money laundering and combating the financing of terrorism based on the international agreements concluded by Turkmenistan and the laws of Turkmenistan shall within their competence execute requests received from the competent authorities of foreign countries related to confiscation of proceeds of crime and some legal proceedings on cases about detection of proceeds of crime, freezing of assets, seizure of assets, including evaluation, interrogation of suspects, defendants, witnesses, victims and others, searches and seizures, delivery of material evidences, delivery and transfer of documents.

6. The expenses connected with the execution of the said requests shall be reimbursed pursuant to the provisions of the international agreements concluded by Turkmenistan.

7. Request for information (materials) for the purpose of combating money laundering and terrorist financing shall be sent and executed in the territory of Turkmenistan subject to the provisions of this Law.

Section V. Final Provisions

Article 8. Liability for Infringement of this Law

1. Infringement of the requirements provided by this Law by organizations or persons performing transactions or operations with cash or other assets shall result in liability to the extent provided by the legislation of Turkmenistan.

2. The executives and employees of a competent governmental authority and other governmental authorities, including former ones, who under this Law receive or received access to the information from the reporting persons shall bear criminal and other liability for unlawful disclosure and use of official, business, bank, tax secrets and postal secrecy (to the extent postal transfers are concerned), as well as for abuse of position in accordance with the legislation of Turkmenistan.

3. Reporting on suspicious transactions and operations with cash or other assets and operations which are subject to mandatory controls to a competent governmental authority in accordance with the requirements established by this Law shall not be considered disclosure of official, business, bank, tax secrets and postal secrecy (to the extent postal transfers are concerned).

4. The Central Bank of Turkmenistan shall provide a competent governmental authority with the information and documents necessary for performing its function, including at its requests.

5. Sharing of information and documents by any governmental, administrating and local self-government authorities with a competent governmental authority for the purpose and to the extent provided by this Law shall not be considered breach of official, business, bank, tax secrets and postal secrecy (to the extent postal transfers are concerned).

Article 9. Prosecutor's Supervision

Supervision over the execution of this Law in accordance with the legislation of Turkmenistan shall be effected by the Prosecutor-General of Turkmenistan and the prosecutors subordinated to him.

Article 10. Enactment of this Law

1. This Law shall come into force three months after its official publication.

2. Laws of Turkmenistan and other legislative acts until they are aligned with this Law shall operate to the extent not in conflict with this Law.

**Approved
by the Decree of the president of
Turkmenistan
dated January 15, 2010 No. 10798**

**Decree
on Financial Monitoring Authority
of the Ministry of Finance of Turkmenistan**

1. This Decree provides for objectives, tasks, powers, functions and work performed as well as the major spheres of activity of the Financial Monitoring Authority (hereinafter referred to as the Authority).

The Authority is the structural subdivision of the Ministry of Finance of Turkmenistan empowered in compliance with regulatory legal acts to carry out activity on collecting, analyzing and further transferring information concerning money laundering and financing of terrorism as well as to elaborate measures on combating the legalization of proceeds of crime.

2. The objective of the Authority's activity is to ensure the legal framework of combating the legalization of proceeds of crime, financing of terrorism and the related crimes.

3. In its activity the Authority is governed by the Constitution of Turkmenistan, Laws of Turkmenistan, acts of the President of Turkmenistan, decrees of the Mejlis of Turkmenistan, decrees and regulations of the Cabinet of Ministers of Turkmenistan and other regulatory legal acts of Turkmenistan, international agreements of Turkmenistan, Decree on the Ministry of Finance of Turkmenistan and the present Decree.

4. In its activity the Authority cooperates closely with other structural subdivisions of the Ministry as well as with state authorities and other organizations and establishments of Turkmenistan and foreign countries and international organisations in the procedure prescribed by law.

5. The Authority's tasks are:

- to create the system of continuous flow of information related to transactions and operations in monetary and material form subject to mandatory control in compliance with the regulatory legal acts of Turkmenistan, to detect suspicious transactions and operations using the system for suppression of criminal activity;

- to ensure confidentiality of the information received and protection of the developed database;

- to create efficient mechanism for combating money laundering and terrorism financing, to implement preventive measures;

- to improve international cooperation on the basis of the agreed principles of information exchange.

6. In accordance with the tasks assigned the Authority:

- analyzes suspicious transactions or operations with cash resources or other property;

- develops and implements the measures on preventing (avoiding) violation of regulatory legal acts of Turkmenistan on combating money laundering and terrorism financing, consolidates the experience on implementation thereof and carries out the activity on improving the regulatory legal system concerning these issues;

- develops and implements the measures on detection of suspicious transactions and operations and means of their prevention;

- updates internal databases according to the issued decrees on freezing operations or transactions on a regular basis;

develops and implements safety procedures (aimed at ensuring confidentiality of access to the databases, information as well as persons working with such information);

executes internal control over activity of the employees of the Authority, introduces internal standards of work with clients and documents of confidential nature;

receives from ministries, administrations, enterprises and organizations of all forms of ownership as well as from natural persons any additional information with the purpose of combating legalization of proceeds of crime and financing of terrorism;

creates and maintains automated system of accounting, processing and analyzing information on transactions and operations subject to mandatory control;

transfers the respective information and materials to law-enforcement authorities in compliance with the sphere of their competence provided there is sufficient evidence confirming the transaction or operation with such cash resources or other property related to legalization of proceeds of crime or terrorism financing;

examines and implements into practice the advanced international experience and technology of carrying out the operations using international grand prizes and other technical assistance;

takes part in development and implementation of the programs of international cooperation, international conventions in compliance with the orders of the President of Turkmenistan, presents suggestions on conclusion the contracts on information exchange;

participates in elaboration of regulatory legal acts of Turkmenistan on issues concerning combating legalization of proceeds of crimes and terrorism financing;

develops, approves and implements the norms and standards of work, methodical recommendations, programs and other documents;

executes control over activity of the persons performing operations with cash resources or other property regarding compliance with the provisions of legislation on combating legalization of proceeds of crimes and terrorism financing;

organizes work on advancing the educational level of the employees of the Authority on their specialties by arranging further vocational training courses and attestation;

performs activity in compliance with laws and other regulatory legal acts of Turkmenistan and this Decree;

accomplishes other tasks related to performance of functions of the Authority.

7. The Authority shall have the right:

to request information and justifying documents from the parties providing the information as well as from ministries, administrations, enterprises and organizations of all forms of ownership and natural persons performing operations with cash resources and other property;

to receive information from the relevant authorities of foreign countries in the prescribed order;

to use databases of these state authorities in compliance with the applicable legislation;

to suspend for the period up to five working days effectuation of transactions and operations with cash resources and other property should there be any information regarding involvement in terrorist activity (terrorism financing) of at least one party participating in these transactions and operations;

to cooperate with international organizations in the prescribed order;

to invite to work, including on the contractual basis, research and development and other organizations, as well as individual specialists to carry out expert examination, develop educational programs, methodological materials, program and information support, to create information systems in the sphere of financial monitoring under the condition of keeping the state secret or any other secret protected by the legislation;

to realize other powers in compliance with regulatory legal acts of Turkmenistan.

8. The Authority is headed by the Director appointed and dismissed by the Minister of Finance of Turkmenistan as agreed with the Cabinet of Ministers of Turkmenistan.

9. The Director of the Authority shall:

govern the activity of the Authority and bear personal responsibility for accomplishing tasks and functions assigned to the Authority.

ensure performance of instructions of the Ministry top officials belonging to the sphere of its competence within the prescribed period and in a good quality manner as well as take part in preparation of necessary documents and information in cooperation with other authorities and departments of the Ministry;

assign the tasks and functions of the employees of the Authority;

ensure timely performance of the acts of the President of Turkmenistan, decrees of the Mejlis of Turkmenistan and decisions of the Cabinet of Ministers of Turkmenistan, orders of the Minister of Finance of Turkmenistan and other regulatory legal acts of Turkmenistan;

prepare suggestions on selection and appointment of employees for work in the Authority and submit the suggestions to the Ministry top officials in the prescribed order;

ensure timely accurate and correct records management and databases maintenance;

accomplish other tasks in compliance with regulatory legal acts of Turkmenistan.

10. At the written request of the Ministry the officials working in the ministries, administrations, enterprises and organizations of all forms of ownership as well as natural persons shall be obliged to submit the necessary information as well as to ensure access to the information systems and databases in order to perform the tasks and functions of financial monitoring on combating laundering of the proceeds of crime and terrorism financing.

Annex 4. List of Key Laws, Regulations and other Materials Provided to Evaluation Team

Constitution and Codes

1. Constitution of Turkmenistan
2. Civil Code
3. Civil Procedure Code
4. Code on Administrative Offences
5. Criminal Code
6. Criminal Procedure Code
7. Customs Code
8. Tax Code
9. Labor Code

Laws

10. The Law of Turkmenistan on Consumer Cooperation
11. The law on Investment Activity in Turkmenistan
12. The Law on Foreign Economic Activity in Turkmenistan
13. The Law on Foreign Concessions
14. The Law on Bankruptcy
15. The Law of Turkmenistan on Property
16. The Law on Collateral
17. The Law on the Currency of Turkmenistan
18. The Law on the Economic Zone of Free Enterprise
19. The Law on Chamber of Commerce
20. The Law on the Central Bank of Turkmenistan
21. The Law of Turkmenistan on Commercial Banks and Banking
22. The Law on Currency Regulation
23. The Law on Securities and Stock Exchanges in Turkmenistan
24. The Law on Commodity Exchanges
25. The Law on Insurance
26. The Law of Turkmenistan on Operational Investigation Activity
27. The Law of Turkmenistan on Entrepreneurship

28. The Law of Turkmenistan on Auditing Activity
29. The Law of Turkmenistan on Accounting
30. The Law of Turkmenistan on Denationalization and Privatization
31. The Law on Leasing
32. The Law of Turkmenistan on Joint Stock Companies
33. The Law of Turkmenistan on Enterprises
34. The Law of Turkmenistan on Trade Secrets
35. The Law of Turkmenistan on Trade
36. The Law of Turkmenistan on Public Associations
37. The Law on Freedom of Conscience and Religious Organizations
38. The Law of Turkmenistan on Archives and Archive-Keeping
39. The Law of Turkmenistan on Combating Terrorism
40. The Law of Turkmenistan on Narcotic Drugs, Psychotropic Substances, Precursors and Measures to Combat Illicit Trafficking therein
41. The Law of Turkmenistan on Dekhan Farms
42. The Law of Turkmenistan on Dekhan Associations
43. The Law of Turkmenistan on Combating Human Trafficking
44. The Law of Turkmenistan on Foreign Investment
45. The Law of Turkmenistan on the State Anti-Drug Service
46. The Law of Turkmenistan on the Licensing of Certain Activities
47. The Law of Turkmenistan on Trademarks, Service Marks and Appellations of Origin
48. The Law of Turkmenistan on State Support for Small and Medium-Sized Enterprises
49. The Law of Turkmenistan on Combating Money Laundering and Terrorist Financing
50. The Law of Turkmenistan on the Prosecutor's Office

Other Legal Regulatory Acts

51. Decree of the President of Turkmenistan No. 4516 of January 18, 2000 Regulations on the Organization of the Currency Export-Import Control
52. Decree of the President of Turkmenistan No. 4643 of April 18, 2000 On the State Fund of Precious Metals and Precious Stones of Turkmenistan

53. Decree of the President of Turkmenistan No. 4715 of June 15, 2000 On Measures to Strengthen Currency Regulation in Turkmenistan
54. Decree of the President of Turkmenistan No. 4756 of June 15, 2000 On the State Assay Chamber
55. Decree of the President of Turkmenistan No. 5393 of October 1, 2001 On Payment Cards Introduction and Servicing in Turkmenistan
56. Decree of the President of Turkmenistan No. 5490 of January 7, 2002 On Measures to Streamline Foreign Currency Operations on the Territory of Turkmenistan
57. Decree of the President of Turkmenistan No. 6365 of September 1, 2003 On the Establishment of the State Committee for Combating Terrorism
58. Decree of the President of Turkmenistan of 6454 of November 20, 2003 Issues Concerning the Ministry of Justice of Turkmenistan
59. Decree of the President of Turkmenistan No. 8054 of September 8, 2006 On Improving the State Registration of Legal Entities and Investment Projects
60. Decree of the President of Turkmenistan No. 10798 of January 15, 2010 Regulations on the Directorate of Financial Monitoring of the Ministry of Finance of Turkmenistan
61. Resolution of the Minister of Finance of Turkmenistan No. 16 of February 25, 2010 Registered with the Ministry of Justice of Turkmenistan under No. 518 on March 16, 2010 The Procedure for Provision at the Request of the Ministry of Finance of Turkmenistan of the Data Required to Combat Money Laundering and Terrorist Financing by Legal Entities and Individuals.
62. Resolution of the Minister of Finance of Turkmenistan No. 17 of February 25, 2010 Registered with the Ministry of Justice of Turkmenistan under No. 519 on March 16, 2010 On the Establishment of a Threshold Amount for Transactions in Foreign or National Currencies that are Subject to Mandatory Controls in the area of Combating Money Laundering and Terrorist Financing.
63. Resolution of the Minister of Finance of Turkmenistan No. 38 of April 14, 2010 Registered with the Ministry of Justice of Turkmenistan under No. 528 on July 14, 2010 On Approval of the Recommended Instruction for Completing Information Forms Concerning the Provision of Information Required to Combat Money Laundering and Terrorist Financing by Legal Entities and Individuals at the Directorate of Financial Monitoring of the Ministry of Finance of Turkmenistan.
64. Resolution of the Minister of Finance of Turkmenistan No. 40 of April 23, 2010 Regulations On Obtaining the Necessary Information and Documents from Financial Monitoring Entities at the Request of the Ministry of Finance of Turkmenistan for the Purpose of Combating Money Laundering and Terrorist Financing.
65. Resolution of the Minister of Finance of Turkmenistan No. 44 of May 3, 2010 On Approval of the Regulations on Suspension of Transactions with Monetary Funds or Other Assets at the Request of the Ministry of Finance of Turkmenistan.
66. Resolution of the Minister of Finance of Turkmenistan No. 52 of June 11, 2010 On Approval of the Procedure for Gathering and Analysis of the Relevant Data Required to Combat Money Laundering and Terrorist Financing by the Directorate of Financial

Monitoring of the Ministry of Finance of Turkmenistan, as well as the Provision thereof in the Event of Discovery of Sufficient Evidence to Suggest a Connection with Money Laundering or Terrorist Financing to the Law Enforcement Agencies within the Scope of its Competence.

Annex 5

The State of Implementation of the Vienna Convention, the Palermo Convention and the UN International Convention for the Suppression of the Financing of Terrorism:

1) Provisions of Articles 3-11, 15, 17 and 19 of the Vienna Convention are implemented in the following regulatory legal acts:

a) Article 3 (Offences and Penalties) – in Articles 8, 35, 74, 75, 242, 254, 292-297 of the Criminal Code of Turkmenistan.

All offenses covered by the above articles provide for a penalty in the form of imprisonment for a term of up to 10 years.

The aggravating circumstances provided for in the above articles of the Criminal Code of Turkmenistan comply with the provisions of Part 5 of Article 3 of the Vienna Convention.

b) Article 4 (Jurisdiction) – in Articles 5-9 of the Criminal Code of Turkmenistan.

c) Article 5 (Confiscation):

- as it pertains to confiscation of the proceeds from the commission of crimes constituting trafficking in narcotic drugs or psychotropic substances – provided for in Article 130 of the Criminal Procedure Code of Turkmenistan;

- as it pertains to seizure of property (funds) – provided for in Article 169 and 277 of the CPC of Turkmenistan, 44, 52 of the CC;

- as it pertains to provision of mutual legal assistance – provided for in Article 1.5 of the CPC of Turkmenistan and in the international agreements of Turkmenistan on mutual legal assistance;

d) Article 6 (Extradition) – in Articles 500-560 of the CPC of Turkmenistan.

e) Article 7 (Mutual legal assistance) – in Turkmenistan's international agreements on mutual legal assistance.

f) Article 8 (Submission of Materials of Criminal Proceedings) – in Turkmenistan's international agreements on mutual legal assistance.

g) Article 9 (Other Types of Cooperation and Staff Training) – in Turkmenistan's international agreements on mutual legal assistance.

h) Article 10 (International Cooperation and Assistance for Transit States) – in Turkmenistan's international agreements on mutual legal assistance.

i) Article 11 (Controlled Deliveries) – in the Law "On Narcotic Drugs, Psychotropic Substances, Precursors and Measures to Combat Illicit Trafficking therein, as well as in international agreements of Turkmenistan on mutual legal assistance.

j) Article 15 (Commercial Carriers) – in Article 254 of the CC of Turkmenistan, in the articles of the Customs Code of Turkmenistan.

k) Article 17 (Illicit Traffic by Sea) – in the current legislation of Turkmenistan.

l) Article 19 (Use of Mail) – in article 281 of the CPC of Turkmenistan.

2) Provisions of Articles 5-7, 10-16, 18-20, 24-27, 29-31 and 34 of the Palermo Convention are implemented in the following regulatory legal acts:

a) Article 5 (Criminalization of Participation in an Organized Criminal Group) – in Articles 32, 33, 35 of the CC of Turkmenistan.

b) Article 6 (Criminalization of the Laundering of Proceeds of Crime) - in article 242 of the CC of Turkmenistan.

c) Article 7 (Measures to Combat Money Laundering) – in the Law of Turkmenistan on AML / CFT.

d) Article 10 (Liability of Legal Persons) – in Article 24 of the Law of Turkmenistan "On Combating Terrorism".

e) Article 11 (Prosecution, Adjudication and Sanctions) – in Articles 5-9 of the CC of Turkmenistan.

f) Article 12 (Confiscation and Seizure) – in Articles 130, 169, 277 of the CPC of Turkmenistan and 44, 52 of the CC.

g) Article 13 (International Cooperation for Purposes of Confiscation) – in Turkmenistan's international agreements on mutual legal assistance.

h) Article 14 (Disposal of Confiscated Proceeds of Crime or Property) – in Turkmenistan's international agreements on mutual legal assistance.

i) Article 15 (Jurisdiction) – in Articles 5-9 of the CC of Turkmenistan.

j) Article 16 (Extradition) – in Articles 550-560 of the CPC of Turkmenistan and international agreements of Turkmenistan.

k) Article 18 (Mutual Legal Assistance) – in international agreements on mutual legal assistance.

l) Article 19 (Joint Investigation) – in international agreements of Turkmenistan;

m) Article 20 (Special Investigative Techniques) – in the current legal acts of Turkmenistan;

n) Article 24 (Protection of Witnesses) – in Article 27 of the CPC of Turkmenistan;

o) Article 25 (Assistance to and Protection of Victims) – in the CPC of Turkmenistan;

p) Article 26 (Measures to Enhance Cooperation with Law Enforcement Authorities) – in international agreements on mutual legal assistance;

q) Article 27 (Law Enforcement Cooperation) – in international agreements on mutual legal assistance.

r) Article 29 (Staff Training and Technical Assistance) - in regulatory legal acts of Turkmenistan;

s) Article 30 (Other measures: implementation of this Convention through economic development and technical assistance) – in regulatory legal acts of Turkmenistan;

t) Article 31 (Prevention of Transnational Organized Crime) – in regulatory legal acts of Turkmenistan;

u) Article 34 (Implementation of the Convention) – in Articles 32, 33, 35, 242, 58, 101, 107, 126, 274, 277, 285, 287.291, 292 and 294 of the CC of Turkmenistan.

3) Provisions of Articles 2-18 of the UN International Convention for the Suppression of the Financing of Terrorism of 1999 are implemented in the following regulatory legal acts:

a) Article 2 – in Article 271¹ of the CC of Turkmenistan. Also see review of SR. II;

b) Article 3 – in Article 5-9 of the CC Turkmenistan;

c) Article 4 – in Article 271¹ of the CC of Turkmenistan. Also see review of SR. II;

d) Article 5 – in Article 24 of the Law of Turkmenistan "On Combating Terrorism";

e) Article 6 – in Article 8 and 9 of the CC of Turkmenistan;

f) Article 7 – in Article 5-9 of the CC of Turkmenistan;

g) Article 8 – in Articles 4 and 6 of the Law of Turkmenistan on AML / CFT. Also see review of R.3;

- h) Article 9 – in the CPC of Turkmenistan;
- l) Article 10 - in Articles 3-5 of the CPC of Turkmenistan;
- m) Article 11 - in Articles 3-5 of the CPC of Turkmenistan;
- n) Article 12 – in international agreements of Turkmenistan on mutual legal assistance;
- o) Article 13 – in international agreements of Turkmenistan on mutual legal assistance;
- p) Article 14 – in Article 553 of CPC of Turkmenistan and international agreements of Turkmenistan on mutual Legal Assistance;
- r) Article 15 – in international agreements of Turkmenistan on mutual legal assistance;
- s) Article 16 – in the CPC of Turkmenistan and international agreements of Turkmenistan on mutual legal assistance;
- t) Article 17 – in the CPC of Turkmenistan and international agreements of Turkmenistan on mutual legal assistance;
- u) Article 18 – in the Law of Turkmenistan "On AML / CFT".

Annex 6

State of Implementation of the UN Security Council Resolutions:

Resolution 1267 (1999):

Information concerning sub. par. "a" of par. 4 is missing.

Provisions of sub. par. "b" of par. 4 is being implemented in accordance with Article 4 of the Law on "AML / CFT, pursuant to which all transactions with monetary funds or other assets are to be reported to a specially authorized state body and suspended in the event of availability of the information submitted in accordance with the prescribed procedure.

Resolution 1333 (2000):

Information concerning sub. par. "a, b, c" of par. 5, par. 7, sub. par. "a, b" of par. 8, par. 10, 11, 14, is missing.

Provisions of sub. par "c" of par. 8 are implemented in accordance with Article 4 of the Law on "AML / CFT".

Resolution 1363 (2001):

Information concerning par. 8 is missing.

Resolution 1373 (2001):

Provisions of sub. par "a" of par. 1 are implemented in accordance with the Law on "AML / CFT".

Provisions of sub. par. "b and d" of par. 1 is implemented in accordance with article 271¹ of the CC of Turkmenistan.

Provisions of sub. par "c" of par. 1 are being implemented in accordance with Article 4 and 6 of the Law on "AML / CFT".

Provisions of par. 2 are being implemented in accordance with the Laws "On Combating Terrorism", "AML / CFT" and Articles 271¹ of the CC of Turkmenistan.

Provisions of par. 2 are being implemented in accordance with the Laws "On Combating Terrorism" of the CPC of Turkmenistan and international agreements of Turkmenistan.

Resolution 1390 (2002):

Provisions of sub. par "a" of par. 2 are being implemented in accordance with Article 4 of the Law on "AML / CFT".

Information concerning sub. par. "b, c" of par. 2 and par. 8 is missing.

Resolution 1455 (2003):

Information concerning par. 1, 5 and 6 is missing.

Resolution 1526 (2004):

Information concerning par. 4, 5, 17 and 22 is missing.

Annex 7

Turkmenistan has concluded the following Agreements:

1. Agreement between the Governments of Turkmenistan and Azerbaijan on the Exchange of Legal Information (*Baku, March 18, 1996*)
2. Agreement between the Governments of Turkmenistan and Armenia on the Exchange of Legal Information (*Yerevan, March 19, 1996*)
3. Agreement between Turkmenistan and the Republic of Armenia on Legal Assistance and Legal Relations in Civil, Domestic and Criminal Matters (*Ashgabat, November 29, 2000*)
4. Agreement between Turkmenistan and the Republic of Belarus on Mutual Transfer of Persons Sentenced to Imprisonment to Continue to Serve Prison Term (*Ashgabat, May 17, 2002*)
5. Agreement between the Governments of Turkmenistan and Georgia on the Exchange of Legal Information (*Tbilisi, March 20, 1996*)
6. Agreement between Turkmenistan and Georgia on Mutual Legal Assistance in Civil and Criminal Matters (*Tbilisi, March 20, 1996*)
7. Agreement between the Governments of Turkmenistan and the Islamic Republic of Iran on Mutual Legal Assistance in Criminal Matters (*Tehran, March 11, 2003*)
8. Agreement between Turkmenistan and the Republic of China on Cooperation in the Fight against Terrorism, Separatism and Extremism (*Beijing, April 3, 2006*)
9. Agreement between Turkmenistan and the Republic of Kazakhstan on Legal Assistance and Legal Relations in Civil and Domestic Matters (*Almaty, February 27, 1997*)
10. Agreement between the Governments of Turkmenistan and Kazakhstan on Cooperation in the Fight against Organized Crime, Trafficking in Narcotic Drugs and Psychotropic Substances, Terrorism and other Dangerous Types of Crimes (*Almaty, February 27, 1997*)
11. Agreement between the Governments of Turkmenistan and Kazakhstan on the Exchange of Legal Information (*Almaty, February 27, 1997*)
12. Agreement between Turkmenistan and the Republic of Kazakhstan on the Transfer of Persons Sentenced to Imprisonment to Continue to Serve Prison Term (*Astana, July 5, 2001*)
13. Agreement between the Governments of Turkmenistan and the Slovak Republic on Cooperation in the Fight against International Terrorism, Drug Trafficking and other Types of Organized Crimes (*Moscow, August, 8, 1996*)
14. Agreement between the Governments of Turkmenistan and the Russian Federation on the Exchange of Legal Information (*Moscow, May 18, 1995*)
15. Agreement between the Governments of Turkmenistan and the Russian Federation on the Transfer of Persons Sentenced to Imprisonment to Continue to Serve Prison Term (*Moscow, May 18, 1995*)

16. Agreement between the Governments of Turkmenistan and Uzbekistan on the Exchange of Legal Information (*Tashkent, November 27, 1996*)
17. Agreement between Turkmenistan and Uzbekistan on Legal Assistance and Legal Relations in Civil, Domestic and Criminal Matters (*Tashkent, November 27, 1996*)
18. Agreement between Turkmenistan and Ukraine on the Transfer of Persons Sentenced to Imprisonment to Continue to Serve Prison Term (*Ashgabat, March 23, 2005*)

Annex 8

No information on the agreements concluded by law enforcement agencies of Turkmenistan is available.

Annex 9

List of international multilateral conventions and agreements concerning combating terrorism, illegal migration and other types of crimes, to which Turkmenistan is a party:

1. Single Convention on Narcotic Drugs of 1961, as amended in accordance with the 1972 Protocol On Amendments to the Single Convention on Narcotic Drugs of 1961 (*New York, March 30, 1961*)
2. The UN Convention on Psychotropic Substances of 1971 (*Vienna, February 21, 1971*)
3. The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (*Vienna, December 19, 1988*)
4. International Convention against the Recruitment, Use, Financing and Training of Mercenaries (*New York, January 31, 1990*)
5. The UN Convention on Slavery (*New York, April 1, 1927*)
6. Supplementary UN Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (*New York, September 7, 1956*)
7. The UN Protocol Amending the Slavery Convention approved by Resolution No. 794 / 8 of the UN General Assembly (*New York, October 23, 1953*) *Entered into force December 7, 1953.*
8. The UN Convention on the Status of Refugees (*Geneva, July 28, 1951*)
9. The Protocol Relating to the Status of Refugees (*Geneva, January 31, 1967*)
10. The Hague Convention on Civil Aspects of International Child Abduction (*The Hague, October 25, 1980*)
11. The Convention on the Safety of United Nations and Associated Personnel (*New York, December 9, 1994*)

12. International Convention for the Suppression of Terrorist Bombings (*New York, December 15, 1997*)
13. Convention on Offences and Certain Other Acts Committed on Board Aircraft (*Tokyo, September 14, 1963*)
14. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (*Montreal, September 23, 1971*)
15. Convention for the Suppression of Unlawful Seizure of Aircraft (*The Hague, December 16, 1970*)
16. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (*Rome, March 10, 1988*)
17. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (*Rome, March 10, 1988*)
18. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (*New York, December 14, 1973*)
19. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*New York, December 10, 1984*)
20. International Convention against the Taking of Hostages (*New York, December 17, 1979*)
21. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementing the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (*Montreal, February 24, 1988*)
22. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, Protocol "On Undetectable Fragments" (Protocol I to the Convention) and Protocol "On Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices" (Protocol II to the Convention) (*Geneva, October 10, 1980*)
23. International Convention for the Suppression of the Financing of Terrorism (*Dec. 9,*

1999)

24. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (*New York, May 25, 2000*)
25. The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (*New York, May 25, 2000*)
26. The UN Convention against Transnational Organized Crime (*New York, November 15, 2000*)
27. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (*New York, November 15, 2000*)
28. Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the UN Convention against Transnational Organized Crime (*New York, November 15, 2000*)
29. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime (*New York, May 31, 2001*)
30. The UN Convention against Corruption (*New York, 31 October 2003*)
31. International Convention for the Suppression of Acts of Nuclear Terrorism (*April 13, 2005, New York*)