



ЕВРАЗИЙСКАЯ ГРУППА  
по противодействию легализации преступных доходов  
и финансированию терроризма

EURASIAN GROUP  
on combating money laundering  
and financing of terrorism

English – Or. Russian



## THE SIXTH FOLLOW-UP REPORT OF TURKMENISTAN

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# **FIRST MUTUAL EVALUATION OF TURKMENISTAN**

## **6<sup>th</sup> Follow-Up Report of Turkmenistan (request for removal from the EAG monitoring procedures)**

### **I. INTRODUCTION**

1. The purpose of this paper is to present to the EAG Plenary a detailed report on Turkmenistan's progress, containing a description of the measures taken by this country to remedy the deficiencies identified during the mutual evaluation.
2. A history of reviews and approvals of the reports of Turkmenistan:
  - the Mutual Evaluation Report and the 1<sup>st</sup> Follow-Up Report were approved by the 14<sup>th</sup> EAG Plenary meeting in June 2011;
  - the 2<sup>nd</sup> Follow-Up Report approved by the 15<sup>th</sup> EAG Plenary meeting in November 2011;
  - the 3<sup>rd</sup> Follow-Up Report approved by the 16<sup>th</sup> EAG Plenary meeting in May 2012;
  - the 4<sup>th</sup> Follow-Up Report approved by the 17<sup>th</sup> EAG Plenary meeting in November 2012, culminating in the removal of Turkmenistan from an enhanced follow-up process and its placement on a regular follow-up monitoring;
  - the 5<sup>th</sup> Follow-Up Report approved by the 21<sup>st</sup> EAG Plenary meeting in November 2014;
  - Turkmenistan was instructed to present the 6<sup>th</sup> detailed Follow-Up Report to the 23<sup>rd</sup> EAG Plenary meeting in November 2015 as part of procedures for removal from the regular follow-up process.
3. The 6<sup>th</sup> Follow-Up Report of Turkmenistan details the measures undertaken by Turkmenistan from June 2011 to July 2015 in respect of all core and key recommendations rated "partially compliant" (PC) and "non-compliant" (NC).
4. The information provided by Turkmenistan is attached hereto as Annexes 1, 2, 4 and 5. Requests for any relevant laws, ordinances, regulations, etc. shall be submitted by concerned delegations to the EAG Secretariat.
5. Statistics covering the reporting period (2011-2015) are presented in Annex 3 hereto.
6. The report was prepared by an expert group made up of EAG member state and Secretariat representatives: Takhmina M. Zakirova (legal expert, the Republic of Tajikistan), Sergei V. Shirokih (law enforcement expert, the Republic of Belarus) and Darya A. Rybalchenko (financial expert, Russian Federation).
7. Following the discussion of the MER of Turkmenistan, this country was rated "partially compliant" and "non-compliant" on a total of 30 Recommendations, as indicated below, including on 1 core and 6 key recommendations:

Partial Compliance (PC)	Non-Compliance (NC)
<b>Core Recommendations</b>	
R.5 (Customer due diligence)	
<b>Key Recommendations</b>	
R. 23 (Regulation, supervision and monitoring) R.26 (FIU) R.40 (Other forms of cooperation) SR.I (Application of UN instruments) SR.III (Freezing and confiscation of terrorist assets) SR.V (International cooperation)	
<b>Other recommendations</b>	
R.7 (Correspondent banking)  R.8 (New technologies and non-face-to-face business) R.11 (Unusual transactions)  R.14 (Protection & no tipping-off)  R.15 (Internal controls, compliance & audit) R. 24 (DNFBP – regulation, supervision and monitoring) R. 27 (Law enforcement authorities) R. 29 (Supervisors)  R.33 (Legal persons – beneficial owners)  R.38 (MLA on confiscation and freezing) SR. VI (AML/CFT requirements for money/value transfer services) SR. SR.VII (Wire transfer rules) SR.VIII (Non-profit organizations) SR. IX (Cross border declaration & disclosure)	R.6 (Politically exposed persons)  R. 12 (DNFBP – R.5, 6, 8-11) R.16 (DNFBPs – R.13-15 & 21)  R.17 (Sanctions)  R.22 (Foreign branches and subsidiaries) R.25. (Guidelines & feedback) R.30 (Resources, integrity and training) R.31 (National co-operation)  R.32 (Statistics)

## II. OVERVIEW OF PROGRESS MADE BY TURKMENISTAN

8. Below are the most significant regulations adopted (amended) by Turkmenistan since the MER approval in 2011 to eliminate the deficiencies identified in the Mutual Evaluation Report:

- The joint order of the Chairman of the Board of the Central Bank of Turkmenistan No. 26 dated February 17, 2011 and the Minister of Finance of Turkmenistan Nr. 17 dated February 17, 2011 approved the "On the Implementation of Measures by Banks to Combat and Detect Transactions with Funds and/or Other Assets Linked to Money Laundering and Terrorist Financing";
- The Minister of Finance order Nr. 54 dated 26 May 2011 approved the Regulation "On establishing the threshold amount of transactions and operations in foreign or national currency for mandatory controls on AML/CFT ".
- The Minister of Finance order Nr. 62 dated June 9, 2011 approved the Regulation "On the Implementation of the Following Regulations in Compliance with the Law 'On Anti-Money Laundering and Terrorist Financing'":
  - the Regulations on the Provision of Training and Advanced Training to Employees of Reporting Entities Involved in the Fight against Money Laundering and Terrorist Financing;
  - the Regulation on Measures against Countries with an Inadequate Anti-Money Laundering and Terrorist Financing System;
  - the Regulation on Measures against Foreign Officials Aimed at Combating Money Laundering and Terrorist Financing;
  - the Regulation on the Implementation of Internal Controls to Combat Money Laundering and Terrorist Financing.
- The Minister of Finance order No. 102 dated November 3, 2011 approved the Regulation "On the Dissemination and Use of the Lists of Persons in Respect of Whom There Is Evidence of Involvement in Terrorist Activities";
- Amendments to the Law of Turkmenistan "On Anti-Money Laundering and Terrorist Financing" (Laws of Turkmenistan dated August 4, 2011 Nr. 214-IV and October 1, 2011 Nr. 235-IV);
- The Law of Turkmenistan "On Amendments to the Law 'On Licensing of Certain Activities'" (dated August 4, 2011 Nr. 218-IV);
- Presidential decree No. 11896 dated November 11, 2011 on approval of "the Procedure of legal entities state registration and record-keeping" and the Regulation "On the interdepartmental Commission on State Registration of legal entities".
- the Law of Turkmenistan "On Insurance" (dated December 22, 2012 Nr. 356-IV);
- Amendments to the Criminal Code of Turkmenistan;
- Amendments to the Law of Turkmenistan "On currency Regulation and Currency Control in Foreign Economic Relations";

- The Law of Turkmenistan "On Combating Corruption" (dated March 1, 2014 Nr. 35-V);
- The Code of Turkmenistan "On Administrative Offences";
- The Law of Turkmenistan "On State Registration of Title to Real Property and Transactions Therewith";
- The Law of Turkmenistan "On Real Estate Activity";

9. In October 2015, the Financial Monitoring Department provided the EAG Secretariat with new version of the AML/CFT Law adopted by the Turkmen Mejlis (Parliament) on August 18, 2015. This Law will come into effect on January 1, 2016.

10. Pursuant to the Turkmen law-making procedures the chairman of the Mejlis (Parliament) endorses authenticity of the adopted law and submits it to the President of Turkmenistan for signature. The President either signs the law or uses the right of suspensive veto to return it (with his objections), within two weeks, back to Mejlis for the second hearing and voting (Article 53(7) of the Constitution of Turkmenistan). Only after the law is adopted by the President of Turkmenistan and published, it becomes legally binding on all persons present in the territory of Turkmenistan. Besides that, pursuant to the Law of Turkmenistan of Laws and Regulations laws come into effect upon expiration of ten days after their official publication (Article 25 of the said Law and Article 5(3) of the Turkmen Constitution). The Turkmen authorities provided no information as to whether or not the revised AML/CT Law was signed by the President of Turkmenistan or was officially published.

11. According to clause 10 of the EAG monitoring procedures entitled "On termination of the EAG 1st round of follow-up procedures" the progress will be assessed on the basis of the regulations which are in force.

### **III. ANALYSIS OF COMPLIANCE WITH THE CORE AND KEY RECOMMENDATIONS**

#### **Recommendation 5 (Customer due diligence)**

***Deficiency 1: The CDD threshold for occasional transactions exceeds US\$15,000. There is no requirement to conduct CDD when carrying out occasional transactions below US\$200,000.***

12. According to the Order of the Minister of Finance of Turkmenistan Nr. 54 dated May 26, 2011 set a 57,000 manat threshold for all occasional transactions and transactions subject to mandatory control<sup>1</sup> (approx. US\$16,285 or 14,782 euros at the current exchange rate of the Central Bank of Turkmenistan).

13. In accordance with the Law of Turkmenistan "On Anti-Money Laundering and Terrorist Financing" mandatory control is the set of measures taken by the designated government authority, regulated by the Law "On AML/CFT" and other legislative acts of Turkmenistan adopted in accordance with it.

14. In order to eliminate this deficiency, the Minister of Finance order Nr. 62 dated June 9, 2011 approved the Regulation "On the Implementation of Internal Controls to Combat Money

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<sup>1</sup>Website of the Central Bank of Turkmenistan [http://www.cbt.tm/kurs/kurs\\_today\\_ru.html](http://www.cbt.tm/kurs/kurs_today_ru.html)

Laundrying and Terrorist Financing". Pursuant to paragraph 5 of Section 2 "Customer Due Diligence and Risk Prevention" Reporting entities shall conduct customer due diligence, including establish and verify the identity of their customers upon establishing a business relationship and on an on-going basis in respect of existing customers, regardless of the frequency of transactions, taking into account the applicable threshold.

15. If, during the establishment or during ongoing customer relationships, or when conducting occasional transactions, a reporting entity suspects that transactions relate to money laundering or terrorist financing, it shall establish and verify the identity of the customer and beneficial owner, regardless of the frequency and amount of transactions. All received and gathered data shall be sent to the designated government authority.

16. In accordance with the internal regulations, reporting entities shall ensure that all customers are subject to the full range of CDD measures, including the requirement to identify the beneficial owner and verify the submitted documents, as well as to conduct CDD in respect of the established beneficial owner (paragraph 10 hereof).

17. Information about setting the threshold amount and the application of CDD measures in accordance with the thresholds specified in the Order and in the Regulation of the Minister of Finance of Turkmenistan, and therefore it is recommended to make corresponding changes in the Basic AML/CFT Law in order to harmonize legislation. The deficiency has been eliminated

***Deficiency 2: There requirement to apply CDD to attempted transactions is absent.***

18. The Law of August 4, 2011 "On Amendments to the Law of Turkmenistan 'On Anti-Money Laundrying and Terrorist Financing'" amended paragraph 5 of Article 3 of Section II of the said law to read as follows: "Persons submitting information in respect of the existing customers shall conduct on-going CDD after granting them access to services, including in relation to customers to whom access to their services had been granted prior to the entry into force of this Law".

19. Furthermore, the Regulation "On the Implementation of Internal Controls to Combat Money Laundrying and Terrorist Financing " (approved by the Minister of Finance of Turkmenistan order Nr. 62 dated June 9, 2011) oblige reporting entities to conduct CDD in respect of attempted transactions, as stated in Section 1 in the context of the "customer due diligence" definition and in Section 4, paragraph 15, in the context of data review. The deficiency has been eliminated.

***Deficiency 3: The mechanisms for conducting the following CDD measures are not sufficiently defined: beneficial owner identification and verification, uncovering the purpose and nature of a business relationship with a customer, and on-going monitoring of customer relationships.***

20. The Law of Turkmenistan "On Amendments to the Law 'On Anti-Money Laundrying and Terrorist Financing'" of 15 August 2011 introduced the term "verification" and established an obligation of reporting entities to carry out verification in respect of the information and documents provided by customers.

21. In addition, the Regulation "On the Implementation of Measures by Banks to Combat and Detect Transactions with Funds and/or Other Assets Linked to Money Laundrying and Terrorist Financing" (approved by the joint order of the Chairman of the Board of the Central Bank of Turkmenistan Nr. 26 dated February 17, 2011 and the Minister of Finance of Turkmenistan Nr. 17 dated February 17, 2011) established verification and identification mechanisms for the banking sector, as described in more detail in Section 4 (paragraphs 11, 12 and 17). The said Regulation

also contains requirements for internal control regulations (Section 3) that establish a procedure for identifying beneficial owners.

22. In accordance with the above regulation, financial institutions shall identify the beneficial owners of their customers through the use of a questionnaire, which must contain information about the beneficial owner (if any), including his identification data. Afterwards, the compliance service of a financial institution shall verify the data provided by the customer using publically available information.

23. The list of mandatory information to be entered into the questionnaire by bank customers, which, among others, includes information on beneficial ownership and the primary activities of legal persons, is contained in Annex 1 to the said regulation.

24. According to the Regulation "On the Implementation of Internal Controls to Combat Money Laundering and Terrorist Financing". Pursuant to paragraph 5 of Section 2 reporting entities shall conduct customer due diligence of their customers upon establishing a business relationship and on an on-going basis in respect of existing customers, regardless of the frequency of transactions, taking into account the applicable threshold.

25. Pursuant to subparagraph c) of paragraph 7 of the mentioned Regulation reporting entities shall identify the beneficial owners, including by forming an understanding of their ownership and management structure, and take steps within their scope of authority to verify the identity of such persons.

26. The Regulation also allows verification to be conducted by sending a written request to the relevant issuing or registration authority, or through consultations between the designated employee and employees of the relevant issuing or registration authority (paragraph 8, Section 2).

27. Identification of the persons using the services of a reporting entity (customers and beneficial owners) is carried out using the originals or duly certified copies of such persons' identity or constituent documents, which shall subsequently undergo a verification process. The deficiency has been eliminated.

***Deficiency 4: Legal consequences of a reporting entity's inability to conduct CDD (negative CDD results) are only envisaged in respect of identification and availability of data suggesting involvement in terrorist activities.***

28. According to paragraph 2 of Article 3 of the AML/CFT Law "Banks and other credit institutions entitled to open and maintain bank accounts, as well as other reporting entities, shall refuse to open an account (deposit) for a legal or natural person, conduct transactions through the account, or prepare and carry out transactions.

29. The grounds for such refusal include failure to submit the required documents, submission of suspicious documents or a person's involvement in terrorist activities. In additions, the same grounds can be used to terminate existing contracts. In all these cases, credit institutions shall notify the designated authority by reporting STR (Article 3 of the AML/CFT Law).

30. Paragraphs 3 and 4 of the same article establish the procedures for use by compliance service employees and other employees of credit institutions governing the collection and verification of information on customers (legal and natural persons) for AML/CFT purposes when establishing a business relationship, carrying out occasional transactions above the designated threshold, suspecting money laundering and terrorist financing, or doubting the veracity of the submitted data.



31. Pursuant to paragraph 10 of the Regulation "On Internal Controls for Anti-Money Laundering and Terrorist Financing":

*"reporting entity shall ensure that all customers are subject to the full range of CDD measures, including the requirement to identify the beneficial owner and verify the submitted documents, as well as to conduct CDD in respect of the identified beneficial owner..."*

32. It should be noted that, pursuant to the Regulation "On the Implementation of Measures by Banks to Combat and Detect Transactions with Funds and/or Other Assets Linked to Money Laundering and Terrorist Financing", banks must update the submitted information at least once a year and review the level of customer risk. The updating of information may also be carried out if there is doubt about its veracity (paragraph 30 of the Regulation). The deficiency has been eliminated.

***Deficiency 5: There is no clarity regarding the performance of CDD in respect of the existing financial institution customers and on-going CDD.***

33. The Law of August 4, 2011 "On Amendments to the Law of Turkmenistan 'On Anti-Money Laundering and Terrorist Financing'" amended paragraph 5 of Article 3 of the said law to read as follows: "Persons submitting information in respect of the existing customers shall conduct on-going customer due diligence after granting them access to services, including in relation to customers to whom access to their services had been granted prior to the entry into force of this Law".

34. Furthermore, according to the Regulation "On Internal Controls for AML/CFT", reporting entities shall conduct on-going CDD, including establish and verify the identity of the existing customers, regardless of the frequency of transactions, taking into account the applicable threshold (paragraph 5 of Section 2).

35. This provision empowers reporting entities to request any information on all their customers, irrespective of their form of ownership.

36. In addition, Section 3 of this Regulation establishes a comprehensive procedure for carrying out the identification of persons that use the services of reporting entities (customers and beneficial owners). The deficiency has been eliminated.

***Deficiency 6: There is no uniform mechanism for recording CDD findings.***

37. Pursuant to Section 6 of the Regulation "On Internal Controls for AML/CFT", reporting entities shall record information related to all transactions referred to in paragraph 15 hereof. Also, the designated employee of a reporting entity shall record the CDD findings in accordance with Annexes 1, 2, 3 and 4 hereto. The deficiency has been eliminated.

***Deficiency 7: The use of a risk-based approach in relation to CDD is only practiced by some banks.***

38. The Regulation "On the Implementation of Measures by Banks to Combat and Detect Transactions with Funds and/or Other Assets Linked to Money Laundering and Terrorist Financing" requires banks to implement internal controls for anti-money laundering and terrorist financing purposes, i.e., to draft internal regulations that take into account the nature and type of a bank's principal activities, its customers and ML/FT risks, and include the following:

- *a procedure for identifying financial transaction participants and beneficial owners of the bank customers;*
- *the methods for communicating with the public authorities (making inquiries, use of databases, etc.) to enable a more thorough scrutiny of customers and identification of suspicious financial transactions;*
- *the identification criteria for and indicators of suspicious financial transactions that factor in the specifics of the bank activities;*
- *a procedure for identifying and classifying financial transactions as transactions subject to mandatory control;*
- *a procedure for documenting financial transactions subject to mandatory control;*
- *a procedure for suspending certain financial transactions in cases stipulated in the domestic law of Turkmenistan;*
- *a procedure for ensuring safety and confidentiality of data on suspicious financial transactions and transactions subject to mandatory control;*
- *the names of the designated bank officials and specialists responsible for drafting internal regulations;*
- *the qualification requirements for bank officials and training requirements for the employees of the special department (if any), officials responsible for the implementation of internal regulations and employees of the bank departments carrying out financial transactions.*

39. Furthermore, the Regulation "On Internal Controls for AML/CFT" requires all reporting entities to conduct CDD (Section 2, paragraph 5) and develop risk management procedures (Section 2, paragraph 9).

40. Pursuant to paragraph 10 of the Regulation "On the Implementation of Measures by Banks to Combat and Detect Transactions with Funds and/or Other Assets Linked to Money Laundering and Terrorist Financing":

*"...The designated government authority, taking into account the circumstances where the risk of money laundering and terrorist financing is lower, where information on the identity of the customer and the beneficial owner of a customer is publicly available, or where adequate checks and controls exist elsewhere in national systems, may permit a reporting entity to conduct simplified or reduced CDD measures when identifying and verifying the identity of a customer and beneficial owner, as provided by the FATF recommendations.*

41. In addition, pursuant to paragraph 23 of the Regulation, depending on the risk category to which a bank customer belongs, the degree of risk connected with having a relationship with him and the nature of financial transactions carried out by him, identification shall be carried out on the basis of various factors. Depending on the degree of risk, the nature of transactions and existing suspicions, customers may be asked to fill out an extended questionnaire. There is also a list of customers and transactions classified as high risk (paragraphs 26 and 28 of the Regulation).

42. Turkmenistan has developed a regulatory framework for conducting risk-based CDD. That said, the application of a risk-based approach to CDD is subject to compliance with the Regulation "On the Implementation of Measures by Banks to Combat and Detect Transactions with Funds and/or Other Assets Linked ML/TF" and Regulation "On Internal Controls for AML/CFT". Turkmenistan has provided statistics on identified violations by banks in applying risk-based

approach during CDD procedures. Thus confirming that stated Regulations implemented in work practice. The deficiency addressed. The deficiency has been eliminated.

***Deficiency 8: The requirement to carry out verification is absent. No statistics on enforcement practice are available.***

43. In accordance with the Regulation "On the Implementation of Measures by Banks to Combat and Identify Transactions with Funds and/or Other Assets Linked to Money Laundering and Terrorist Financing", financial institutions have established a system of identification of customers' beneficial ownership through the use of a questionnaire. Such questionnaire shall contain information about the beneficial owner (if any), including identification data (complete list of required data presented in Annexes to the Regulation). Afterwards, the compliance service of a financial institution shall verify the data provided by the customer using publically available information.

44. The Regulation "On the Implementation of Internal Controls to Combat Money Laundering and Terrorist Financing" allows verification to be conducted using publically available information, by sending a written request to the relevant issuing or registration authority, or through consultations between the designated employee and employees of the relevant issuing or registration authority (paragraph 8, Section 2).

45. Identification of the persons using the services of a reporting entity (customers and beneficial owners) is carried out using the originals or dully certified copies of such customers' identity or constituent documents, which shall subsequently undergo a verification process.

46. Turkmenistan has provided statistics regarding the work of the Interagency Committee on Economy Risk Protection and Interagency Committee on the State Registration of Legal Entities. Data provided shows that each year more than half applications for registration are being rejected, including for AML/CFT reasons. It is recommended that the experts should pay special attention to this matter during the next round of mutual evaluations to identify if such measures are effective and proportionate to the risks.

47. Furthermore, the statistics on identification of deliberate false/inaccurate information during the verification presented, thus showing the formation of law enforcement mechanisms in the country. The deficiency has been eliminated.

**Recommendation 5 summary**

Amendments to Turkmenistan's AML/CFT Law, Regulation "On the Implementation of Internal Controls to Combat Money Laundering and Terrorist Financing" and Regulation "On the Implementation of Measures by Banks to Combat and Identify Transactions with Funds and/or Other Assets Linked to Money Laundering and Terrorist Financing" and also the statistics provided allow us to conclude that Turkmenistan has made progress in addressing deficiencies involving Recommendations 5.

Taking into account the progress made by Turkmenistan in addressing the deficiencies on Recommendation 5, the current level of compliance may be rated as LC

## **Recommendation 23. Regulation, supervision and monitoring**

***Deficiency 1: No information is available on the application of the Core AML/CFT Principles in the banking, insurance and securities sectors.***

48. The following laws have addressed this deficiency:

1. Law of March 26, 2011 "On Credit Institutions and Banking";
2. Law of December 22, 2012 "On Insurance";
3. Law of November 8, 2014 "On Securities Market";

49. Furthermore, the Regulation "On Implementation of Internal Controls for AML/CFT" contains a requirement for the application of the Core AML/CFT Principles in the banking, insurance and securities sectors.

50. In addition, the provisions on the application of the Core AML/CFT Principles in the banking, insurance, securities sectors are contained in the Regulation "On the Implementation of Measures by Banks to Combat and Identify Transactions with Funds and/or Other Assets Linked to Money Laundering and Terrorist Financing" in the context of identifying transactions subject to mandatory control. The deficiency has been eliminated.

***Deficiency 2: Detailed market entry procedures are only available for the banking sector.***

51. Presidential decrees Nr. 10595 dated August 14, 2009 and Nr. 14320 dated July 7, 2015 approved the regulations "On Licensing of Professional Securities Market Participants' Activity", "On Licensing of Insurance Activity" and "On Licensing of Audit Activity", which contain detailed procedures for entering these markets. Also according to Presidential decree Nr. 14385 dated August 21, 2015 stated provisions are supplemented by a ground for license suspension for failure to provide relevant information to the authorised authority as per AML/CFT Law of Turkmenistan.

52. Presidential decree Nr. 11896 dated November 11, 2011 "On Enhancing the State Registration of Legal Entities" approved:

- Regulation on Interagency Committee on the State Registration of Legal Entities;
- Procedures for state registration of legal entities and their record-keeping.

According to over stated documents the procedure for providing the relevant documents for registration and re-registration (every 3 years) of entities is established, including for the reasons of verification of founders and senior management of the entities for their involvement in criminal activities.

53. The Law of Turkmenistan of March 31, 2012 "On Amendments to Certain Legislative Acts of Turkmenistan" introduced a provision to the Law of Turkmenistan "On Enterprises" according to which any information as to the involvement of the founders, shareholders, managers and beneficiaries in criminal activity also constitutes grounds for refusal of state registration of a legal entity. The deficiency has been eliminated.

***Deficiency 3: The powers to carry out monitoring and supervision need to be clarified in the Law "On Leasing".***

54. In accordance with the information provided in the Turkmenistan MER at the time report preparation, there was no leasing companies in the country. New information provided shows that in the considered period there were no leasing companies created. The leasing services are only provided by the credit institutions and the leasing transactions account 0.0004 % of total currency balance of the Turkmenistan banking system. According to Article 3 of the Law "On Credit Institutions and Banking" credit institutions are authorized to provide leasing services. Thus, credit institutions providing leasing services are subject to the Law "On the Central Bank" and, therefore, the Central Bank of Turkmenistan has authorities to supervise them.

55. Moreover, it was explained that in the case of establishment of a leasing company separately from the credit institution, i.e. bank, that such entity automatically will be supervised by authorised authority (FIU of Turkmenistan) as per Part II Article 3 Paragraph 5 of AML/CFT Law of Turkmenistan.

56. The Law of Turkmenistan of August 4, 2011 "On Amendments to the Law of Turkmenistan 'On Licensing of Certain Activities'" which also regulates banking activity, made it mandatory for license applicants to submit internal AML/CFT regulations to the licensing authority (Article 11, paragraphs 4).

57. The Law of Turkmenistan of January 10, 2012 "On Amendments to the Law of Turkmenistan 'On Licensing of Certain Activities'" introduced a new article (Article 81-1), granting the licensing authorities the powers to conduct AML/CFT supervision.

1. *Licensing shall be aimed at combating money laundering and terrorist financing.*
2. *Licensing authorities shall, using the procedure established by law, monitor compliance by license holders with Turkmenistan's anti-money laundering and terrorist financing legislation.*

According to this article in the licensing bodies are assigned AML/CFT supervisory role.

58. The deficiency has been eliminated, still it is recommended to amend Law of Turkmenistan "On Leasing" in order to harmonize the legislation.

***Deficiency 4: The AML/CFT monitoring and supervision system is in its early stages of development, meaning that the available data is insufficient to assess its effectiveness.***

59. The accumulated 2011-2015 statistics on inspections, identified violations and sanctions point at the effectiveness of the AML/CFT monitoring and supervision regime.

60. In 2011, 31 inspection was conducted, the results of which were issued two 2 instruction letters issued. In 2012, the number of inspections has increased to 128, according to the results was issued 12 instruction letters issued. In 2013 it was carried out 143 checks revealed 41 violation, which was composed of 12 written warnings and 19 instruction letters issued. In 2014: 156 inspections, 19 violations, including 4 written warnings and 11 regulations. For the first six months of 2015 carried out 66 inspections and decorated 16 written warnings.

61. Due to absence of professional securities service providers there was no inspections conducted.

62. There are two insurance companies in Turkmenistan: "Turkmengosstrah" (State-owned company) and "Insurance Services" (Joint-stock company). According to legislative acts of Turkmenistan, the inspections of insurance companies are conducted once in three-year period. The inspection of "Turkmengosstrah" was conducted in late 2012 – beginning of 2013, the inspection of "Insurance Services" was conducted in late 2014. Moreover, according to Article 36

and Article 39 of Law “On Insurance” and Article 14 of Law “On Auditor Activities” there should be mandatory annual audit of insurance companies conducted, the report is sent to the supervisory authority – the Ministry of Finance. The deficiency has been eliminated.

***Deficiency 5: The FMD director's powers raise questions about the agency's operational independence.***

63. The Minister of Finance order No. 99 of December 28, 2010 granted the FMD director the signature authority and decision-making rights in the area of information and analytical work, personnel hiring and appointment, and FMD operating budget approval and allocation. The deficiency has been eliminated.

**Recommendation 23 summary**

Amendments to Turkmenistan's AML/CFT Law and the relevant licensing regulations, as well as the adoption of the laws "On Credit Institutions and Banking", "On Insurance", "On Securities Market", allow us to conclude that Turkmenistan has made a progress on this recommendation. Meanwhile there are certain aspects of legal regulations that require further clarification. Turkmenistan clarified the procedures for entering the leasing market and provided addition information regarding supervision of the leasing market.

Taking into account the progress made by Turkmenistan in addressing the deficiencies on Recommendation 23, the current level of compliance may be rated as LC

**Recommendation 26: Financial Intelligence Unit**

***Deficiency 1: The FMD does not publish periodical reports on the results of its activity.***

64. Pursuant to Chapter 24 of the Guidelines for Internal Procedures of the Financial Monitoring Department of the Ministry of Finance of Turkmenistan adopted by the Turkmen Finance Minister’s Order of 09.04.2012 the international office of the FMD, after receiving and summarizing the relevant information from other divisions of the FMD, submits the draft annual report to the head and deputy head of the FMD for approval not later than February 10 each year, as prescribed by the FMD Charter.

65. The FMD annual reports are posted on its official website:  
<http://www.turkmenfmd.gov.tm/node/217>

- The FMD's 1st Annual Report 2011 was posted on its official website on 23 January 2012;
- The FMD's 2nd Annual Report 2012 was posted on its official website on 6 February 2012;
- The FMD's 3rd Annual Report 2013 was posted on its official website on 20 February 2014;
- The FMD's 4th Annual Report 2014 was posted on its official website on 25 February 2015.

The deficiency is eliminated.

***Deficiency 2: There is no information exchange with the FIU of foreign countries.***

66. Since February 2011 through June 2015, the cooperation memoranda/ agreements were signed with the financial intelligence units of the following countries: Belarus, Russian Federation, China, Tajikistan, Romania, Ukraine, Turkey, Japan, Uzbekistan, Kyrgyzstan, Iran, Moldova and Georgia. Besides that, the intergovernmental agreement was signed with Latvia.

67. Turkmenistan provided the updated list of international cooperation and information sharing agreements and the list of international agreements on legal matters (Annex 4 and Annex 5).

68. The statistical data on the FMD's international cooperation, as it pertains to information sharing, are attached, in particular:

- In 2011, 14 requests were forwarded and 15 responses were received;
- In 2012, 63 requests were forwarded and 59 responses were received;
- In 2013, 47 requests were forwarded and 38 responses were received;
- In 2014, 46 requests were forwarded and 33 responses were received;
- During six months of 2015, 70 requests were forwarded and 25 responses were received.
- In 2012, 11 requests were received and 11 responses were forwarded;
- In 2013, 9 requests were received and 8 responses were forwarded;
- In 2014, 5 requests were received and 2 responses were forwarded;
- During six months of 2015, 11 requests were received and 6 responses were forwarded.

69. The provided statistics and gradually extended list of international agreement and memoranda allow for making the conclusion that Turkmenistan has made progress in eliminating this deficiency. However, it should be noted that international cooperation should be broadened, including the conclusion of international interagency agreements with foreign FIU, initiating inter-FIU information exchange (based on Egmont Group principles of information exchange) and complete the procedures to obtain the membership status of the Egmont Group.

***Deficiency 3: Inadequate resources provided to the FIU affect the effectiveness of its efforts.***

70. Structurally, the Financial Monitoring Department is part of the Ministry of Finance of Turkmenistan, and the FMD's activities are funded from the Turkmen national budget. The costs related to allocation technical and other resources to the FMD are also covered by the national budgetary funds.

71. Turkmen Finance Minister's Order Nr.99 of December 28, 2010 empowered the FMD head to sign documents and make decisions pertaining to analysis and dissemination of information and intelligence, recruitment and deployment of the FMD personnel, and adoption and spending of the FMD operating budget. The deficiency is eliminated.

72. On 1 May 2014, the OSCE Centre in Ashgabat, jointly with the Ministry of Finance of Turkmenistan, opened the Resource Centre for Effective AML/CFT Governance. The Resource Centre provides access to the library, special databases and periodic publications and also arranges for training workshops for the Turkmen civil servants.

73. The training workshops with participation of international experts and training visits are regularly arranged for the Turkmen public officials and employees responsible for AML/CFT.

74. It is suggested that more detailed review of resources available to the Turkmen FIU, including IT, financial and human resources, will be conducted under the next round of mutual evaluations.

**Conclusions on Recommendation 26:**

In the reporting period, Turkmenistan has demonstrated significant progress in implementing Recommendation 26. The Financial Monitoring Department is fully operational and uses the electronic document management system.

Taking into account the progress made by Turkmenistan in addressing the deficiencies on Recommendation 26, the current level of compliance may be rated as LC

**Recommendation 40: Other Forms of International Cooperation****Deficiency 1: Lack of international cooperation in supervision.**

75. According to the information provided by Turkmenistan, as of today, the following Turkmen supervisors have entered into the international supervisory cooperation agreements with their foreign counterparts:

- Agreement between the Central Bank of Turkmenistan and the National Bank of the Republic of Belarus;
- Agreement between the Ministry of Economy and Development of Turkmenistan and the Ministry of Economy of the Republic of Belarus;
- Agreement between the Ministry of Finance of Turkmenistan and the Ministry of Finance of the Republic of Belarus;
- Memorandum of Understanding between the Ministry of Economy and Development of Turkmenistan and the Federal Ministry of Economics and Labor of the Republic of Austria;
- Memorandum of Understanding between the State Tourism Committee of Turkmenistan and the Ministry of Tourism of the Republic of Croatia.

The detailed list of the international cooperation and information sharing agreements that are currently in effect is attached as Annex 5. It should be noted that since the adoption of MER of Turkmenistan the list of international agreements increased significantly.

76. Turkmenistan authorities provided statistics of international cooperation among supervisory authorities in relation to AML/CFT field:

- In 2011, 3 requests were forwarded and 1 requests were received;
- In 2012, 0 requests were forwarded and 0 requests were received;
- In 2013, 1 requests were forwarded and 1 requests were received;
- In 2014, 0 requests were forwarded and 0 requests were received;
- During six months of 2015, 2 requests were forwarded and 1 request was received.

77. The deficiency has been eliminated, however assessment of the quality of international cooperation can not be objectively assessed on the basis desk based review. Turkmenistan has provided statistics on requests and a list of international agreements. Special attention should be



paid to the efficiency of mechanisms of international cooperation in the supervisory field during upcoming round of ME.

***Deficiency 2: No effective mechanisms or channels to facilitate the exchanges of information by the FMD with its foreign counterparts have been established.***

78. The Turkmen FIU and other government authorities and agencies engaged in the AML/CFT activities provide the relevant information to the foreign competent authorities at requests or on the basis of their own initiative in a manner and on the grounds established in the international treaties and agreements of Turkmenistan, by taking into account approval of President of Turkmenistan.

79. Where there are no relevant agreements in place, information related to identification, seizure and confiscation of the proceeds of crime and/or to terrorist financing is disclosed to foreign competent authorities upon approval of the President of Turkmenistan, unless such disclosure is detrimental to the national security of Turkmenistan (Section IV, Article 7 of the AML/CFT Law of Turkmenistan).

80. According to paragraph 7 of the Regulation Nr.10798 "On the Financial Monitoring Department of Turkmenistan's Finance Ministry", approved by the President on 15.01.2010, FMD is entitled to obtain information in the prescribed manner by the competent authorities of foreign countries and work with international organizations. In accordance with the paragraph 4 of the said Regulation, FMD is working closely with government agencies, organizations and other institutions of foreign states and international organizations.

81. In accordance with the Law of Turkmenistan Nr.108-IV «On international agreements of Turkmenistan" dated 10.05.2010 Turkmenistan's international agreements concluded on behalf of the ministries and departments, in addition the authority to negotiate and sign international agreements of Turkmenistan can be given to ministers and heads of departments with respect to agreements of interdepartmental nature. In the case of the Financial Monitoring Department powers are transferred to the Ministry of Finance of Turkmenistan. In accordance with Article 4 of the said Law, if an international agreement of Turkmenistan establishes rules other than those specified by law, the provisions of the international agreement prevail. According to the information presented by Turkmenistan, consent of President of Turkmenistan is required during the process of establishing of an international agreement, rather than during every day pursuant of its provisions, this inaccuracy arose due to an incorrect translation from the Turkmen language.

82. It should be noted that cooperation with international organizations and regional bodies is limited due to incomplete Egmont Group membership procedures.

83. Turkmenistan authorities provided following mutual legal assistance statistics in relation to AML/CFT field:

- In 2011, 5 requests were forwarded and 3 requests were received;
- In 2012, 2 requests were forwarded and 7 requests were received;
- In 2013, 0 requests were forwarded and 11 requests were received;
- In 2014, 0 requests were forwarded and 5 requests were received;
- During six months of 2015, 1 requests were forwarded and 1 request was received.

84. According to the information provided, conclusion that Turkmenistan implemented a constructive mechanism for the exchange of information with foreign partners could be made. The deficiency has been eliminated.

**Deficiency 3: No information was provided about the practice of international cooperation between law-enforcement authorities in AML/CFT.**

85. International cooperation with foreign law enforcement agencies is governed by Chapter 52 (Legal assistance in criminal matters) of the Turkmen Criminal Procedure Code and is provided in compliance with the ratified Conventions and the signed multilateral and bilateral international treaties, agreements and memoranda. The terms, conditions and procedures of cooperation are specified in such agreements and in the domestic legislation of Turkmenistan. As in case of SR.V, the experts was unable to receive the texts of bilateral agreements (fully or partially) for detailed review (Annexes 4 and 5).

86. In course of the ML/FT investigations, the Ministry of Internal Affairs of Turkmenistan uses the Interpol and CARICC systems (CARICC is operated by the National Security Service of Turkmenistan) for international cooperation. Turkmenistan has provided additional statistical information on international cooperation in the field of AML/CFT by means of Interpol, including on cooperation in the investigation of predicate offenses for the second half of 2014, the first half of 2015.

87. Turkmenistan authorities provided following law enforcement cooperation statistics in relation to AML/CFT field:

- In 2011, 19 requests for forwarded and 9 responses were received;
- In 2012, 7 requests for forwarded and 7 responses were received;
- In 2013, 11 requests for forwarded and 11 responses were received;
- In 2014, 5 requests for forwarded and 5 responses were received;
- During six months of 2015, 4 requests for forwarded and 4 responses were received.

88. The deficiency has been eliminated, however Turkmenistan should establish constructive international cooperation between law enforcement authorities through other channels of information exchange

**Deficiency 4: Low efficiency of the system in terms of international cooperation and information exchange with FIU.**

89. Since February 2011 through June 2015, the cooperation memoranda/ agreements were signed with the financial intelligence units (FIUs) of the following countries: Belarus, Russian Federation, China, Tajikistan, Romania, Ukraine, Turkey, Japan, Uzbekistan, Kyrgyzstan, Iran, Moldova and Georgia. Besides that, the intergovernmental agreement was signed with Latvia.

90. Turkmenistan provided the updated list of international cooperation and information sharing agreements and the list of international agreements on legal matters (Annex 4 and Annex 5).

91. The provided statistical data are presented in the review of deficiency 2 in Recommendation 26.

**Conclusions on Recommendation 40:**

Based on statistical information provided by Turkmenistan, development of bilateral relations and international cooperation of supervisory, law enforcement authorities and FIU could be confirmed.

The Turkmen FIU and other government authorities and agencies engaged in the AML/CFT activities should keep independence in the area of international cooperation.

Taking into account measures that were made by Turkmenistan in addressing the deficiencies on Recommendation 40, the current level of compliance may be rated as LC

## **SR. I Implementation of UN instruments**

***Deficiency 1: The requirements of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism are not complied with when it comes to the criminalization of the theft of nuclear materials and illegal actions against fixed platforms located on the continental shelf.***

92. In order to address this deficiency, Turkmenistan adopted on August 4, 2001 the Law "On Amendments to the Criminal Code of Turkmenistan" Nr. 211-IV, supplementing the Criminal Code with the following article:

*Article 277-1. The Illegal Seizure of the Platform*

- 1) *The illegal seizure of a floating or fixed platform carried out in order to take control over it, as well as the placement on its surface of explosive or other devices that endanger its safe navigation, lead to damage thereto or destruction thereof, as well as any action (inaction) carried out for the purpose of achieving these goals, is punishable by imprisonment for a term of three to eight years, with or without confiscation of property.*
- 2) *The same committed:*
  - a) *by a group of people acting in collusion;*
  - b) *repeatedly;*
  - c) *with the use of violence that engagers a person's life or health, or with threat of such violence,*  
*is punishable by imprisonment for a term of five to ten years, with or without confiscation of property.*
- 3) *The acts set forth in paragraphs 1 and 2 of this article, if committed by an organized group or have resulted in the death through recklessness of a person or led to other serious consequences, are punishable by imprisonment for a term of eight to fifteen years with confiscation of property.*

93. A review of the provisions of the above article shows that its scope does not sufficiently cover the acts set out in Article 2 of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988) and Article 4 of the

Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

94. For example, paragraphs b)<sup>2</sup> and c)<sup>3</sup> of Article 2 of the Protocol of 1988 (incitement and intimidation), and additional Articles 2bis and 2ter, introduced in accordance with Article 4 of the Protocol of 2005 (when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act; using any radioactive, toxic or other noxious substances).

95. In accordance with the above law, Articles 283, 284 and 285 of the Criminal Code have been amended to read as follows:

Article 283. Illegal Handling of Radioactive Substances and Nuclear Materials

- 1) *The illegal purchase, storage, use, transfer, destruction, industrial enrichment, alteration, disposal or dispersal of radioactive or nuclear materials, is punishable by imprisonment for a term of up to two years.*
- 2) *The same, if resulted in the death through recklessness or led to other serious consequences, is punishable by imprisonment for a term of up to five years, with or without confiscation of property.*

Article 284. Violation of the Rules of Handling of Nuclear and Radioactive Materials

*Violation of the rules governing the storage, transfer, use, accounting for and transportation of radioactive or nuclear materials and other rules for handling thereof, if these acts have led to the destruction of the physical protection of radioactive or nuclear materials or caused other serious consequences, is punishable by imprisonment for a term of two to seven years, with or without confiscation of property.*

Article 285. Theft or Extortion of Radioactive or Nuclear Materials

- 1) *The theft or extortion of radioactive or nuclear materials, is punishable by imprisonment for a term of two to seven years, with or without confiscation of property.*
- 2) *The same committed:*
  - a) *repeatedly;*
  - b) *by a group of people acting in collusion;*
  - c) *through the abuse of public office;*
  - d) *with the use of violence that engagers a person's life or health, or with threat of such violence,*

*is punishable by imprisonment for a term of three to ten years, with or without confiscation of property.*

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<sup>2</sup> b) performs act of violence against a person on board a fixed platform, if that act is likely to endanger its safety

<sup>3</sup> c) destroys a fixed platform or cause damage to it which is likely to endanger its safety

- 3) *The theft or extortion of radioactive or nuclear materials committed with violence that endangers a person's life or health, or with threat of such violence, or by an organized group or criminal community,*  
*is punishable by imprisonment for a term of six to fifteen years with confiscation of property.*

*Note*

*The term "repeatedly", as used in this article and Articles 291 and 294 of this Code, means the commission of an offence if it was preceded by one or more offences covered by these articles as well as articles 227-233 and 271-274 of this Code.*

96. Amendments to Articles 283 - 285 of the Criminal Code help cover the acts set forth in Article 7 of the Convention on the Physical Protection of Nuclear Materials (Vienna, March 3, 1980).

97. Turkmenistan adopted a number of measures to ensure compliance with the requirements of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism. That said, some shortcomings in the criminalization of unlawful acts against the safety of fixed platforms located on the continental shelf remain.

***Deficiency 2: There are shortcomings in the implementation of the UN Security Council Resolutions 1267 and 1373.***

98. Turkmenistan undertook substantial measures to address this shortcoming and ensure the implementation of UNSCR 1267 and 1373. A detailed analysis is given below, in the section on SR. III.

**Special Recommendation I summary:**

Amendments to Articles 283, 284 and 285 of the Criminal Code and supplemented CCT with Article 277-1 "Illegal Seizure of the Platform" largely ensure compliance with the essential criteria set in SR.I as regards the criminalization of the theft of nuclear materials and unlawful acts against the safety of fixed platforms located on the continental shelf, except for some minor shortcomings.

Taking into consideration that Turkmenistan undertook substantial measures to address this shortcoming and ensure the implementation of UNSCR 1267 and 1373 the progress made by Turkmenistan in addressing the deficiencies on SRI, the current level of compliance may be rated as LC.

**SR. III Freezing and confiscating terrorist assets**

***Deficiency 1: Low effectiveness of measures due to Turkmenistan's overreliance on criminal procedural mechanisms for freezing.***

99. In order to eliminate this deficiency, Turkmenistan adopted the Law "On Amendments to the Law of Turkmenistan 'On Anti-Money Laundering and Terrorist Financing'" No. 214-IV of August 4, 2011, introducing a civil procedural mechanism for freezing terrorist assets, i.e., a requirement to take steps to ensure immediate and indefinite suspension of transactions with funds and other assets, and to prevent individuals and legal entities from accessing them. In addition, these

amendments have established a procedure for reviewing requests from foreign competent authorities by the designated government authority (FIU).

*Article 3. Measures Aimed at Combating Money Laundering and Terrorist Financing*

...

*11. Individuals and legal entities carrying out transactions with funds and other assets shall take steps to ensure immediate and indefinite suspension of transactions with funds or other assets, and to prevent individuals and legal entities, persons over whom they exercise control (with their participatory interest) or who control them (their equity participants) from accessing such assets, in relation to which they have received information from the designated government authority or from other sources about their involvement in terrorist activities (financing of terrorism and extremism), and notify the said government authority of the measures taken no later than one day after the suspension of such transactions.*

...

*The procedure for using and communicating information about individuals and legal entities (the list) involved in terrorist activities (extremist activity or terrorist financing) to individuals and legal entities carrying out transactions with funds and other assets shall be established by the designated government authority.*

100. Pursuant to paragraph 11 of Article 3 of the Framework Law, the Minister of Finance of Turkmenistan approved the Regulation on the Dissemination and Use of the Lists of Persons in Respect of Whom There Is Evidence of Involvement in Terrorist Activities No. 102 dated November 3, 2011. This Regulation defines the powers and the scope of activities of the FIU and reporting entities, and establishes a procedure for using, and removing individuals and legal entities from, the Lists, as well as for using the Foreign and National Lists.

101. In addition, the joint order of the Ministry of Finance of Turkmenistan (No. 17) and the Central Bank of Turkmenistan (No. 26) dated 17 February 2011 adopted the Regulations "On the Implementation of Measures by Banks to Combat and Detect Transactions with Funds and/or Other Assets Linked to Money Laundering and Terrorist Financing", paragraphs 26 and 29 of which contain a reference to the Framework Law as regards measures to suspend transactions and prevent persons involved in terrorist activities from accessing the funds<sup>4</sup>.

*29. Banks shall pay special attention to financial transactions carried out by high-risk customers. Financial transactions carried out by persons referred to in subpar. 2 of par. 26 hereof shall be suspended in accordance with subpar. 1 of par. 10 of Art. 3 of the Law of Turkmenistan "On Anti-Money Laundering and Terrorist Financing".*

102. The Minister of Finance order No. 62 dated June 9, 2011 approved the Regulation "On the Implementation of Internal Controls to Combat Money Laundering and Terrorist Financing", which also contains Section 5 "Suspension of Transactions".

*5. Suspension of Transactions*

*19. Reporting entities shall take steps to ensure immediate and indefinite suspension of transactions with funds or other assets, and to prevent individuals and legal entities, persons over whom they exercise control (with their participatory interest) or who control them (their equity participants) from accessing such assets, in relation to which they have received information from the designated government authority or from other*

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<sup>4</sup> The text of this paragraph needs to be adjusted to make sure it is aligned with the Framework Law in term of paragraph numbering (replace "subpar. 1 of par. 10 of Art. 3" with "par. 11 of Art. 3").

*sources about their involvement in terrorist activities (financing of terrorism and extremism), and notify the said government authority of the measures taken no later than one day after the suspension of such transactions.*

103. Turkmenistan undertook substantial measures to implement a civil procedural mechanism for freezing assets. However, certain aspects still need to be addressed in more detail in the country's regulations (see Deficiency 3).

104. Also, in order to avoid misinterpretations, there should be a uniformity of definitions contained in different regulations of Turkmenistan (suspension of transactions with funds or other assets and preventing individuals and legal entities from accessing the assets (the Framework Law), freezing and unfreezing/unblocking (Regulation on the Dissemination of and Compliance with the Lists)).

**Deficiency 2: The necessary mechanisms for reviewing and using data on the subjects of freezing received from foreign countries are absent.**

105. In order to eliminate this deficiency, Turkmenistan adopted the Law "On Amendments to the Law of Turkmenistan 'On Anti-Money Laundering and Terrorist Financing'" No. 214-IV of August 4, 2011, establishing, in paragraph 3 of Article 6 of the Framework Law, a procedure for reviewing requests from foreign FIUs to freeze terrorist assets in the territory of Turkmenistan by the designated government authority.

*"3. The designated government authority may suspend transactions with funds and other assets in the following specific cases:*

- 1) if there is information about the involvement of one of the parties (individual or legal entity) to a transaction, persons over whom it exercises control (with its participatory interest) or who control it (through its equity participant) in terrorist activities (extremism or financing of terrorism) – for an indefinite period;*
- 2) if there is sufficient reason to believe or confirm that such person has carried out, attempted to carry out, or is carrying out a transaction related to money laundering – for a term of up to five business days;*
- 3) at the request of a foreign competent authority and subject to the conditions set forth in paragraph 1 hereof – for an indefinite period; subject to the conditions set forth in paragraph 2 hereof – for a term specified in the request, but not more than thirty days.*

106. The procedure for using the Foreign Lists is described in more detail in the Regulation "On the Dissemination and Use of the Lists of Persons in Respect of Whom There Is Evidence of Involvement in Terrorist Activities" No. 102 dated November 3, 2011. For example, it contains a definition of the term "Foreign Lists", as well as a procedure for the submission and use of such lists (Sections 1, 2 and 6 of the Regulation).

107. Therefore, Turkmenistan established the necessary mechanisms for reviewing and using data on the subjects of freezing received from foreign countries. The deficiency has been eliminated.

**Deficiency 3: Open procedures for considering requests for de-listing and unfreezing of de-listed persons' funds or other assets are absent.**

108. Section 5 of the Regulation "On the Dissemination and Use of the Lists of Persons in Respect of Whom There Is Evidence of Involvement in Terrorist Activities" No. 102 dated November 3,

2011 sets out detailed procedures for removing individuals and entities from the Lists (Al-Qaida Sanctions List and Taliban Sanctions List)<sup>5</sup>.

109. Subparagraph 2 of paragraph 26 of Section 6 of the Regulation stipulates that:

*A person's request for removal from the Foreign List shall be sent in accordance with the domestic law of Turkmenistan to the foreign competent authority for review, unless provided otherwise by international treaties.*

110. Subparagraph 2 of paragraph 27 of Section 6 of the Regulation stipulations that:

*A person's request for removal from the National List shall be reviewed in accordance with the domestic law of Turkmenistan.*

111. Therefore, Turkmenistan established a common legal framework for reviewing de-listing requests. However, there is no detailed procedure for removing from the Foreign and National Lists.

112. Turkmenistan's regulations contain no mechanism for the timely unfreezing of funds or other assets belonging to de-listed persons. Also, there are no effective and publicly known procedures for unfreezing the wrongfully frozen funds.

113. Turkmenistan took steps to eliminate this deficiency. That said, the remaining outstanding issues regarding the procedures for unfreezing the funds or other assets belonging to de-listed persons and wrongfully frozen funds preclude us from saying that the deficiency has been eliminated in full.

**Special Recommendation III summary:**

The presented amendments to the Law of Turkmenistan "On Anti-Money Laundering and Terrorist Financing", together with the adopted Regulation "On the Dissemination and Use of the Lists of Persons in Respect of Whom There Is Evidence of Involvement in Terrorist Activities", allow us to conclude that Turkmenistan has taken substantial steps to implement SR.III criteria.

The progress made by Turkmenistan in addressing the deficiencies on SR.III, the current level of compliance may be rated as LC.

**SR. V International cooperation**

114. Turkmenistan provided an updated list of international MLA and cooperation agreements, as well as a list of international treaties governing legal issues (Annex 4 and Annex 5 hereto), which serves as evidence of the country's efforts to enhance international cooperation. It should be noted that the assessors requested copies of these agreements, or parts thereof, to conduct additional analysis but the documents was not provided.

***Deficiency 1: CPC and other regulations do not contain mechanisms for determining the best location (jurisdiction) where to prosecute the accused.***

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<sup>5</sup> Pursuant to the terms set forth in the Dissemination of and Compliance with the Lists of Persons in Respect of Whom There is Information about Their Involvement in Terrorism



115. According to the information provided by Turkmenistan, in the period from the approval of the Mutual Evaluation Report (June 2011) till present, no attempts have been made to amend the Criminal Procedure Code of Turkmenistan or other regulations in order to establish mechanisms for determining the best location (jurisdiction) where to prosecute the accused. The deficiency has not been addressed.

***Deficiency 2: Apparently, no confiscation of property of corresponding value is provided for.***

116. According to the information provided by Turkmenistan, neither the country's Criminal Code nor the Criminal Procedure Code contains provisions governing the confiscation of property of corresponding value. The deficiency has not been addressed.

***Deficiency 3: Turkmenistan has failed to provide MLA statistics, making the task of the system effectiveness assessment impossible.***

117. Turkmenistan provided the following information.

*As part of investigations into criminal cases under Article 242 CCT, the FIU sent MLA requests to Russia and Switzerland and initiated criminal proceedings for the recovery of stolen assets. In 2012, as part of an investigation into ML, the General Prosecutor's Office sent a MLA request to the Justice and Police Department of Switzerland. In June 2015, Kazakhstan extradited to Turkmenistan a Turkmen national placed on the international wanted list for smuggling.*

118. Information related to legal requests or other types of information (mutual legal assistance requests on ML/TF); requests for extradition (ML/TF); requests on law enforcement cooperation are presented in Annex 3, table 4 of this document.

***Deficiency 4: Turkmenistan has not considered the issue of sharing the confiscated property with the competent authorities of foreign states whose actions contributed to such confiscation.***

119. The Law of Turkmenistan "On Amendments to the Law 'On Anti-Money Laundering and Terrorist Financing'" of 1 October 2011 supplemented Article 7 of the said law with paragraph 8 to read as follows:

8. ...

*All judgments passed by courts and other competent authorities of foreign states, provided they have come into legal force, authorizing the confiscation of the proceeds obtained through crime and terrorist financing, or the property of equivalent value, situated in the territory of Turkmenistan shall be recognized and enforced in accordance with the domestic law and international treaties of Turkmenistan. Such income, funds or property may, in part or in whole, based on an international treaty entered into by Turkmenistan, be transferred to a foreign state whose court or competent authority has ordered their confiscation, or contributed to the discovery of evidence giving rise to confiscation.*

120. Given that, pursuant to the Mutual Evaluation Report of Turkmenistan, the Criminal Procedure Code is the main regulatory document governing the provision of MLA, Section 52 of this code should include the relevant provisions to this effect.

121. No information pertaining to the consideration of the issue of sharing the confiscated property with foreign competent authorities whose actions contributed to confiscation was provided.

**Special Recommendation V summary:**

Due to absence of any significant measures aimed at eliminating the identified deficiencies, the current level of compliance may be rated as PC.

122. Turkmenistan implemented measures to address the deficiencies related to Recommendations: Rec. 2, 6, 7, 8, 11, 12, 14, 15, 16, 17, 21, 22, 24, 25, 27, 29, 30, 31, 32, 33, 38, 39, CP. VI, CP. VII, CP. VIII, CP. IX

#### **IV. KEY FINDINGS AND RECOMMENDATIONS**

123. During the period following the adoption of the Mutual Evaluation Report in June 2011, Turkmenistan made progress in implementing the requirements on the key and core recommendations.

124. Following the review of the core and key recommendations, the country has addressed a significant number of deficiencies. According to experts' analysis, the ratings for the following recommendations: R.5 (Customer Due Diligence), R.23 (Regulation and supervision) R.26 (FIU), R.40 (Other forms of cooperation), SR.I (Application of UN instruments) and SR.III (Freezing and confiscating terrorist assets) PC have been brought to a level of compliance essentially equivalent to LC.

125. At the same time, a review of progress achieved with respect to the remaining key recommendation, i.e SR V (International cooperation), does not allow us to conclude that either rating "C "or" LC" has been achieved.

126. Moreover, Turkmenistan implemented measures to address the deficiencies related to other set of Recommendations that have been rated PC or NC.

127. Pursuant to par. 51 of the EAG Mutual Evaluation Procedures and taking into consideration information given the above, the overall progress achieved by Turkmenistan can be considered sufficient for the Plenary meeting to retain some limited flexibility and to remove Turkmenistan from the monitoring procedures and to request country to present its Follow-up report once every three years.

EAG Secretariat