



Anti-money laundering and counter-terrorist financing measures

Pakistan

Mutual Evaluation Report

October 2019





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EXECUTIVE SUMMARY

1. This report provides a summary of the AML/CFT measures in place in Pakistan as at the date of the on-site visit in October 2018. It analyses the level of compliance with the FATF 40 recommendations and the level of effectiveness of Pakistan's AML/CFT system, and provides recommendations on how the system can be strengthened.

Key Findings

- 1) Pakistan completed its first ML and TF National Risk Assessment in 2017 and assigns a national risk-rating of 'medium' for both ML and TF. However, the NRA lacks a comprehensive analysis. Competent authorities have varying levels of understanding of the country's ML and TF risks, and the private sector has a mixed understanding of risks. While Pakistan has established a multi-agency approach to implement its AML/CFT regime, it is not implementing a comprehensive and co-ordinated risk-based approach to combating ML and TF.
- 2) Pakistan is using financial intelligence to combat ML, TF, predicate crimes and to trace property for confiscation purposes but only to a minimal extent. Critically, the FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs, which are designated as TF investigation authorities. To a minimal extent, CTDs are accessing FMU information and financial intelligence during TF investigations but only with permission of the court.
- 3) Pakistan LEAs have undertaken 2,420 ML investigations, resulting in 354 prosecutions (primarily self-laundering cases) and the conviction of one natural person for self-laundering related to corruption. Proportionality and dissuasiveness of the sanctions against natural persons could not be assessed due to a lack of information. Pakistan's law enforcement efforts to address ML are not consistent with its risks.
- 4) Pakistan LEAs have measures to freeze, seize, and prevent dealing with property subject to confiscation. LEAs are seizing some assets in predicate offences cases, but not in ML cases. Overall, the value of confiscated funds is not commensurate with Pakistan's ML/TF risk profile. In addition, the cross border cash declaration system is not effectively utilised to seize cash/BNI at the border.
- 5) Pakistan faces a significant TF threat. TF cases are identified by number of mechanisms but not via financial intelligence. Pakistan has registered 228 TF cases and convicted 58

individuals (Pakistan has not undertaken any TF investigations of legal persons), which is not consistent with Pakistan's overall level of TF risk. The vast majority of investigations and all of convictions were obtained at the provincial level including 49 convictions in Punjab. A total of nine TF convictions for all other provinces in Pakistan is not consistent with province specific TF risks. NACTA has taken some recent steps aimed at improving TF coordination and integration with counter-terrorism strategies.

- 6) Pakistan gives domestic effect to UNSCR 1267 by issuing Statutory Regulatory Order, but despite recent improvements, there are numerous instances where Statutory Regulatory Order were not issued "without delay" - there are other technical shortcomings. Pakistan has proscribed 66 entities and approximately 7,600 individuals under the Anti-terrorism Act pursuant to UNSCR 1373. Most banks and larger ECs have automated screening systems for all customers and transactions, and have frozen some funds pursuant to UNSCR 1267 and UNSCR 1373. The non-banking sector and DNFBPs are conducting manual screening during customer on-boarding at best and have not frozen any funds, which is not consistent with Pakistan's TF risks. All FIs and DNFBPs are not screening for persons acting on behalf of, or at the direction of, a designated/proscribed person or entity; and most FIs and all DNFBPs are not applying TFS to designated persons that are beneficial owners.
- 7) Pakistan gives domestic effect to TFS for PF by issuing Statutory Regulatory Order; however, SROs are not issued without delay - there are other technical shortcomings. Screening by FI and DNFBPs is similar to that of TFS for terrorism and TF. No funds or assets owned have been frozen. Committee for Coordination, Review and Monitoring of UNSCR Resolutions on Counter-Proliferation activities are mainly related to countering proliferation activities. SBP and SECP are undertaking some general TFS monitoring, but actions exclusively focused on TFS for PF were not demonstrated.
- 8) Most Banks and larger exchange companies have an adequate understanding of their AML/CFT obligations and have conducted internal ML/TF risk assessments, which underpin a reasonable understanding of customer ML risk but not TF risk. These entities apply record-keeping requirements and have risk-based CDD policies/procedures - a significant deficiency is their lack of effective identification of beneficial owners. Overall, they apply adequate EDD measures and have AML/CFT internal controls. Banks and ECs report STRs. All other FIs have limited understanding of their ML/TF risks; are in a nascent stage of implementing risk-based CDD and internal controls; and smaller entities lack proper systems to identify PEPs. NBFIs are not filing STRs commensurate with ML/TF risks in these sectors. There are no enforceable AML/CFT requirements for Pakistan Post, CDNS and DNFBPs.
- 9) The State Bank of Pakistan does not have a clear understanding of the ML and TF risks unique to the sectors it supervises. The State Bank of Pakistan is improving its understanding and is implementing a risk-based approach including conducting regular on-site and thematic AML/CFT supervision activities. Some improvement in AML/CFT compliance is evident as a result of SBP's supervision, but the value of monetary sanctions imposed is low. The Securities and Exchange Commission of Pakistan has a limited understanding of ML/TF risks and has not implemented a risk-based supervisory approach. AML/CFT supervision is limited to KYC/CDD requirements. There is little evidence that SECP's supervisory activity is improving

AML/CFT behaviour. Pakistan Post, CDNS and DNFBPs are not supervised for AML/CFT compliance.

- 10) Pakistan has limited mitigating measures for legal persons and there is no supervisory oversight for AML/CFT purposes. There are no measures in place to address the ML and TF risks posed by trusts, including foreign trusts, and *waqfs* in Pakistan. Reporting entities are required to obtain beneficial ownership information before entering into a business relationship. Competent authorities (including LEAs) can access this information along with basic information on legal persons held by SECP and provincial cooperative registries.
- 11) Pakistan does not have a formal framework for MLA but can execute MLA on the basis of treaties, reciprocity and some legislative provisions. In general terms, Pakistan is responding to MLA and extradition requests. Pakistan has made over 140 outgoing MLA requests, but the low numbers of outgoing ML-related and TF-related MLA and extradition requests is not consistent with Pakistan's risk profile. Pakistan seeks and provides informal international cooperation on some occasions; however, LEAs are not using the FMU to seek financial intelligence from foreign FIUs effectively. Pakistan's ability to share beneficial ownership information is severely limited.

Risks and General Situation

2. The Islamic Republic of Pakistan (Pakistan) was established in 1947 and currently has a population of approximately 202,254,776¹. Pakistan is divided into four provinces namely Balochistan, Khyber Pakhtunkhwa, Punjab, and Sindh. In addition Pakistan includes the federal territory of Islamabad Capital Territory and the two autonomous territories of Azad Jammu and Kashmir, Gilgit-Baltistan. Pakistan borders India to the east, Afghanistan to the west, Iran to the southwest, and China in the far northeast, and its coastline stretches along the Arabian Sea and the Gulf of Oman in the south.

3. Pakistan's 2017 GDP was USD \$304.95 billion² and its GDP per capita was USD \$1,467.98. Agriculture accounts for more than 20% of the GDP and 45% of employment, with textiles accounting for most of Pakistan's export earnings.

4. Pakistan faces significant ML and TF risks. In the period under assessment a number of terrorist attacks occurred. A number of terrorists groups, including UN-listed groups, operate in Pakistan all of which raise funds through a variety of means including direct support, public fundraising, abuse of NPOs, and through criminal activities. Funds are moved through formal and informal (mainly hawala/hundi) channels. Pakistan's geographical landscape and porous borders increase its vulnerability to TF and heightens Pakistan's TF risks associated with cash smuggling. At the time of the ME onsite visit there were 66 organizations and approximately 7,600 individual proscribed under UNSCR 1373.

5. Major ML predicate crimes include corruption, drug trafficking, fraud, tax evasion, smuggling, human trafficking and organised crime. Corruption is endemic across Pakistan's economy. Authorities acknowledge that corruption is connected with a range of other predicate offences. As with TF noted above, Pakistan's geography and porous borders increase its vulnerability to smuggling and narcotics trafficking. Illicit funds from predicate crimes are generally laundered through domestic real estate,

¹ Source: Pakistan Bureau of Statistics at <http://www.pbs.gov.pk>.

² Source: World Bank at: <http://www.databank.worldbank.org>.

precious gems/jewellery, and the financial sector. Criminal proceeds are also moved offshore via formal and informal channels.

Overall Level of Effectiveness and Technical Compliance

6. Following the World Bank/APG mutual evaluation in 2009, Pakistan enacted and implemented a broad range of legislative and administrative reforms to implement AML and some CFT requirements. Key reforms included: (i) amendments to the Anti-Money Laundering Act 2010 and Anti-Terrorism Act 1997; (ii) sector-specific AML/CFT regulations; (iii) establishment of a high-level National Committee on AML/CFT and a General Committee on AML/CFT; and (iv) the approval of a National Strategy on AML/CFT.

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

7. Pakistan has minor technical shortcomings in its framework for national coordination. However, there are moderate shortcomings with other relevant recommendations. Fundamental improvements are needed in ML/TF risk understanding and coordinated actions to combat ML, TF, and PF.

8. Pakistan completed its first ML and TF National Risk Assessment (NRA) in 2017 and assigns a national risk-rating of 'medium' for both ML and TF. However, the NRA lacks a comprehensive analysis of threats and vulnerabilities, and is narrow in scope with gaps in key risk areas including the lack of assessment of legal persons and arrangements, NPOs, cross-border risks, terrorist organisations known to be operating in Pakistan, and new technologies. And while the NRA was shared with key law enforcement and supervisory agencies, the full report was not shared with the private sector and was not shared with DNFBP supervisors.

9. Pakistan authorities have varying levels of understanding of the country's ML and TF risks. For ML, there is no clear understanding among competent authorities, including LEAs, of Pakistan's ML risk. Competent authorities are focused on predicate crimes and are unable to clearly differentiate ML from predicate offences which generate illicit proceeds. For TF, competent authorities have a mixed understanding of risk. The national TF investigation agency (Federal Investigation Agency – FIA) has a low level of TF risk understanding, while provincial police TF investigation departments (counter-terrorism departments – CTDs) have a better understanding of those risks within their provinces. Punjab CTD, in particular, has a reasonable understanding of TF risks within Punjab province.

10. Pakistan has established a multi-agency approach to implement its AML/CFT regime. However, Pakistan provided no examples of how its mechanism for AML/CFT policy coordination (National Committee on AML/CFT) or operational coordination (General Committee) are being used to facilitate the activities competent authorities including implementation of the recently adopted National AML/CFT Strategy 2018. Recently, Pakistan established an operational coordination and cooperation mechanism for TF whose activities are focused on the development and implementation of TF policies and procedures. However, key competent authorities work in operational silos and their objectives and activities are not consistent with existing and evolving national and transnational ML/TF risks in Pakistan.

11. While private sector entities provided data for the NRA, their participation in the development and outcomes of that document was very limited. Moreover, outreach to the private sector following adoption of the document has been limited to presentations on NRA outcomes mainly for the banking sector during Compliance Forum meetings. There is no public version of the NRA.

12. Overall, the private sector has a mixed understanding of Pakistan's ML/TF risks. Banks and exchange companies (ECs) have a better understanding of those risks and have taken some steps to integrate the NRA results into their internal risk assessments. All non-bank finance institutions (NBFIs) have a limited understanding of ML/TF risks and are in the initial stages of implementing a risk-based approach. DNFBPs have a poor understanding of ML/TF risks and are yet to start implementing a risk-based approach.

13. Counter-PF coordination is through the Strategic Export Control Division (SECDiv) of the Ministry of Foreign Affairs. However, SECDiv's efforts are focused primarily on countering proliferation rather than countering PF.

14. Regarding statistics, the Financial Monitoring Unit (FMU) is legally required to maintain statistics. However not all statistics are comprehensive or detailed, and in many instances, AML- and CFT-related statistics across a broad range of supervision, law enforcement and regulatory areas are contradictory or inconsistent.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

15. Pakistan has minor technical shortcomings in its ML offence and confiscation framework. However, there are moderate shortcomings with all other relevant recommendations, and fundamental improvements are needed in the use of financial intelligence, investigation and prosecution of ML, and the confiscation of proceeds and instrumentalities of crime.

16. Pakistan is using financial intelligence to combat ML, predicate crimes and to trace property for confiscation purposes to a minimal extent. Some LEAs make limited use of the FMU's disseminations to initiate and support ML and predicate crime investigations, but there is very limited evidence that LEAs use internally generated financial intelligence and other relevant information.

17. Pakistan is using financial intelligence to combat TF to a minimal extent. FIA has not initiated a TF investigation using FMU's disseminations. Critically, the FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs. Significant weight is placed on this deficiency in R. 29. To a minimal extent, CTDs are accessing FMU information and financial intelligence during TF investigations but only with permission of the court. With the exception of Punjab CTD (to some extent) there is no evidence that the FIA or provincial CTDs use internally generated financial intelligence and other relevant information in TF cases.

18. The FMU is the national agency to receive, analyse and disseminate financial information and has access to some government and private sector databases to support its functions. However, the FMU's disseminations are only partly consistent with Pakistan's ML/TF risks. To some extent this is the result of the limitation in STR reporting. Notably there has been no STR reporting by CDNS, Pakistan Post and DNFBPs, and very limited reporting by foreign banks and NBFCs. The vast majority of STRs are submitted by banks. Financial institutions do not report STRs relating to TF and higher-risk predicate crimes 'promptly' (as required by the FATF recommendations) and at a level that is consistent with Pakistan's ML/TF risks. There is a similar reporting profile for CTRs.

19. While the FMU undertakes and produces strategic analysis which is being used to support supervisory activities, that analysis is not being used by LEAs for their enforcement activities. The FMU supports LEAs where they make requests for information. The FMU shares some information with foreign FIUs.

20. Five federal LEAs are designated to investigate ML consistent with their authority to investigate associated predicate crimes. ML prosecutions are undertaken by internal units within each of those authorities. Pakistan's LEAs have undertaken 2,420 ML investigations, resulting in 354 prosecutions (primarily self-laundering cases). However, the current status of these cases is unclear.

21. In the period under assessment, Pakistan convicted only one natural person for self-laundering related to corruption. Pakistan's law enforcement efforts to address ML are not consistent with its risks. Some of the factors contributing to this conclusion include: (i) a lack of prioritisation of ML by LEAs; (ii) no systematic pursuance of parallel financial investigations by LEAs; (iii) serious confusion among LEAs and other authorities on the 'cognizable' and 'non-cognizable' nature of ML offences; and (iv) an overall lack of capacity to address ML cases among LEAs including a lack of forensic financial investigation skills.

22. Proportionality and dissuasiveness of the sanctions against natural persons could not be assessed due to a lack of information. Sanctions under the AMLA for legal persons are not proportionate and dissuasive.

23. Pakistan demonstrated a willingness to deprive criminals of their illicit proceeds and has measures in place to enable competent authorities to freeze, seize, and prevent dealing with property subject to confiscation. The numbers of seizures relating to certain predicate offences are promising, but no seizures of illegal proceeds relating to ML have occurred. Overall, the value of confiscated funds is not commensurate with Pakistan's ML/TF risk profile. In addition, the cross border cash declaration system is not effectively utilised to seize cash/BNI at the border. There is no policy objective to pursue confiscation of assets/property of corresponding value in cases of ML, higher-risk predicate crimes and TF.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)

24. Pakistan has minor technical shortcomings in its TF offence but fundamental improvements are needed in the investigation and prosecution of TF. There are moderate shortcomings with technical shortcomings in Pakistan's TFS regimes for terrorism and TF, and PF, but fundamental improvements are needed in the effective use of both regimes.

25. Pakistan faces significant TF threats. Provincial police CTDs and the federal FIA are designated to investigate TF offences. TF cases are identified by a number of mechanisms (although specific details were not provided to the assessment team) but not via financial intelligence. Provincial CTDs are not authorised to receive proactive disseminations from the FMU. The FIA has registered three TF cases in total but none of those cases was registered as a result of FMU disseminations. In the period under review, Pakistan registered 228 TF cases and convicted 58 individuals (Pakistan has not undertaken any TF investigations of legal persons), which is not consistent with Pakistan's overall level of TF risk. The vast majority of TF investigations, and all of the convictions entered, were obtained at the provincial level with 49 convictions in Punjab. A total of nine TF convictions for all other provinces in Pakistan is not consistent with province-specific TF risks. Limited TF actions outside of Punjab is underpinned by limitations in LEA capacity. Based on available information, the assessment team considers the TF sanctions are only moderately dissuasive.

26. NACTA has taken some recent steps to improve TF coordination and integration with counter-terrorism strategies through the National Task Force on CFT and TF Sub-committee Task Force. However, TF is not fully integrated into Pakistan's broader counter-terrorism approach particularly at an operational level including in the provinces with the exception of Punjab. Pakistan did not

demonstrate that it employs other measures to disrupt TF where it was not practical to secure a TF conviction.

27. Pakistan is implementing TFS pursuant to UNSCR 1267/1989/1988 and UNSCR 1373 through two separate processes. Pakistan gives domestic effect to UNSCR 1267 by issuing Statutory Regulatory Order (SROs) following an update to listings by the UN. Despite recent improvements in implementing UNSCR 1267 without delay, there are numerous instances where SROs were issued several days after changes to listing at the UN. Also, it is unclear whether all financial and non-financial institutions, DNFBPs and legal and natural persons are required to take freezing actions – there are additional requirements for banks, DFIs, MFBs, ECs and SECP-regulated persons under the AML/CFT regulations for each sector. Pakistan is implementing UNSCR 1373 by proscribing individuals and entities pursuant to the ATA - completed by provincial government home departments. At the time of the onsite visit in October 2018, Pakistan proscribed 66 entities and approximately 7,600 individuals, but the public list on NACTA's website included very limited identification information.

28. Most banks and large ECs have a sound understanding of their obligations; have automated screening systems for all customers and transactions; and have frozen funds pursuant to UNSCR 1267 and UNSCR 1373. However, freezing action in recent years relating to UNSCR 1267 persons has been limited, and no assets of proscribed organisations have been frozen. Banks do not provide financial services to designated/proscribed individual and entity. With the exception of some larger NBFIs, the non-banking sector and DNFBPs conduct manual screening during customer on-boarding and have not frozen any funds, which is not consistent with Pakistan's TF risks. These entities are also less clear on obligations to prohibit the provision of funds or other financial services. All FIs and DNFBPs fail to screen for persons acting on behalf of, or at the direction of, a designated/proscribed persons or entities. And most FIs do not apply TFS to designated persons that are beneficial owners.

29. Several UN-listed organisations continue to operate openly in Pakistan, including holding fundraising events. Since February 2018 Pakistan has taken positive actions against these organisation, but UNSCR 1267 is not being fully implemented. Pakistan's efforts to bring the TF activities of UN listed individuals and organisations under control is also burdened by judicial proceedings.

30. Pakistan has a large NPO sector comprised of entities licensed at the federal level or registered at the provincial level (but not licenced). Some international NPOs operate in Pakistan. The NPO sector was not assessed as part of the NRA exercise before 2017 and Pakistan had not identified those NPOs that are at risk of abuse or exploitation for TF. At the time of the onsite visit in late 2018, Pakistan was in the process of assessing TF risks in the NPO sector as part of a broader update to its TF risk assessment, and had begun to take some steps to target high risk NPOs. SECP is in the initial process of developing a targeted approach to at-risk NPOs including conducting outreach and oversight of those NPOs it licenses which, in some instances, has led to revocation of licenses.

31. Regarding TFS for PF, Pakistan gives domestic effect to relevant UNSCRs by issuing Statutory Regulatory Order (SROs) following an update to listings. However, SROs are not issued without delay and it is unclear whether all financial and non-financial institutions, DNFBPs and legal and natural persons are required to take freezing actions – there are additional requirements for Banks, DFIs, MFBs, ECs and regulated persons under the AML/CFT regulations for each sector. Most banks have a sound understanding of their obligations, and have automated screening systems for all customers and transactions, although screening for persons acting on behalf of or at the direction of designated persons or entities is a challenge. The non-banking sector has a mixed understanding of its obligations, with only larger entities having some screening systems. DNFBPs have no understanding of their

obligations and no screening systems. No funds or assets owned or controlled by designated persons/entities have been frozen.

32. Pakistan recently established the Committee for Coordination, Review and Monitoring of UNSCR Resolutions on Counter-Proliferation (CCRM) under the SECDiv but its activities had been very limited to mainly countering proliferation activities. While SBP and SECP are undertaking some general TFS monitoring (see IO.3), actions exclusively focused on TFS for PF were not demonstrated by SBP or SECP.

Preventive Measures (Chapter 5 - IO4; R.9-23)

33. Pakistan has a mixed level of technical compliance with relevant FATF recommendations and fundamental improvements are needed for the effective implementation of preventive measures by FIs and DNFBPs commensurate with their risks.

34. Pakistan's financial sector consists of banks (including MFBs and DFIs), ECs, NBFIs (securities brokers, non-bank finance companies, insurance companies, takaful operators and modarabas), Pakistan Post and CDNS. Banks alone account for 74% of total financial sector assets.

35. DNFBPs include lawyers, notaries, accountants, real estate agents and precious metal/gem dealers. Casinos are prohibited in Pakistan.

36. Banks and ECs have an adequate understanding of their AML/CFT obligations and larger entities have conducted internal ML/TF risk assessments, which underpin a reasonable understanding of customer ML risk by larger banks and ECs. However, banks and ECs displayed a limited and mixed understanding of TF risk. Overall, banks and ECs application of ML/TF mitigating measures is undermined by limitations in their risk understanding, particularly for TF.

37. Most banks and ECs effectively apply record-keeping requirements and have risk-based CDD policies and procedures. But a significant deficiency is their lack of effective identification of beneficial owners during the CDD process. Banks and ECs implement internal controls and have AML/CFT compliance officers, screen new staff, and have on-going training programmes and internal audit functions. To some extent, these controls are undermined by a poor level, or lack, of understanding of ML/TF risks.

38. Most banks apply adequate EDD measures for PEPs, correspondent banking, new technologies, targeted financial sanctions, higher-risk countries, and to a lesser extent for wire-transfer. Banks and ECs compliance with TFS is discussed above. Banks and ECs report STRs. However, their reporting is undermined by a lack of information on ML/TF risks. STRs are not filed "promptly". STR reporting related to TF is not consistent with Pakistan's TF risk profile.

39. NBFIs have a limited understanding of ML/TF risks. Most NBFIs understand their CDD and record-keeping obligations, but those reporting entities implement those obligations on a rules-based approach. They are in a nascent stage of implementing risk-based CDD and internal controls.

40. Larger NBFIs have EDD and STR policies and procedures and use systems to screen for PEPs. All other NBFIs lack proper systems to identify PEPs (domestic and foreign) during customer on-boarding. NBFIs compliance with TFS is discussed above. NBFIs are not filing STRs commensurate with ML/TF risks in these sectors.

41. Pakistan Post, CDNS and DNFBPs have a limited level of understanding of AML/CFT obligations (although these are not enforceable) and low levels of understanding of their own, and their sector's, ML/TF risks. None of these sectors implement a risk-based approach and none apply ML/TF mitigating measures. CDNS, Pakistan Post and DNFBPs do not apply EDD measures. Finally none of the entities have filed STRs, nor have they frozen any funds pursuant to UNSCR 1267 or UNSCR 1373.

Supervision (Chapter 6 - IO3; R.26-28, R. 34-35)

42. Generally, Pakistan has moderate shortcomings with the recommendations on regulation and supervision of FIs and DNFBP. Fundamental improvements are needed in effective AML/CFT supervision of FIs and DNFBPs commensurate with their risks.

43. SBP is the designated AML/CFT supervisor of banks, DFIs, MFBs and ECs. SECP is the designated AML/CFT supervisor of NBFIs including securities brokers, non-bank finance companies, insurance companies, and modarabas. There is no AML/CFT supervisor for any of the DNFBP sectors, nor is there such a supervisor for Pakistan Post and CDNS.

44. SBP has controls in place to prevent criminals and their associates from entering the institutions it supervises, however there are some deficiencies for MFBs and ECs in this regard. Between 2016 and 2018, SBP rejected one bank licence and 13 EC applications. SECP has less extensive fit and proper checks. There is no evidence that bank licences have been declined on the basis of criminal backgrounds or any issues related to AML/CFT requirements. There are no licensing requirements for real estate agents, precious metals and stone dealers, accountants, lawyers, and notaries. With the exception of lawyers, professional association registration requirements do not extend to controls to prevent criminals and associates from owning or controlling these DNFBPs.

45. Pakistan is taking some enforcement actions against Hawala/hundi under the Foreign Exchange Regulation Act 1947. However, due to a lack of detailed information from Pakistan authorities, it is unclear how well breaches are detected; and the dissuasiveness of sanctions could not be established.

46. SBP does not have a clear understanding of Pakistan's overall ML and TF risks, nor does it have a clear understanding of the ML and TF risks unique to the sectors it supervises. SBP is improving its understanding and is implementing a risk-based approach. SBP conducts regular on-site inspections and thematic AML/CFT supervision relating to internal controls, trade-based money laundering, and transaction monitoring systems. Based on these activities, SBP imposes a range of sanctions. Some improvement in AML/CFT compliance is evident as a result of SBP's supervision, but the value of monetary sanctions imposed is low.

47. SECP has a similar understanding of ML and TF risk to that of SBP. However SECP has not implemented a risk-based supervisory approach. And it has not conducted any AML/CFT supervision of the insurance sector. AML/CFT supervision of other sectors has been limited to KYC/CDD requirements. Sanctions for non-compliance are limited. There is little evidence that SECP's supervisory activity is improving AML/CFT behaviour.

48. Pakistan Post, CDNS and DNFBPs are not supervised for AML/CFT compliance.

Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)

49. Pakistan has not undertaken a ML/TF risk assessment of legal persons that can be created in Pakistan (required by R. 24.2). Nor has Pakistan identified and assessed those risks relating to legal

arrangements. Competent authorities and the private sector have low levels of understanding of ML and TF risks across both legal persons and legal arrangements.

50. Pakistan's legal framework on transparency of legal persons and arrangements has moderate and major technical shortcomings (respectively). Moreover, fundamental improvements are required to Pakistan's ability to effectively mitigate the risk of ML and TF through exploitation of those technical weaknesses.

51. Companies and limited liability partnerships may be formed under federal legislation and are required to be registered with the SECP's Registrar of Companies. Cooperatives formed under provincial legislation are required to be registered with provincial Registrars of Cooperative Societies. Information on the creation and types of legal persons is publicly available.

52. Pakistan has implemented some mitigating measures for legal persons including registration of information and requirements that shareholder information be maintained by legal persons. However, the requirements are limited to basic information only and do not extend to information relating to beneficial ownership. There are no mitigating measures in place to address the risks associated with the ability of companies to issue bearer shares and bearer share warrants (although these instruments are rarely used). There are also no measures to mitigate the risks associated with nominee directors and nominee shareholders. There is no supervisory oversight of all forms of legal persons for AML/CFT. Some sanctions have been imposed for non-filing or late filing of annual audited accounts with SECP. No sanctions have been applied relating to AML/CFT.

53. The types of legal arrangements that can be formed or settled in Pakistan include trusts and *waqfs* (a form of Islamic charitable trust). Immoveable property trust deeds are required to be registered in provincial registries. However, those registries do not maintain any oversight of trusts, including verification of the parties to deeds, nor do they have any enforcement role. There are no measures in place to address the ML and TF risks posed by trusts, including foreign trusts, and *waqfs* in Pakistan.

54. Reporting entities regulated by the SBP and SECP are required to obtain beneficial ownership information from legal persons and trustees before entering into a business relationship. Competent authorities (including LEAs) can access this information along with basic information on legal persons held by SECP and provincial cooperative registries.

International Cooperation (Chapter 8 - IO2; R. 36-40)

55. Pakistan has a mixed level of technical compliance with relevant FATF recommendations and major improvements are needed in Pakistan's international cooperation actions against criminals and their assets.

56. Pakistan does not have a formal legal framework for MLA but can respond to MLA requests on the basis of multilateral and bilateral treaties; on the basis of reciprocity; and on the basis of some legislative provisions in the AMLA, CNSA and NAO.

57. Since 2015, Pakistan has responded to 18 of 22 MLA requests (four cases were pending by late 2018) and no requests have been refused, including two TF requests, despite the absence of MLA provisions in the ATA. Pakistan has accepted nine of 41 extradition requests. Ten requests were denied (due mainly to non-presence of wanted person in Pakistan) and 22 were under process. Pakistan's extradition procedures usually take more than one year to complete. There have been no incoming requests for ML-related assistance.

58. Since 2014, Pakistan has made over 140 outgoing MLA requests with most requests related to the production of documents (financial and judicial information) for predicate crimes (corruption, followed by drug offences) and 15 for TF. The status of all outgoing requests is unclear. Outgoing MLA requests for ML-related assistance has been low (3 – 5 over the last four years) however the statistics are not form on the exact number.

59. Pakistan has made 76 extradition requests including four for terrorism and one for TF. The status of all requests is unclear. Pakistan does not have a case management system or simplified mechanisms for extradition.

60. The low numbers of outgoing ML-related and TF-related MLA and extradition requests is not consistent with Pakistan's risk profile and indicates inadequacy of efforts to tackle the transnational aspect of these crimes.

61. LEAs, SBP and SECP seek and provide informal international cooperation on some occasions. However, LEAs are not using the FMU to seek financial intelligence from foreign FIUs in their predicate crime, ML and TF investigations.

62. Pakistan is exchanging some basic information on legal persons through SECP; however, Pakistan's ability to share beneficial ownership information in relation to legal persons and arrangements (trusts as well as *waqfs*) is severely limited because of the deficiencies in relation to the collection of that information.

Priority Actions

- a) Pakistan should adequately identify, assess and understand its ML/TF risks including transnational risks and risks associated with terrorist groups operating in Pakistan such as Da'esh, AQ, JuD, FiF, LeT, JeM, HQN, and this should be used to implement a comprehensive and co-ordinated risk-based approach to combating ML and TF.
- b) Pakistan should significantly enhance the use of financial intelligence in ML, TF and predicate crime cases, particularly the use of financial intelligence to target terrorist groups and higher-risk predicate crimes. The AMLA should be amended to allow the FMU to spontaneously disseminate its financial intelligence to CTDs and for CTD's to directly request financial intelligence from the FMU. Pakistan should also enhance; (i) STR reporting by all RES; (ii) FMU's access to other sources of information; and (iii) financial intelligence development and dissemination, consistent with Pakistan's ML/TF risks.
- c) Enhance the use of the ML offence commensurate with Pakistan's ML risks. This should include increasing investigators', prosecutors' and judges' capacity; changing the non-cognizable nature of the ML offence; clarifying the requirement for LEAs to consult with the FMU in ML investigations of tax offences; and providing all LEAs with special investigative techniques powers in ML cases.
- d) Improve asset confiscation commensurate with Pakistan's ML/TF risks including cross-border currency. This should include development of a national policy and objectives to pursue confiscation in all ML, TF and higher-risk predicate crime cases; enhancement of investigators', prosecutors' and judges' capacity and implementation of procedures to support their action.
- e) Enhance the use of the TF offence commensurate with Pakistan's TF risks, particularly the active targeting of terrorist groups operating in Pakistan. This should include integration of TF

into Pakistan broader counter-terrorism approach; actions to enhance operational coordination and cooperation between the FIA and CTDs; and enhancement of investigators', prosecutors' and judges' capacity and implementation of procedures to support their action, particularly the FIA.

- f) Address technical deficiencies in Pakistan's legal framework for implementing TFS for terrorism/TF without delay, improve implementation by all FIs and DNFBPs including in relations to persons /entities acting on behalf of or at the direction of listed persons/entities, and improve enforcement of TFS including enhanced asset management and TF investigations. Pakistan should nominate additional individuals and entities for designation at the UN, and should extend requests to other countries for UNSCR 1373.
- g) Address technical deficiencies in Pakistan's compliance with R.8. Once at-risk NPOs from all sectors across Pakistan are identified, Pakistan should initiate and resource a greatly enhanced and targeted programme of outreach, TF risk mitigation, monitoring of at-risk NPOs, and investigations into TF abuse, without disrupting or discouraging legitimate NPO activities.
- h) Address technical deficiencies in Pakistan's legal framework for implementing TFS for PF; improve implementation by all FIs and DNFBPs including in relations to persons/entities acting on behalf of or at the direction of listed persons/entities; and expand the work of the CRMC to support implementation by FIs and DNFBPs and monitoring of compliance by SBP and SECP.
- i) Supervisor should issue revised AML/CFT regulations to rectify remaining technical deficiencies including extending specific AML/CFT obligations to CDNS, Pakistan Post and DNFBPs, and provide further guidance to REs on the relatively newer requirements. Supervisors should enhance risk-based supervision of all FIs and conduct supervision of DNFBPs with the aim to immediately increase REs application of preventative measures commensurate with their risks (particularly TFS and PEPs) and STR reporting. Where non-compliance is identified, all supervisors should impose dissuasive sanctions in order to enhance the compliance culture of FIs and DNFBPs.
- j) Due to the significant ML/TF risks posed by hawala/hundi, Pakistan should enhance enforcement actions against hawala/hundi under the Foreign Exchange Regulation Act 1947, and undertake ML and TF investigations and prosecutions of hawala/hundi operators where appropriate.
- k) Pakistan should assess the ML and TF risks for all types of legal persons and legal arrangements and introduce measures to: (i) require legal persons and arrangements to obtain adequate, accurate and timely beneficial ownership information of those natural persons who ultimately own or control those structures; (ii) require legal persons/trustees to hold beneficial ownership information or for such information to be disclosed to, or registered with, authorities; and (iii) mitigate the risk associated with bearer instruments and nominee arrangements for companies including, for instance, disclosure requirements for the natural persons who ultimately own or control those instruments.
- l) Continue to improve Pakistan's ability to consistently provide and seek timely MLA. This should include addressing hurdles to MLA under the ATA, NAO and AMLA or enacting a standalone MLA law, and increase LEAs capacity to consider international elements in all ML/TF and higher-risk predicate crime cases. Pakistan should enhance its cross-border cash cooperation.

LEAs should also continue to the FMU to exchange financial intelligence with foreign FIUs, and Pakistan should continue to pursue Egmont Group membership.

EXECUTIVE SUMMARY

Effectiveness and Technical Compliance Ratings

Effectiveness Ratings

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

Technical compliance ratings (C – compliant, LC – largely compliant, PC – partially compliant, NC – non-compliant)

R.1 - Assessing risk & applying risk-based approach	R.2 - National cooperation and coordination	R.3 - Money laundering offence	R.4 - Confiscation & provisional measures	R.5 - Terrorist financing offence	R.6 - Targeted financial sanctions – terrorism & terrorist financing
PC	LC	LC	LC	LC	PC
R.7 - Targeted financial sanctions – proliferation	R.8 - Non-profit organisations	R.9 - Financial institution secrecy laws	R.10 - Customer due diligence	R.11 - Record keeping	R.12 - Politically exposed persons
PC	PC	C	PC	LC	PC
R.13 - Correspondent banking	R.14 - Money or value transfer services	R.15 - New technologies	R.16 - Wire transfers	R.17 - Reliance on third parties	R.18 - Internal controls and foreign branches and subsidiaries
LC	PC	PC	LC	PC	PC
R.19 - Higher-risk countries	R.20 - Reporting of suspicious transactions	R.21 - Tipping-off and confidentiality	R.22 - DNFBPs: Customer due diligence	R.23 - DNFBPs: Other measures	R.24 - Transparency & BO of legal persons
PC	PC	PC	NC	PC	PC
R.25 - Transparency & BO of legal arrangements	R.26 - Regulation and supervision of financial institutions	R.27 - Powers of supervision	R.28 - Regulation and supervision of DNFBPs	R.29 - Financial intelligence units	R.30 - Responsibilities of law enforcement and investigative authorities
NC	PC	PC	NC	PC	PC
R.31 - Powers of law enforcement and investigative authorities	R.32 - Cash couriers	R.33 - Statistics	R.34 - Guidance and feedback	R.35 - Sanctions	R.36 - International instruments
PC	PC	PC	PC	PC	LC
R.37 - Mutual legal assistance	R.38 - Mutual legal assistance: freezing and confiscation	R.39 - Extradition	R.40 - Other forms of international cooperation		
PC	NC	LC	PC		

MUTUAL EVALUATION REPORT OF PAKISTAN

Preface

This report summarises and analyses Pakistan's level of compliance with the FATF 40 recommendations and the level of effectiveness of Pakistan's AML/CFT system as at the date of the on-site visit (8 to 19 October 2018) and recommends measures to strengthen Pakistan's AML/CFT system.

This evaluation was based on the 2012 FATF recommendations, and was prepared using the 2013 assessment methodology. The evaluation was based on information provided by Pakistan, and information obtained by the assessment team during its on-site visit to Pakistan. The assessment team consisted of the following persons:

1. Mr Abdulla Ashraf, Maldives Monetary Authority, Maldives (FIU expert);
2. Mr Ian Collins, New Scotland Yard, Metropolitan Police, United Kingdom (law enforcement expert);
3. Mr Bobby Wahyu Hernawan, Ministry of Finance, Indonesia (financial expert);
4. Ms GONG Jingyan, People's Bank of China, China (financial expert);
5. Mr Mustafa Necmeddin Oztop, Ministry of Justice, Turkey (legal expert).
6. Mr James Prussing, Department of the Treasury, United States (legal expert).

The assessment process was supported by the APG secretariat including Mr Gordon Hook (Executive Secretary), Mr Mohammad Al Rashdan (Deputy Director) and Mr Shannon Rutherford (Deputy Director).

The report was reviewed by Mr Charles Nugent-Young (Australia), Mr Jonathan Pampolina (IMF), Ms Kirsty Pleace (New Zealand), and the FATF Secretariat.

Pakistan's last mutual evaluation was conducted in 2009 by the World Bank with the participation of the APG under the 2004 FATF assessment methodology. The report of that evaluation is available at www.apgml.org.

CHAPTER 1. ML/TF RISKS AND CONTEXT

1. The Islamic Republic of Pakistan (Pakistan) is located in South Asia and was established in 1947. Pakistan covers an area of 881,913 square kilometres making it the 33rd-largest country in the world. With a population of approximately 202,254,776³ it is one of the most densely populated countries.
2. Pakistan is bordered by India to the east, Afghanistan to the west, Iran to the southwest, and China in the far northeast. It is separated narrowly from Tajikistan by Afghanistan's Wakhan Corridor in the northwest, and also shares a maritime border with Oman. It has a 1,046-kilometre coastline along the Arabian Sea and Gulf of Oman in the south. The official languages of Pakistan are Urdu and English.
3. Pakistan is divided into four provinces: namely Balochistan, Khyber Pakhtunkhwa, Punjab, and Sindh; two autonomous territories (Azad Jammu and Kashmir, Gilgit-Baltistan) and the federal territory, Islamabad Capital Territory. At the sub-provincial level Pakistan consists of divisions, districts, sub-districts, unions and villages. Principal law-making and enforcement occurs at the national and provincial levels.
4. Pakistan is a federal parliamentary democracy with executive, legislative and judicial branches. The president is head of state, indirectly elected by the Parliament of Pakistan through the Electoral College for a five-year term. In the absence of the president, the senate chamber takes over as the acting president until the president resumes office, or a presidential election is held. The Prime Minister of Pakistan is elected by the National Assembly, and is the chief executive. The Prime Minister selects and chairs the council of ministers (cabinet).
5. At the federal level the Parliament of Pakistan consists of the president and two houses known as National Assembly and the Senate. The National Assembly consists of 342 seats including 60 seats reserved for women and 10 seats reserved for non-Muslims. The Senate consists of 104 members including 17 seats reserved for women and 17 seats reserved for technocrats. Members of the National Assembly are elected for a term of five years; members of the Senate are elected for a term of six years with staggered elections every three years.
6. At the provincial level, the Constitution provides that there shall be Provincial Assemblies for each province. The head of each province is a non-executive governor appointed by the president on the advice of the prime minister. Governors play a similar role at the provincial level as the president does at the federal level. Members of provincial assemblies are elected for five-year terms and each assembly elects a chief minister who in turn selects cabinet ministers from among members of the provincial assemblies. Each province has a High Court, which forms part of the superior judiciary.
7. Azad Jammu is a self-governing territory and has its own elected president, prime minister, legislative assembly, and High Court. Gilgit-Baltistan has its own elected legislative assembly and Gilgit-Baltistan Council.

³ Source: Pakistan Bureau of Statistics website at <http://www.pbs.gov.pk/>.

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

8. Pakistan faces significant ML and TF risks domestically, regionally and internationally. The country completed its first national risk assessment (NRA) in 2017 which identified the following:

- eight (8) high risk/threat predicate crimes: corruption, smuggling (all types), drugs trafficking, cheating and fraud (including tax fraud), kidnapping for ransom, extortion, illegal arms sale, and exploitation of hawala/hundi;
- one high risk (illegal) sector: hawala/hundi;
- two medium-high risk sectors: real estate and precious gems/jewellery;
- a number of medium risk sectors: banks, securities, and insurance companies; and
- several key geographic areas for ML risk.

9. The NRA also identified foreign criminal proceeds as the predominant ML threat with laundering of those proceeds occurring domestically.

10. In the NRA Pakistan assessed its TF vulnerability/risk as 'medium' and its ML vulnerability/risk as medium. See IO1 for detailed discussion on how well Pakistan identified and assessed its ML/TF risks. Since the on-site visit Pakistan has undertaken a more comprehensive TF risk assessment, however, the content of that analysis is not considered in this report as it post-dates the on-site visit.

11. The assessment team scoped the primary risks of Pakistan prior to the on-site visit in October 2018 and considered the primary threats and risks in Pakistan related to TF and to a variety of predicate crimes in order of priority as follows:

a. Terrorist Financing Risks

12. Notwithstanding the assessment by Pakistan that its overall TF risk assessment is 'medium', Pakistan faces significant risks of TF both from legitimate and illegitimate sources as well as weak, or no, regulation/supervision of certain sectors (such as hawala/hundi, NPOs and DNFBPs) and porous borders. Pakistan's geographical links to regional neighbours (Afghanistan and Iran, in particular) heighten Pakistan's TF risks associated with bulk cash smuggling. Also terrorist groups operating in Pakistan are reported to include, but not limited to, ISIS-Khorasan⁴, Tehrik-e Taliban Pakistan, Quetta Shura Taliban, Haqqani Network, and Lashkar-e-Taiba (including its affiliates Jamaat-ud-Dawa and Falah-i-Insaniat Foundation)⁵, which raise funds through a variety of means including direct support⁶, public fundraising⁷, abuse of NPOs, and through criminal activities.⁸ Funds are moved via informal

⁴ Source: https://www.washingtonpost.com/news/worldviews/wp/2017/05/05/isis-is-on-the-decline-in-the-middle-east-but-its-influence-in-pakistan-is-rising/?noredirect=on&utm_term=.82ee2c421cd8.

Also see: <https://rusi.org/commentary/islamic-state-khorasan-nuanced-view>

⁵ Source: <https://www.state.gov/j/ct/rls/other/des/123085.htm>.

⁶ Any form of donation, membership fees, etc.

⁷ Source: https://www.business-standard.com/article/news-ani/jud-launches-political-campaign-in-islamabad-seeks-donation-118062600965_1.html.

⁸ The Pakistan Institute for Peace Studies states that 595 people, including Pakistani security officials, were killed and 1,030 others injured, in 262 terror attacks in 2018; 38 per cent of the total 595 were the result of five lethal attacks claimed by ISIS in Balochistan and Khyber-Pakhtunkhwa. Nationalist insurgent groups, mostly in

(including hawala/hundi) and formal channels⁹, cash smuggling and also through NPOs. Additional risk elements arise from proceeds of smuggling including natural resources. Pakistan authorities and the FATF highlighted these risks as well as risks from groups including Da'esh, AQ, JuD, FiF, LeT, JeM, HQN, and persons affiliated with the Taliban when adopting its 2018 action plan to address CFT deficiencies.

13. The assessment team also identified, as an area of primary focus, the adequacy of coordination between federal and provincial authorities to identify and seize assets of designated terrorist entities and to protect the regulated NPO sector, as well as unregulated organisations performing or offering charitable services, from TF abuse commensurate with TF risk. The regulated and unregulated NPO sectors, especially during natural disasters in Pakistan, pose a significant risk of TF for the country.¹⁰

b. Money Laundering Risks

14. Corruption, drug trafficking, fraud, tax evasion, smuggling, human trafficking and organised crime are major predicate offences to ML and areas of high risk. Pakistan's porous borders in the tribal regions adjacent to Afghanistan and its borders with Iran are vulnerable to drug trafficking and cross-border movement of illicit funds. Pakistan is a destination and trans-shipment point for illegal drugs with particular vulnerabilities linked to its porous borders as mentioned,¹¹ and its proximity to the 'golden triangle' and the 'golden crescent' regions. Domestic narcotics markets in Pakistan predominately involve opium, heroin, morphine, methamphetamines and misuse of prescription opioids (painkillers) for non-medical use. Pakistan has been used as a transit country for narcotics and most recently cocaine shipments using air and sea ports.¹²

15. Corruption is endemic across Pakistan's economy, although Pakistan is to be commended for its recent initiatives to prevent and detect corruption. Pakistan authorities recognise that corruption is connected with a range of other predicate offences. Proceeds of corruption have been the subject of litigation overseas. A recent case involving the former Prime Minister of Pakistan resulted in a sentence of 10 years imprisonment involving four properties purchased in the UK with corruption proceeds.¹³

16. Smuggling of all types, including currency is a significant risk for Pakistan. Smuggling of currency into Pakistan has been detected at a high rate and is assessed as related to unregulated trade routes with Iran and Afghanistan (as key pilferage points for currency smuggling) to foreign destinations for parking proceeds of crime including UAE, UK, US, and followed by South-Eastern jurisdictions. Other smuggling risks include petroleum products from Iran, cigarettes, foodstuffs,

Balochistan and a few in Sindh, carried out 80 attacks, killing 96 people. See: *Pakistan Security Report 2018*, Pakistan Institute for Peace at <https://pakpips.com/web/wp-content/uploads/2019/01/sr2018.pdf>.

⁹ Based on Pakistan's NRA 2017 (page 6): "Bank accounts of over 4000 proscribed persons have been frozen."

¹⁰ Sources: Evan Kohlmann (2006) *The Role of Islamic Charities in International Terrorist Recruiting and Financing*, Danish Institute for International Studies, Discussion Paper No. 7; Alistair Scrutton, "US, Pakistan warn of militant plots over floods", *Reuters*, 19 August 2010, Islamabad and United States Treasury, *Typologies and Open Source Reporting On Terrorist Abuse Of Charitable Operations In Post-Earthquake Pakistan And India*. See: http://www.treas.gov/offices/enforcement/keyissues/protecting/docs/charities_post-earthquake.pdf.

¹¹ Source: UNODC World Drug Report 2018, *Analysis of Drug Markets: Opiates, cocaine, cannabis, synthetic drugs*, available at <https://www.unodc.org/wdr2018>. "The Islamic Republic of Iran reported that 80 per cent of the morphine and 85 per cent of the heroin it seized in 2016 had been trafficked into the country via Pakistan...". The table on p. 3 ranks Pakistan 2nd for opium seizures; 3rd for morphine seizures; and 1st for heroin seizures.

¹² Ibid.

¹³ See media: 'Former Pakistan PM sentenced over charges relating to UK property (2018)' at: <https://www.transparency.org.uk/press-releases/former-pakistan-pm-sentenced/>

livestock and wildlife. In many of these instances, trans-national organised crime networks are behind the local trade.

17. Human trafficking and people smuggling are significant risks in Pakistan. Pakistan is noted as a source, transit and destination jurisdiction for forced labour and sexual exploitation. Risks associated with people smuggling and asylum seekers include shared cross-border issues with Afghanistan. Pakistan has been on the US State Department's watch list for human trafficking for a number of years, though it was upgraded from the lowest category (Tier 3) to Tier 2 in 2018. Pakistan authorities recognise these risks and note the involvement of both domestic and trans-national organised crime groups in the human trafficking/people smuggling trade in Pakistan. The FIA agreed that it has no capacity and jurisdiction to curb such trafficking inside the jurisdiction. Notwithstanding that, during 2013 the total number of interceptions of human smuggling made by LEAs and civil armed forces of Pakistan were 3,164.

18. The ML/TF threat arising from fraud and scams is considered at a rising level based on the frequency of crimes, the number and identification of local and foreign criminals, and the public's low level of understanding of the threat. Fraud could take different shapes and sources including credit card fraud, illegal business schemes (such as the Axact –Software Company case¹⁴), international scams and business email compromise and others.

19. In general terms, funds from these predicate crimes are laundered domestically through real estate, precious metals and stones (mainly gold) and the formal financial sector (mainly securities using banking channels¹⁵). A large percentage of proceeds are also laundered abroad via hawala/hundi and cash couriers to regional jurisdictions for the purchase of foreign assets. The illegal and unregulated/unsupervised nature of hawala/hundi and the ease with which it is available makes this delivery channel a high risk of exploitation in Pakistan from both ML and TF (as discussed above).

20. Pakistan takes a multi-agency approach to addressing the risks and the crimes of TF and ML involving military, police and intelligence agencies. There have been successes in addressing these threats, nevertheless the threats persist. Despite political commitment, a lack of adequate resources across many agencies continues to create further challenges and risks for Pakistan.

21. There are ML/TF vulnerabilities in Pakistan's financial sector and DNFBPs. In addition to vulnerabilities discussed above, Pakistan has AML/CFT regulation and supervision scope-deficiencies relating to Pakistan Post, Central Directorate of National Savings (CDNS) and all DNFBPs. Risk-based AML/CFT preventive measures for FIs regulated by the SECP are new and risk-based supervision of these entities is in a nascent stage (see IO.3 and IO.4). While AML/CFT regulations and supervision of banks and other entities by the SBP is relatively more sophisticated (see IO.3), implementation of preventive measure commensurate with Pakistan's ML/TF risks presents a vulnerability (see IO.4).

22. The consequences of ML and TF in Pakistan are both evident and serious. High TF risk in Pakistan adversely affects the financial and non-financial sectors. While there have been many successes against terrorist groups in Pakistan in recent years, continuing problems with domestic funding of terror groups and emerging TF risks from trans-national terror groups is a continuing significant concern. Moreover, the corrosive effects of illicit proceeds, especially proceeds from large-scale endemic corruption and related profit-driven crime, have contributed to undermining of effective and transparent governance and development in Pakistan over many years.

¹⁴ Source: <https://foreignpolicy.com/2015/05/22/remembering-pakistans-biggest-and-baddest-fraud-scandal/>

¹⁵ See Executive Summary of Pakistan's 2017 NRA.

Materiality*Economy and Financial Sector*

23. The currency of Pakistan is the Pakistan Rupee (PKR). The exchange rate at the time of the ME onsite visit was PKR 135 for USD \$1.00 (the rate of exchange used throughout this report). Pakistan's GDP in 2017 was USD \$304.95 billion,¹⁶ and GDP per capita was USD \$1,467.98.

24. Agriculture accounts for more than 20% of the GDP and 45% of employment. Textiles account for most of Pakistan's export earnings. Imports consist mainly of petroleum products and machinery. Remittances from overseas workers remain an important source of investment for Pakistan. According to statistics from the SBP, overseas Pakistani workers remitted USD \$9.28 billion from July to November 2018 showing a growth of 12.56% compared with USD \$8.02 billion received during the same period in the preceding year.¹⁷

25. Provisional statistics show that exports in the month of November 2018 were USD \$1.843 billion compared to USD \$1.903 billion in October 2018 showing a decrease of 3.15% and by 6.35% as compared to \$1.968 billion in November 2017. Main commodities of exports were knitwear, readymade garments, bed wear, cotton cloth, and rice. Imports in the month of November 2018 were USD \$4.626 billion compared to USD \$4.841 billion in October 2018. Main import commodities were petroleum products, petroleum crude, natural gas liquefied, plastics, palm oil, iron & steel, electrical machinery & apparatus.¹⁸

26. Pakistan is a member of many international organisations such as the United Nations, World Trade Organization, Asian Development Bank, and International Monetary Fund.

27. Pakistan is a middle income economy and is not a major financial centre for financial services globally or regionally within South Asia. The financial centre of Pakistan is in the city of Karachi in the south while the political centre is in the capital city of Islamabad in the north.

28. Pakistan has undertaken a number of strategic initiatives to boost foreign direct investment (FDI) and as a result has attracted FDI from a number of countries. For instance, a 'China-Pakistan Economic Corridor' (CPEC) arrangement is an ongoing development mega-project aimed at connecting Gwadar Port in southern Pakistan to China's north western region of Xinjiang, via a network of highways, railways and pipelines. The economic corridor will extend approximately 2700 km from Gwadar to Kashghar.¹⁹

29. In addition, Pakistan enacted a Special Economic Zones (SEZ) Act 2012 to establish special zones within each province. The statute provides SEZs to be set up by the federal or provincial governments themselves or in collaboration with the private sector under different modes of public-private partnership or exclusively through the private sector. The Pakistan Board of Investment is the responsible agency in Pakistan for driving this development. According to the Board, the first application of Khairpur Special Economic Zone was in principle approved by the Approval Committee of Special Economic Zones in its first meeting held in February 2014. Khairpur Special Economic Zone is being developed in Khairpur District as a future hub of agro-processing and other related industries.

¹⁶ Source: World Bank at: <http://www.databank.worldbank.org>.

¹⁷ Source: SBP website at: <http://www.sbp.org.pk/press/2018/Pr-HomeRemit-10-Dec-18.pdf>.

¹⁸ Source: Pakistan Bureau of Statistics at <http://www.pbs.gov.pk/trade-detail>.

¹⁹ Source: Pakistan Board of Investment at <http://boi.gov.pk/InfoCenter/CPEC.aspx>.

Table 1.1: Net FDI in Pakistan since 2012 (USD millions)

Country	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	Jul-Nov 2019
China	90.6	695.8	319.1	1,063.6	1,211.7	1,812.6	584.0
UK	633.0	157.0	169.6	151.6	215.8	307.5	79.0
US	227.1	212.1	223.9	13.2	44.6	136.3	56.0
Hong Kong	242.6	228.5	136.2	93.3	17.2	4.1	(1.8)
Switzerland	149	209.8	(6.5)	58.0	101.8	79.4	33.1
UAE	22.5	(47.1)	213.6	109.7	120.5	10.9	24.1
Italy	199.4	97.6	115.4	105.4	60.5	56.6	19.0
Netherlands	(118.4)	5.5	(34.5)	29.9	457.6	100.2	(3.1)
Austria	53.3	53.8	24.8	42.7	21.7	27.4	4.8
Japan	30.1	30.1	71.1	35.4	57.7	59.8	32.4
Turkey	0.5	7.9	43.4	16.8	135.6	29.8	22.2
Others	(73.2)	47.6	(288.2)	585.7	301.9	467.4	31.0
TOTAL	1,456.5	1,698.6	987.9	2,305.3	2,746.8	3,092.0	880.7

30. Hawaladars²⁰ are illegal in Pakistan, yet continue to operate illegally throughout the country, particularly in Chaman, Peshawar, and Karachi. And while Pakistan has made some efforts to bring the informal sector into the formal economy including recent efforts to close down hawala and hundi operators (see IO.3), the challenge remains for the government to formulate effective measures to address the ML and TF risks associated with the informal economy, including hawaladars.

Structural Elements

31. Pakistan has the elements of an effective system to address ML and TF risks. Recent legislative efforts across a number of relevant AML/CFT areas have seen improved structural arrangements in the country. Pakistan has publicly committed at the highest levels to implementing AML/CFT measures.

32. Political stability and public sector governance in Pakistan is improving. The table below summarises the governance indices from the 2012 and 2017 World Bank World-Wide Governance Indicators. Pakistan's scores and rankings for all indicators show improvement between 2012 and 2017.

Table 1.2: World Bank, World-Wide Governance Indicators – Pakistan

Indicator	Governance Score (-2.5 to +2.5) ²¹		Percentile Rank 2016(0-100) ²²	
	2012	2017	2012	2017
Voice and Accountability	-0.84	-0.69	24.88	28.08
Political Stability and Absence of Violence/Terrorism	-2.68	-2.40	.95	1.90
Government Effectiveness	-0.78	-0.58	25.59	31.25
Regulatory Quality	-0.72	-0.59	25.59	29.33
Rule of Law	0.88	-0.72	21.13	24.04
Control of Corruption	-1.06	-0.78	14.22	22.60

²⁰ In line with the general practice in Pakistan, throughout this report the terms 'hawala' and 'hundi' refer to illegal MVTs operators (see R.14).

²¹ Estimate of governance measured on a scale from approximately -2.5 to +2.5. Higher values correspond to better governance.

²² Indicates rank of country compared with all countries around the world. A percentile rank of 0 corresponds to the lowest ranking and '100' is to the highest ranking.

33. In 2017, Pakistan slipped down three places on the world's "Ease of Doing Business" index to a ranking of 147 among 190 countries. The Prime Minister, Mr Imran Khan, in his first speech to the nation after election in 2018 announced new programmes to improve the business climate in Pakistan and issued a strategy entitled 'Ease of Doing Business Strategy 2018-2022' designed to boost Pakistan's ranking in the World Bank's index. Some of the initiatives in that strategy touch relevant AML matters (e.g. corporate registry).

34. According to World Economic Forum's Global Competitiveness Report 2017/18 Pakistan struggles with an inefficient government bureaucracy together with high-levels of corruption posing significant barriers to business in Pakistan. The recent election of a new Prime Minister in 2018 has seen a high priority placed on eliminating endemic corruption across the public sector and the announcement of programmes and resources to implement this policy. While this initiative will have a beneficial impact on further AML/CFT implementation efforts, it is in its infancy. Pakistan continues to face significant corruption challenges. High level corruption was illustrated recently with the 2016 revelations from the 'Panama Papers' disclosures relating to the, then, Prime Minister followed by a Supreme Court direction to form a joint inquiry into the allegation contained in those disclosures the year following.

35. Transparency International (TI) has ranked Pakistan at 123 out of 180 countries on the Corruption Perceptions Index 2017. This places Pakistan well below the mean.²³ Also, according to TI, two in five Pakistanis believe the judiciary is corrupt²⁴. Over two-thirds of Pakistanis who indicated they had interacted with the courts in the past year, reported paying a bribe. Companies have insufficient trust in the independence of the judiciary and report low trust in the efficiency of the legal framework in settling disputes and challenging regulations. The Supreme Judicial Council (Constitution arts. 210 and 309) oversees the accountability of judges, however, the Council does not meet regularly.²⁵ According to the World Justice Project's Rule of Law Index 2017-18, Pakistan ranks 105 out of 113 jurisdictions placing Pakistan well below global standards.

36. As per estimates of the UN Development Programme the multi-dimensional poverty index shows approximately one-third of people in Pakistan can be classified as poor during 2014-15 while four of 10 Pakistanis live in multidimensional poverty. In part, as a consequence of poverty levels but for other reasons as well, many Pakistanis do not use the formal economy. Pakistan has a large informal cash-based economy.

AML/CFT Strategy

37. Since its last evaluation in 2009, Pakistan has enacted and implemented a broad range of legislative and administrative measures to implement AML and some TF requirements. Moreover, Pakistan has a clear strategy of 'zero-tolerance' for terrorism and elements of TF. Pakistan integrates a range of military and criminal justice responses to terrorism.

38. In 2011, Pakistan issued a National Action Plan on AML/CFT with time lines out to 36 months (2015) from the commencement of the plan that provided a strategic point of reference for priority areas to address. The items in the National Action Plan were set at a high level and sought to address

²³ The CPI draws upon 13 data sources which capture the assessment of experts and business executives on a number of corrupt behaviours in the public sector, including: bribery, diversion of public funds, use of public office for private gain, nepotism in the civil service and state capture.

²⁴ Transparency International Global Corruption Barometer 2015.

²⁵ UNCAC Implementation Report 2017.

some recommendations from the 2009 MER and the 2010 FATF (ICRG) action plan. Completion of those priority areas, to some extent, allowed Pakistan to be de-listed from the FATF (mid-2015) so as to progress to a wider policy framework of AML/CFT reforms. Commencing in 2015, at the expiry of the national action plan referenced, Pakistan started a process to conclude a ML and TF risk assessment using the World Bank's template which was ultimately completed as its first National AML/CFT Risk Assessment (NRA) 2017.

39. In early 2018, Pakistan was referred back to the FATF (through the ICRG process) due to significant concerns of unmitigated TF risks. In mid-2018 Pakistan's Finance Minister, following Cabinet-level consultation, committed Pakistan to a broad ranging action plan against TF as a basis for Pakistan's continuing FATF review. Pakistan's 2018 FATF Action Plan covers a wide range of prioritised CFT activities that focus on comprehensively identifying and taking effective regulatory and criminal justice responses to preventing and combating TF in Pakistan, including cross-border threats.

40. In late 2018, Pakistan issued a National Strategy on AML/CFT ostensibly to address the identified risks in the NRA 2017 but also serving other roles such as addressing a small number of identified areas of priority in the 2018 FATF Action Plan and preparing more fully for the APG third round evaluation.

Computerised National Identity Card

41. In Pakistan, all adult citizens must register for a Computerised National Identity Card (CNIC) with a unique number upon reaching the age of 18 years. New CNIC's are machine-readable and carry facial and fingerprint information. CNICs are issued by Pakistan's National Database and Registration Authority (NADRA). The Smart National Identification Card (SNIC) is a version of the CNIC with additional security features and contains a 'smart-chip' with biometric information on the holder.

42. The CNIC contains unique identifiers including legal name, gender, father's name (husband's name for married females), identification mark, date of birth, current address, permanent address, date of issue, date of expiry, signature, photograph, and fingerprint (thumbprint). The card is mandatory for a number of activities including (but not limited to) the following:

- Voting;
- Opening and operating bank accounts;
- Obtaining a passport;
- Obtaining a drivers licence; and
- Conducting significant financial transactions.

Legal and Institutional Framework

a. Legal System

43. The laws of Pakistan consist of the Constitution (the highest law of the country) federal and provincial statutes, regulations and case law. There are other administrative and executive instruments that form part of Pakistan's legal system.

44. The hierarchy of legislation in Pakistan is as follows (in order of importance/supremacy):

- 1) Constitution of the Islamic Republic of Pakistan;
- 2) Acts;
- 3) Presidential Ordinances/Orders;

- 4) Rules, Regulations and By-laws; and
- 5) Notifications.

45. The Constitution is the paramount law of Pakistan and stipulates essential matters pertaining to the rights and obligations of the Pakistani people; the fundamental institutions and structures of the State; the economic order and management of the State; and federal and provincial elections.

46. An Act (legislation) is enacted by the Parliament or Provincial Assemblies. Acts can only be amended by another Act. According to the Constitution, the Parliament of Pakistan can only legislate on matters enumerated in the Fourth Schedule to the Constitution. Parliament, for Islamabad Capital Territory, and Provincial Assemblies can legislate on all matters which are not enumerated in Fourth Schedule.

47. Ordinances are issued by the president and provincial governors in the event of any emergent issue to take immediate action when the senate or national assembly, or provincial assembly, as the case may be, is not in session. Rules are made in exercise of a power conferred by any Act and are described as guidelines or instructions. These are the principles that govern the conduct or behaviour of a person in an organization. Rule-making authority is delineated in statute.

48. Rules, Regulations and By-laws (these terms are used interchangeably) are issued under an Act and are designed for the operation of an Act. These instruments are issued under specific sections of any given enactment and for specific matters stated therein.

49. Notifications are issued to officially notify the public that something has happened or will happen.

b. *Court System*

50. The Supreme Court is the highest court of appeal. It exercises original, appellate, review and advisory jurisdiction. The court consists of a Chief Justice and 16 other judges. Its permanent seat is in Islamabad with branch registries in Lahore, Peshawar, Quetta and Karachi. Acting judges and ad hoc judges may be appointed to the Supreme Court.

51. The next highest court in Pakistan is the High Court which consists of a chief justice and other judges. There are five High Courts of Pakistan; one in each of the four provinces and one in the capital city, Islamabad. The High Court supervises and controls the subordinate courts and exercises original, appellate and review jurisdiction.

52. Subordinate courts in Pakistan are generally created and governed by statute without original or inherent jurisdiction. They are divided into two broad classes: the criminal courts and the civil courts. Within each class, tiers of courts exist to hear cases. In the criminal jurisdiction, criminal courts generally are divided into Courts of Sessions, Courts of Metropolitan Sessions, Special courts/tribunals regarding banking, insurance, customs and excise, smuggling, drugs, terrorism, taxation, environment, consumer protection and corruption and accountability.

53. Pakistan has a collaborative, multi-agency approach in implementing its AML/CFT regime under the AMLA, as described in detail below:

Table 1.3: Authorities responsible for AML/CFT implementation

Federal Authorities	
Agency	Responsibility
National Executive Committee (NEC)	NEC is established under the Chairmanship of Minister for Finance. Section 5(i) of the AMLA empowers the federal government to nominate members on the committee. The NEC consists of Minister for Finance (or Advisor to the Prime Minister on Finance), Minister on Foreign Affairs, Minister for Law and Justice, Minister for Interior, governor SBP, Chairman SECP, and Director General Financial Monitoring Unit (FMU). NEC's mandate is to develop, review and oversee the implementation of the national AML/CFT strategy; determine predicate offences; provide guidance in framing rules and regulations; make recommendations to the federal government for effective implementation of the AMLA; issue directions; and discuss other relevant issues.
General Committee (GC)	GC comprises Secretaries (Ministries of Finance, Interior, Foreign Affairs, Law and Justice), Chairman NAB, Chairman-FBR, Director General-FIA, Director General-ANF, Deputy Governor-SBP, Commissioner-SECP and Director General FMU. Its objectives include developing/reviewing performance of investigating agencies, FMU and the financial and non-financial businesses and professions, relating to AML and reviewing training programs for government and private sector.
Ministry of Finance (MoF)	MoF is the lead policy agency for AML/CFT coordination. The Finance Minister leads the NEC and GC and is responsible for implementation of AMLA and other AML/CFT policy matters.
Financial Monitoring Unit (FMU)	FMU is the national central agency for receiving, analysing and disseminating STRs and other reports relating to ML and TF and related predicate offences. FMU also conducts asset-tracing and temporary freezing of accounts. FMU plays a key role in the detection and investigation of financial crimes. The Director-General FMU acts as Secretary to the NEC and GC.
Ministry of Law and Justice (MLJ)	MLJ is the lead agency for legislative drafting, judicial appointments (trial courts), the AGO and administering and resourcing the AG and the courts, and performing federal Government functions with regard to superior courts.
Ministry of Foreign Affairs (MOFA)	MOFA is responsible for MLA incoming/outgoing MLA requests and treaty relationships relating to extradition, MLA and TF. MOFA gives domestic effect to Pakistan's obligations under different UNSCRs under the United Nations (Security Council) Act, 1948 and is responsible for proposing names for designation and de-listing to the UNSCR 1267/1989/2253 Al-Qaida/Da'esh and UNSCR 1988 Taliban Sanctions Committees. MOFA also chairs an Inter-Agency Committee on PF matters. The Strategic Exports Control Division (SECDiv) coordinates enforcement and a licensing regime re PF matters
Ministry of Interior (MOI)	The MOI is the lead agency for national sovereignty and security including implementation of Pakistan's targeted financial sanctions regime under UNSCR 1373. The primary responsibility of Interior Division is to ensure internal security.
State Bank of Pakistan (SBP)	SBP was established under the State Bank of Pakistan Act 1956 as the central bank and is an autonomous institution. SBP is mandated to regulate the monetary and credit system of Pakistan and is responsible for supervising and regulating financial institutions under the Banking Companies Ordinance (BCO) 1962, Microfinance Institutions Ordinance 2001 and Foreign Exchange Regulation Act 1947. SBP regulates and supervises commercial banks (conventional and Islamic), microfinance banks, development finance institutions and exchange companies.
Securities and Exchange Commission of Pakistan (SECP)	SECP is an independent statutory body established under the Securities and Exchange Commission of Pakistan Act 1997. SECP regulates and supervises the capital market, non-banking finance companies, modarabas and insurance sector. It also supervises matters pertaining to the incorporation of companies including licensed NPOs and maintains the corporate registry.

Pakistan Stock Exchange (PSX)	PSX is a self-regulatory organization and acts as a front line regulator of the capital markets. PSX is responsible for the supervision of its members' obligations under relevant rules and regulations.
National Accountability Bureau (NAB)	NAB is a federal law enforcement agency responsible for eradication of corruption, corrupt practices, abuse of power, wilful defaults, recovery of proceeds of crime and is principally governed by National Accountability Ordinance 1999 (NAO). The NAB is designated to investigate ML (see R.30) and has an internal prosecution services that prosecutes ML and predicates crimes under NAB's jurisdiction.
Federal Investigation Agency (FIA)	FIA was established under FIA Act, 1974. The FIA is responsible to keep checking on violations of Passport Act and Emigration Ordinance, investigating economic crime, and carrying out any other investigation of white collar crime having inter-provincial and international ramifications, entrusted by the federal government. The FIA is designated to investigate ML (see R.30) and has an internal prosecution services that prosecutes ML and predicates crimes under FIA's jurisdiction.
Anti-Narcotics Force (ANF)	ANF was established in 1997. It performs both enforcement and asset confiscation, forfeiture functions in connection with drug trafficking. It is the primary mandated enforcement agency under the Control of Narcotics Substances Act 1997 and the ANF Act 1997. The ANF is designated to investigate ML (see R.30) and has an internal prosecution services that prosecutes ML and predicates crimes under ANF's jurisdiction.
Federal Board of Revenue – Customs (FBR- FBR-customs)	FBR-customs is responsible for protecting Pakistan's borders against movement of contra band goods and is facilitator of bona fide trade. It provides a source of revenue in the form of taxes levied on the goods traded across the borders. It also helps to protect the domestic industry, discourage consumptions of luxury goods and stimulate development in the under -developed areas. The FBR-customs is designated to investigate ML (see R.30) and FBR has an internal prosecution services that prosecutes ML and predicates crimes under FBR's jurisdiction (see below).
Federal Board of Revenue - Inland Revenue (FBR-IR)	FBR-IR was created in 2011 to probe matters of evasion in inland taxes. The FBR-IR is designated to investigate ML (see R.30) with the Directorate General operates with one headquarters and seven regional directorates including: Islamabad, Lahore, Karachi, Faisalabad, Hyderabad, Peshawar and Multan.
National Counter-Terrorism Authority (NACTA)	NACTA was created in 2009 and formally operationalized in 2013 under the NACTA Act 2013. For AML/CFT purposes NACTA's primary role is TF policy formation and cooperation and coordination through the National Task Force on CFT and TF Sub-committee of Task Force (see IO.1 and IO.9).
Central Directorate of National Savings (CDNS)	CDNS is an attached department of Ministry of Finance and responsible to sell approved government debt securities to the general public. CDNS collects proceeds of these securities through physical sale points i.e. National Savings Centres (NSS) and deposit into the federal government's SBP account. CDNS also offers a some financial products including saving and pensioner accounts,
Pakistan Post	Pakistan Post provides postal services in all of Pakistan through a network of around 13,000 post offices. Pakistan Post also performs agency functions on behalf of federal and provincial governments, which inter-alias include savings bank, postal life insurance, collection of taxes, and payment of electricity, water, gas and telephone bills. In addition, Pakistan Post provides inward remittance through an international remittance company.
Institute of Chartered Accountants of Pakistan (ICAP)	ICAP is a statutory body established under the Chartered Accountants Ordinance 1961 for the regulation of the profession of accountancy in Pakistan. ICAP performs a public interest function and is responsible for maintaining professional standards of excellence among chartered accountants, who are registered under the ordinance and are the only persons authorized to conduct audits of all public companies.
Pakistan Bar Council (PBC)	PBC is a statutory organization responsible for safeguarding the rights, interests and privileges of practicing lawyers, regulating their conduct and helping in the administration of justice. Its composition, powers and functions are described in detail

	by the Legal Practitioners and Bar Councils Act, 1973. An important role is the promotion of legal education and free legal aid to deserving citizens.
Provincial Authorities	
Police	Each province has a police service that is the primary law enforcement agency responsible for a wide spectrum of law enforcement responsibilities. The general powers of police are provided under the Police Order 2002 and Criminal Procedure Code 1898. Provincial police are not designated to investigate ML (see R.30). Counter- TF units within Counter-Terrorism Departments of provincial police are designated to investigate TF (see R.30).
Prosecution services	Each province has a criminal prosecution services responsible for the prosecution of TF and predicate crimes under the jurisdiction of provincial police services.
Home departments	Each province has a Home Department that is responsible for the proscription of individuals under Pakistan's targeted financial sanctions regime under UNSCR 1373.
Social welfare	Social welfare departments in each province are responsible for the registration of NPOs under The Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961, Societies Act of 1860, or Co-operative Societies act 1925.

54. Pakistan has legislation to combat ML and TF. The AMLA 2010 (amended 2016) consolidates previous legislation and brings numerous FIs, DNFBPs, and capital market intermediaries into the AML/CFT reporting regime. All references to the AMLA throughout this report reflect the amendments made up to 2016. A number of changes in the AMLA reflected recommendations in the 2009 MER. The ATA was enacted in 1997 and was amended in June 2014. The ATA criminalises terrorism and TF and provides a basis to freeze terrorist assets including targeted financial sanctions under UNSCR 1373.

55. Pakistan divides criminal procedure for investigations into an 'enquiry' stage and 'investigation' stages. Different rules apply to each stage. Moreover offences, including criminal offences, are either 'cognisable' or 'non-cognisable'. A non-cognizable offence (including ML) requires that a police officer cannot investigate without the order of a judge who has power to try such case. Cognizable offences (the majority of offences including the TF offence) do not have this requirement. Statutes govern the different investigation powers and oversight by agencies and the courts at each stage.

56. Since the last MER in 2009 Pakistan has instituted a high-level NEC and GC for AML/CFT. Pakistan has also made key institutional changes including: designating LEAs as responsible for ML and predicate offences based on AMLA; given AML/CFT supervisory roles to SBP and SECP; and enhanced the independence of the FMU.

Financial Sector and DNFBPs

Table 1.4: Pakistan's financial sector assets, 2018

Institutions	% of Total Assets	Assets as % of GDP
Banks	74.0	55.3
CDNS	14.2	10.6
Insurance	5.3	4.0
NBFIs	4.6	3.5
DFIs	0.9	0.7
MFBs	1.0	0.7

Table 1.5: SBP regulated financial institutions (as of October 2018)

Entities Types	Number of entities
Banks	34
Public Sector Banks	5
Specialized Banks	4
Private Commercial Banks	15
Islamic Banks	5
Foreign Banks	5
Microfinance Banks	11
Development Finance Institutions (DFIs)	9
Exchange Companies (ECs)	52
ECs-A	27
ECs-B	25
Total	106

57. Banks hold approximately 74% of the financial sector's assets with majority of banks being owned by the private sector. The aggregate assets of the financial sector are 74.7 percent of Pakistan's GDP, while banks' assets represent over half of Pakistan's GDP.

58. The SECP is mandated to regulate securities brokers, insurance companies, NBFIs and modarabas under the Securities and Exchange Commission of Pakistan Act 1997. Their overall number and size, along with percentage of total assets, is as follows:

Table 1.6: SECP regulated persons and their assets

Non-bank financial institutions	Total entities	Assets PKR billions	USD equiv.	% total assets	Date
Securities brokers	227	395.99 billion	2.93 billion	13.55%	31 Aug 18
NBFIs	70	1,175.57 billion	8.71 billion	40.22%	30 June 18
Insurance companies*	50	1,298.60 billion	9.62 billion	44.43%	31 Dec 17
Modarabas	29	52.94 billion	392.1 million	1.81%	30 Jun 18

*Includes Takaful operators

59. Casinos are illegal. Trust and company service providers are not recognized as a discrete business sector with the activities mainly carried out by lawyers and accountants.

60. Exchange Companies-A (EC-A) may sell and purchase foreign currencies, conduct inward home remittances and outward remittances and use foreign currency accounts maintained with domestic banks. They may also export foreign currencies (other than USD) and bring back equivalent USD. Exchange Companies-B (EC-B) are permitted only to sell and purchase foreign currencies.

61. Modarabas (part of Islamic finance) are special forms of companies allowed to offer financial products or conduct business based on Islamic finance concepts. They can invest in stock markets, trading of halal commodities, project financing activities etc. The modaraba can raise funds in the form of Certificates of Modaraba.

62. Takaful operators are a form of mutual insurance within Islamic finance concepts. Individual members contribute a certain sum of money to a common pool to guarantee each other against loss or damage. A takaful fund is managed and administered, on behalf of its participants, by a takaful operator, who charges an agreed-upon fee to cover costs. Much like a conventional insurance company, costs include sales and marketing, underwriting, and claims management.

63. Pakistan informed the assessment team that some provinces have sought to regulate the real estate sector, but no details on size and makeup of the real estate sector were provided. The Federation of Realtors of Pakistan is a SRB for the sector, but real estate agents in Pakistan are not required to join the federation and its legal basis is unclear.

64. Pakistan's NRA states that there are approximately 50,000 dealers in precious metals and stones in Pakistan with total trade (import and export) in 2016 of USD \$22.1 million. Additional details on the size and makeup of the sector are unclear.

65. Pakistan's NRA states that in 2016 there were a total of 7,212 professional accountants and 490 audit firms registered with Institute Chartered Accountants of Pakistan.

66. The Pakistan Bar Council is the entity responsible for regulating the conduct and licensing of lawyers in Pakistan. The number of licensed lawyers in Pakistan is unclear. Notary function is performed by lawyers who meet the qualifications requirement under the Notaries Ordinance 1961.

67. Pakistan's AML/CFT regime has undergone significant reform since the last assessment in 2009. Since 2009, Pakistan has passed the AMLA and issued sector-specific AML/CFT regulations. Including the ATA, these laws and regulations have been updated on a few occasions with some SBP and SECP preventative measures regulations being updated during the ME on-site visit.

68. The AMLA defines reporting entities in terms consistent with the FATF definition of FIs and DNFBPS. However, enforceable means covering all FATF recommendations have not been issued to some financial sectors and all DNFBPS, as detailed below.

69. In addition to the AML Law, the following are the most recent versions (earlier versions existed for some) of the enforceable preventive measures applicable to FIs. There are no enforceable AML/CFT requirements for Pakistan Post, CDNS, cooperatives or DNFBPs. The lack of enforceable means is not due to exemptions justified on the basis of the country's ML/TF risk.

- AML/CFT Regulations for Banks and DFI 2018
- Prudential Regulations for MFBs 2017
- Revised AML/CFT Regulation 2018 for MFBs
- Exchange Companies Manual 2017
- AML/CFT Regulation 2018 of SECP

Supervisory Arrangements

70. There are two AML/CFT supervisors for Pakistan's financial sector:

- SBP is responsible for prudential and AML/CFT regulation/supervision of banks, development financial institutions (DFIs), microfinance banks (MFB), and exchange companies (ECs);
- SECP is responsible for prudential and AML/CFT regulation/supervision of securities brokers, commodities brokers, non-bank financing companies, insurers, takaful operators and modarabas. The SECP is also the registrar of legal persons (except cooperatives).

71. The regulation of CDNS and Pakistan Post falls under their respective ministries however neither is subject to enforceable AML/CFT regulations or AML/CFT supervision. No competent authority has oversight responsibility for legal arrangements including trusts and *waqfs*. Trust deeds relating to immovable property are required to be registered in the provincial district where the land

or real estate is located however the registering authorities do not supervise or verify information contained in trust deeds.

72. Cooperatives must be formed under the Cooperative Societies Act 1925. Under s 4 of that Act, provincial governments may appoint registrars for cooperatives. However, cooperatives are not supervised for AML/CFT purposes.

Table 1.7: Supervisory arrangements – FIs and DNFBPs

Supervisory Arrangements - FIs		
Reporting Entities	Supervisor/Licencing/Registration Authority	AML/CFT supervisor
Banks, DFIs, MFBs and ECs	SBP	SBP
Securities brokers, commodities brokers, non-bank financing companies, insurers, takaful operators and modarabas	SECP	SECP
Asset management and collective investment schemes	SECP	SECP
Pakistan Post	Ministry of Postal Services	nil
CDNS	Ministry of Finance	nil
Cooperatives	Provincial authorities (e.g. Punjab Registrar of Cooperative Societies)	nil

Supervisory Arrangements - DNFBPs		
Reporting Entities	Licencing/ Registration Authority	AML/CFT supervisor
Lawyers, notaries	Pakistan Bar Council (PBC)	nil
Accountants	Institute of Chartered Accountants (ICAP)	nil
Real estate agents	None	nil
Precious metal/gem dealers	None	nil

73. Some DNFBPs are subject to regulation and supervision (licences, discipline etc.) however DNFBPs are not subject to AML/CFT supervision. Neither the Federation of Realtors Pakistan (FORP) nor the All Pakistan Gem Merchants and Jewellers Association (APGMJA) are licencing and registration authorities for persons engaging in the relevant activities.

Legal Persons and Arrangements

74. A variety of legal persons may be formed in Pakistan including private and public companies, limited liability partnerships, foreign companies and companies without share capital. As at 30 June 2018 there were 87,312 registered companies with the majority formed in Punjab province (the largest province in the country). SECP acts in the capacity of company registrar. Basic information on forming companies is accessible to the public on the SECP's website. While there are gaps in information held by companies, SECP has issued measures to enhance the collection and availability of beneficial ownership information. However, at the time of the on-site visit, these measures were not enforceable.

75. Cooperatives are formed under the Cooperative Societies Act 1925 but registration of those entities is done with provincial registrars (not the SECP) appointed by the provinces under s 4 of that Act. The number of registered cooperatives was not provided, and there is little public information available on establishing cooperatives in Pakistan.

76. Pakistan's trust law is governed primarily by the Trust Act 1882 but also by case law. Generally, there are two types of express trusts: moveable property trusts and immoveable property trusts. The Trust Act 1882 requires that the deeds of the latter are required to be registered with provincial authorities within the district where the immoveable property is located. There is no registration requirement for moveable property trusts. Pakistan has no information on the number of trusts (of either type) in Pakistan.

77. *Waqfs*, which are a form of Islamic charitable trust, operate in Pakistan; however, there is little information available on these types of legal arrangements and Pakistan authorities did not provide an estimate of the number and form of operation of these types of arrangements.

International Cooperation

78. Pakistan faces a number of regional ML and TF threats both incoming and outgoing. Porous borders, particularly in its mountainous northwest border with Afghanistan and the Sindh-Balochistan border, makes Pakistan vulnerable to incoming illicit proceeds from drug trafficking and incoming funds to support terrorist groups operating within Pakistan and along its vulnerable borders. Furthermore, the significant number of UN-listed terrorist organisations operating in these border regions is a risk for outbound funds supporting terrorist activity in neighbouring countries. Pakistan Ministers have commented on the terror threat relating to the border regions with Afghanistan²⁶. Lastly, Pakistan's significant diaspora of citizens working in other high TF risk regions (e.g. Gulf States) and remitting funds creates an additional TF risk.

79. Moreover, capital flight associated with illicit proceeds from corruption and other high-risk predicate crimes, including tax evasion, are continuing concerns. The current Prime Minister (Mr Imran Khan) following his election to office in 2018 has made recovery of corruption proceeds overseas a high priority issue. In September 2018 Pakistan and the United Kingdom launched a 'UK-Pakistan Partnership on Justice and Accountability' to address money laundering issues and recover stolen assets held in the UK.

80. Porous borders, recovery of stolen assets, the movement of funds to assist terrorists within Pakistan all require an effective international cooperation management-framework. However, although Pakistan has a formal extradition law, Pakistan lacks a formal MLA framework and an effective framework for informal cooperation.

²⁶ "The porous and poorly manned Sindh-Balochistan border is providing an unimpeded movement to the terrorists, said Chief Minister Murad Ali Shah on Saturday." <https://tribune.com.pk/story/1339090/sindh-balochistan-cm-sheds-light-terrorist-movement-porous-border/>

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key Findings

- 1) Pakistan completed its first NRA in 2017 and assigns a national risk-rating of 'medium' for both ML and TF. The NRA focuses on the identification of ML and TF vulnerabilities. There is limited focus on analysis and understanding of threats and consequences leading to a limited focus on overall risks.
- 2) Private sector involvement in the NRA was limited to the provision of data and workshops on the purpose and process of the NRA. The private sector was not consulted on drafts of the NRA and some reporting entities and sectors were not informed of the results. With the exception of larger banks, private sector understanding of Pakistan's ML/TF risk is very limited.
- 3) The NRA identifies some ML threats however ML 'risk' ratings assigned to a number of sectors are based on vulnerability only (therefore the NRA does not reflect a comprehensive understanding of risks).
- 4) Pakistan has not assessed the risk of ML and TF with respect to all types of legal persons and undertaken only limited analysis of cross-border ML risks.
- 5) Law enforcement focus on ML risk is on predicate offending and consequently is limited.
- 6) The NRA includes negligible identification and analysis of Pakistan's TF threats.
- 7) The national AML/CFT Action Plan of 2018 (based on the NRA 2017) does not provide details of which agency has overall responsibility for delivering and coordinating actions within given time frames. Moreover, fixed and identifiable time frames are not provided and it is unclear what follow-up or review meetings take place.
- 8) Across government agencies (with the exception of Punjab CTD) Pakistan's understanding of TF risk is low. In addition the private sector's understanding of TF risk is poor.
- 9) With the exception of Punjab CTD, the law enforcement focus on TF is on terrorist acts and not TF.
- 10) There is no evidence showing the efforts of the military in tackling TF particularly in light of well publicised counter-insurgency operations in North West Pakistan.
- 11) Except for one financial inclusion-related remittance product, the findings of the NRA have not led to implementation of enhanced or simplified AML/CFT measures or to any exemptions from AML/CFT requirements for lower risk activities.
- 12) PF coordination is focused on counter-proliferation and not counter-financing.

Recommended Actions

- 13) Pakistan should adequately identify, assess and fully understand its ML risk, including through sector risk assessments, outlining specific consequences and vulnerabilities for the various financial, non-financial and DNFBP sectors (in consultation with those sectors).

- 14) Pakistan should adequately identify, assess and fully understand its domestic and trans-national TF risks across different sectors and geographical areas within and outside Pakistan, in sufficient detail to ensure that LEAs, supervisory agencies, and the private sector can adopt an effective TF risk-mitigation strategy.
- 15) Pakistan should enhance its understanding of the TF risks posed by Da'esh, AQ, JuD, FiF, LeT, JeM, HQN, and persons affiliated with the Taliban.
- 16) Pakistan should improve its Action Plan and develop sector-specific policies including for DNFBPs (based on identified risks), to assist relevant agencies to respond with targeted strategies.²⁷
- 17) Pakistan should implement a comprehensive RBA to prioritise capacity-building and training, and allocate resources, in order to develop and implement measures to prevent and mitigate ML/TF.
- 18) Pakistan should continue to engage with the reporting entities, including DNFBPs, to share detailed findings of risk assessments and up-to-date information on ML/TF to improve their understanding of existing and emerging risks within their institutions.
- 19) Develop a PF coordination and cooperation strategy through the CRM Committee.

Immediate Outcome 1 (Risk, Policy and Coordination)

Pakistan's understanding of its ML/TF risks

A. General Observations on NRA

81. Pakistan conducted a national risk assessment exercise in 2015 - 2017 using the World Bank template focused on identifying the ML/TF threats, vulnerabilities and consequences leading to the publication of a document entitled National Risk Assessment on Money Laundering and Terrorist Financing 2017 (NRA). The NRA was based on material provided from stakeholders and information provided by intelligence agencies. It was coordinated by the FMU and approved by the Chairman, National Executive Committee in 2017.²⁸

82. The NRA seeks to explain and analyse financial sector vulnerabilities, predicate offences linked to ML and TF and the capability of regulatory and law enforcement agencies. The NRA was shared with key law enforcement and supervisory agencies but the full report was not shared with DNFBP supervisory authorities nor has it been shared with private sector reporting entities. Only findings and conclusions of the NRA have been shared in this regard. SBP has issued some supervisory guidelines to the private sector relating to compliance and supervision matters, but those guidelines do not assist in enhancing their understanding of the ML and TF risks in the sectors SBP supervises.

83. The NRA assigns ratings to several sectors and activities as *low*, *medium* and *high* as well as mixed rating categories of *medium-low* and *medium-high* (see c.1.1 in TC Annex). While a table at the

²⁷ This recommendation is intentionally broad in its approach. The assessment team based its findings on very different ML and TF risks across different provinces addressed by the different federal and provincial LEA's.

²⁸ As noted in Chapter 1, at the time of the onsite visit, Pakistan was updating its national TF risk assessment but had not completed it. As required by the assessment methodology, the assessment team was unable to take account of the process or content thereof. Reference to 'NRA' throughout this report is to the 2017 NRA.

beginning of the NRA outlines how risk ratings are determined (combination of threats, vulnerabilities and consequences, as noted above) the actual ratings assigned to sectors are on the basis of vulnerability only. While Pakistan states the ratings are also based on threat analysis the assessment team did not see any material to support this.

84. Pakistan rated its national ML threat as *medium* and its national TF threat as *medium*. However, Pakistan was not able to explain fully how it arrived at those ratings and what the rating system means. For instance, when asked what the difference between *medium* and *high* were, the authorities provided no cogent explanation. No explanations were provided as to the meaning of *medium-high risk* and *medium-low risk*. The evaluation team concluded that ML and TF risks were not thoroughly examined or understood (as discussed below) by Pakistan authorities within the framework of the World Bank template. Also, there are significant gaps in the NRA including:

- no assessment of ML and TF risks associated with all types of legal persons;
- no assessment of ML and TF risks associated with trusts and other legal arrangements including *waqfs*;
- no assessment TF risks in the NPO sector²⁹, including an assessment of the various forms of NPOs and charities;
- no analysis of the different terrorist organisations known to be operating in Pakistan and how these different organisations are funded;
- no analysis of new technologies;
- a limited analysis of cross-border ML and TF risk.

B. General Observations on Pakistan's Level of Risk Understanding

85. Pakistan authorities have varying levels of understanding of the country's ML and TF risks across all sectors. Agencies do not share detailed information to improve the level of understanding of the higher risks posed by the following: cash-based and high-end ML, corruption, ML from foreign predicates, the misuse of legal persons and legal arrangements; the involvement of professional enablers; real estate and dealers in precious metals and jewels and ML from drug and fraud offending. While Pakistan has national coordination and cooperation mechanisms for ML and TF (see Core Issue 1.5), Pakistan did not demonstrate interagency, cross-CTD or other cross-provincial intelligence sharing in relation to ML or TF trends. In relation to varying levels of understanding it is apparent that CTD Punjab displays a better understanding of TF risks than its counterparts and the FIA; that said however, there is no evidence that they share their knowledge with partners. NAB displayed a better understanding and operational response to their areas of responsibility and understanding of risk with regard to corruption as a predicate offence. This does not correlate with the findings and recommendations of the NRA.

86. A comprehensive understanding of risk across regulatory and supervisory agencies is at an early stage and is still developing. The focus of those agencies is primarily on administrative compliance within their sectors rather than on fully understanding, and taking measures to mitigate, ML and TF risk. SBP and SECP were part of the NRA working group and were provided with the completed NRA. On the other hand, supervisory/professional body authorities in the DNFBP sectors were provided with an overview only of the results and outcomes of the NRA, most remained unaware of the full content of

²⁹ In the *Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) Guidelines for Non Profit Organizations (NPOs)*, SECP has identified methodologies that terrorist organizations may use to exploit licenced NPOs under s 42 of the Companies Act (see IO.10).

the document at the time of the on-site visit. Moreover, those entities are not undertaking other activities to enhance their understanding of ML/TF risks.

87. Most FIs and DNFBPs appear to have a low level of appreciation and understanding of their own ML and TF business risks and more widely their own sector-risks. In this regard, with few exceptions, reporting entities have not used the outcomes of the NRA to inform their own risk assessments. In many cases, during discussions with the assessment team, reporting entities disagreed with the NRA findings. Pakistan agencies and regulators were also unaware of new or evolving ML/TF threats and risks. The approach to new technologies is informal at best. The authorities acknowledged that, like all risk assessments, the 2017 NRA represents a snapshot in time, which cannot comprehensively reflect the full extent of emerging and current risks.

C. Observations Relating to ML Risk Understanding

88. The NRA assigns a national ML rating of *medium* and identifies the following predicate offences as the primary sources of ML in Pakistan:

- Corruption;
- Smuggling;
- Drug trafficking;
- Cheating and fraud;
- Tax fraud;
- Kidnapping for ransom; and
- Extortion from business.

89. It was not clear to the assessment team from the content of the NRA and from meetings with officials how these predicate crime-types were determined to be the most prevalent for ML. Whether based on national crime statistics (which were requested but not provided), the frequency of commission of the crimes, the magnitude of impact of each crime on civil society, or some other justification or combination thereof, was not explained by officials. It was also not clear if the threat posed by these seven categories of predicate crimes varies within the different provinces of Pakistan.

90. Pakistan has not identified or assessed particular predicate-crime risks associated with, or having, foreign elements within Pakistan. The evaluation team formed the view that there was no clear understanding among officials, including LEAs, in Pakistan of ML risk and ML as a crime-type. Officials, including LEAs, were focused on predicate crime when asked about ML and did not express a good understanding of what ML, as a financial crime-type in itself, actually is and how it is differentiated from the predicate offences which generate illicit proceeds.

D. Observations Relating to TF Risk Understanding

91. Pakistan competent authorities (federal and provincial) have a mixed understanding of risks in relation to TF. The FIA demonstrated a low level of understanding of TF risks, while provincial CTDs had a better understanding. Punjab CTD, in particular, has a reasonable understanding of TF risks within the Punjab province, while the CTD Balochistan primarily focused on the terrorism offence due to the lack of resources and forensic expertise to focus on TF as a financial crime-type. The varying levels of understanding do not support a risk-based approach due to general lack of knowledge of:

- Methodology used by the disparate terrorist groups active in the country;
- Geographical issues;

- Delivery channels;
- Suppliers and users of funds; and
- Poor interpretation and application of relevant legislation.

92. Pakistan government departments, LEAs and regulatory agencies lack national coordination in relation to CFT with the four CTDs working in isolation. NACTA leads a coordinated cross-agency partnership working group to tackle terrorism generally, but this is not focused on CFT. There are efforts at this time to raise awareness of TF but this is a work in progress. A national SOP on the use of Joint Investigation Teams (JITs) for TF investigations is a positive development to ensure a coordinated effort to tackling this crime.

93. Pakistan's understanding of TF and its risks lacks focus and national consistency based on the wide range of terrorist groups operating in the country across different provinces. The 'Pakistan Institute for Peace Studies' states that 595 people, including Pakistani security officials, were killed and 1,030 others injured, in 262 terror attacks in 2018.³⁰ However, competent authorities did not demonstrate to the assessment team that LEA actions in response to these attacks were being used to develop a dynamic understanding of Pakistan's TF risk and communicate these risks to other relevant competent authorities.

94. Agencies failed to exhibit a shared understanding of Pakistan's TF risk and there was an inconsistent dissemination of the findings of the 2017 NRA. The NRA provides a general approach to TF risk whereas the agencies note that terrorism in Pakistan includes political, sectarian and foreign funding. At best, the current understanding of TF is that it occurs primarily by cash and generally involves small amounts. This is at odds with the findings of the NRA.

95. There are currently 66 organisations and approximately 7,600 individuals proscribed under UNSCR 1373. There is no breakdown of risks associated with the various terrorist groups operating in Pakistan and how those groups raise, move, and use funds. There was also a lack of understanding by officials to recognize the difference between TF and a terrorist act. This is in part based on, but not limited to, the absence of any reactive investigation across the provinces to establishing the funding sources for fatal and non-fatal terrorist acts.

96. During discussions with provincial and federal officials it became apparent that there are different levels of understanding of TF risk. Federal government officials lacked a clear understanding of the sources, methodology, channels, and end-users of funds for terrorist purposes throughout Pakistan. On the other hand, provincial authorities had a clearer understanding of these issues and factored those issues into their understanding of TF risk within their provincial jurisdictions. However, both federal and provincial officials lacked a clear understanding of how domestic funds may be raised, moved, and used for terrorism abroad.

97. Significantly, although hawala/hundi are rated as high risk channels to move funds (the sole rating of 'high' in the NRA), there is a lack a understanding of how use of this delivery channel may occur in relation to terrorist groups and/or the geographical location of fund raisers and end-users.

98. There is little-to-no understanding of the concept of, and threat posed by, foreign terrorist fighters (FTFs) abroad and/or those returning from overseas conflict zones in relation to TF. The NRA

³⁰ Op Cit fn 8: *Pakistan Security Report 2018*, Pakistan Institute for Peace at <https://pakpips.com/web/wp-content/uploads/2019/01/sr2018.pdf>.

links TF to predicate offences and organised crime, but there is no evidence of an effective response to tackle the crime/TF nexus. The limited understanding of TF risk is reflected in on- and off-site inspections by SBP and SECP. There is no focus on ensuring that reporting entities identify and report suspected TF other than ensuring that reporting entities screen their clients and customers against UN lists. Supervision of reporting entities for compliance with STRs related to TF is minimal.

National policies to address identified ML/TF risks

99. The *National AML/ CFT Strategy 2018* was issued in response to the NRA and replaces a previous *National Action Plan* (issued in 2012). The national strategy document was issued during the on-site visit and includes short, medium and long-term actions in relation to six areas: general issues; legal; law enforcement; financial sector; governance, and international cooperation issues. The main objectives of the national strategy are to:

- review and strengthen the legal framework concerning AML/CFT;
- make the regulatory/supervisory regime more effective with increased level of implementation and enforcement;
- strengthen disclosure and declaration regime to check cross-border transportation of currencies and bearer negotiable instruments;
- develop an effective reporting regime and build systems and processes for reporting by non-financial businesses and professions;
- build capacities and skills of all stakeholders engaged in AML/CFT law, policy and implementation, including investigators, prosecutors and judges;
- enhance national coordination and build international cooperation framework; and
- build AML/CFT awareness in the general public and carry out advocacy campaigns.

100. The strategy contains 32 action items and allocates various agencies as the principal stakeholder for each listed item. It is noteworthy that the strategy clearly identifies areas for improvement to tackle ML and TF. However, the strategy does not provide details of which agency has overall responsibility for delivering and coordinating actions within given time frames (however, the NEC indicated that it has such responsibility). Moreover, fixed and identifiable time frames are not provided in the document. Although, it is not clear what follow-up review meetings take place the NEC appears to be ultimately responsible for its completion, review and the national implementation.

101. The assessment team was not shown any LEA or regulatory policies in response to the ML/TF risks identified in the NRA. Nor has the assessment team been provided with any information to show alignment of resources to areas identified in the NRA or new trends identified since its publication.

Exemptions, enhanced and simplified measures

102. Pakistan has no overarching legal framework for exemptions and for applying enhanced measures. Regulated entities in Pakistan are required to identify and assess their own ML/TF risks and put in place systems and controls to manage and mitigate them. It is unclear if this is binding under regulations.

103. Section 7(7) of AMLA requires every reporting entity to conduct CDD pursuant to the SBP's AML/CFT Regulations and SBP's AML/CFT Guidelines on Risk-Based Approach both of which provide guidance on conducting simplified and enhanced due diligence. Regulated entities (pursuant to the SECP AML/CFT Regulations 2018) are required to conduct internal ML/TF risk assessments and develop their own policies and procedures to identify, assess, manage and mitigate related risks on an on-going basis. Similarly, for ECs, under Chapter 6 (para 6) of the Exchange Companies Manual 2017,

ECs are required to perform EDD where customers pose higher than average risk. For this purpose, ECs must have internal policies which include risk factors such as: customer's background, country of origin, public or high profile positions, and others.

104. SBP: In some high-risk situations, SBP-regulated entities must undertake enhanced due diligence and there is guidance regarding high-risk elements (NPOs, PEPs and Non-Resident Accounts) which recommends enhanced due diligence. A decision has been made that banks may open 'Asaan' (Simple) Remittance Accounts for beneficiaries of home remittances. This will allow low risk customers to receive remittances through an account rather than using cash over the counter transactions.

105. SECP: The SECP AML/CFT Regulations 2018 provide that enhanced due diligence is required for certain entities. With regards to simplified due diligence, Regulation 11(2) of those Regulations allows customers/products to be treated as low risk in certain circumstances, however, simplified due diligence measures are not permitted whenever there is a suspicion of ML or TF, or where specific higher-risk scenarios exist.

106. As far as the assessment team is aware, no simplified measures or exemptions have been put in place nor has the NRA been used as the basis for exemptions.

Objectives and activities of competent authorities

107. Pakistan does not take a risk-based approach due to lack of detailed information on current methodology or knowledge of delivery channels used. No information has been provided to show an effective response to the risks identified in the NRA. LEA activities, including prioritisation and allocation of resources, although broadly consistent with the predicate crimes identified (notable in relation to the NAB regarding corruption offences), little effort and success has been achieved in focusing resources and mitigating measures in relation to the secondary ML offences associated with those predicate crimes. The assessment team saw no specific evidence of how the objectives and activities aligned with ML and TF risks. This is reflective of the general lack of national coordination and leadership regarding implementation of the NRA and Action Plan.

108. Supervisors' objectives are only generally consistent with the NRA, but their activities do not always line up with those objectives. Private sector outreach on risk issues has taken place only through the Compliance Forum. Guidelines have been issued in the latter part of 2018 (prior to October that year) to inform regulated sectors of the risks identified. In case of SECP, the objective of the supervisor seeks to be aligned with the NRA. In the recently published SECP Guidelines on AML/CFT Regulations 2018, financial institutions have been advised to rate real estate dealers, precious metals and gems dealers and lawyers/notaries as high risk (reflected in the NRA).

109. Outreach (capacity building) to banks and ECs is improving but there remain communication gaps across FIs and DNFBPs bearing in mind the size of the country and the relevant sectors.

110. Supervisors' views of ML/TF risk are only generally aligned to that of the NRA. But those supervisors do not appear to apply more focus and resources into the areas of highest risk. The understanding of risk at this stage appears to vary across supervisors, law enforcement authorities, DNFBPs (and their professional industry bodies) and NPOs. SBP and its regulated entities stated they have increased their resource allocation to ML/TF risk and AML/CFT obligations, but no evidence or statistics were provided to support these comments.

111. There is no evidence of a supervisory and law enforcement response to the 'medium to high-risk' areas 18 months on from the NRA (real estate dealers, dealers in precious metals and gems and

cash-based ML and TF risks). There has been a recent high profile policy approach to tackling corruption by the new Prime Minister (as at August 2018) but this policy is in its infancy and there was no information on any successes achieved in targeting ML associated with corruption under the policy at the time of the on-site visit in October 2018.

112. In relation to TF, and notwithstanding the number of terrorist attacks in Pakistan in 2018, authorities do not appear to be actively using the TF offence to combat TF. Pakistan does not circulate TF-related typologies to support a wider response to TF. Pakistan has, however, proscribed a number of individuals and organisations under the ATA's UNSCR 1373 provisions.

113. The authorities generally demonstrated a low level of understanding of the unique nature of the specific risks facing sectors to enable them to respond accordingly. This was in contrast to some private sector entities that recognised the physical and TF risks of operating in certain areas. This understanding of risk is based on personal assessment rather than supervisory or LEA guidance.

114. NPOs were not assessed as a separate sector in the NRA and introduction of AML/CFT-related due diligence measures for NPOs is a recent phenomenon. Some general understanding as to risks faced by NPOs is reflected in the AML/CFT Guidelines for NPOs issued by SECP in September 2018. However, NPO-related government agencies (SECP as the corporate registry and provincial registration authorities) do not understand risk in contrast to that by NPOs themselves. SECP at the federal level have recently issued comprehensive guidelines in relation to ML and CFT but this guidance is very new and is in a nascent stage of understanding and implementation by NPOs. Current inspections by regulators focus on administrative issues with TF risks considered as a low priority.

National coordination and cooperation

115. Pakistan has established a multi-agency approach in implementing its AML/CFT regime under the AMLA, as described in detail below:

- AML/CFT policy is coordinated by the NEC, chaired by the Minister for Finance. Members are; Minister on Foreign Affairs, Minister for Law and Justice, Minister for Interior, Governor SBP, Chairman SECP, and Director General FMU (who also acts as secretary). The mandate of the NEC is to develop, review and oversee the implementation of national strategy to fight money laundering and financing of terrorism.
- AML operational activities are coordinated by the General Committee (GC) which comprises the secretaries of Ministries of Finance, Interior, Foreign Affairs, Law and Justice, Chairman NAB, Chairman-FBR, Director General-FIA, Director General-ANF, Deputy Governor-SBP, Commissioner-SECP and Director General FMU. The main objectives of the GC are to take measures as necessary for the development and review of the performance of investigating agencies, FMU and the financial institutions and DNFBPs relating to anti-money laundering. The Director FMU acts as Secretary to the NEC and GC.

116. Pakistan provided no examples of how the above mechanisms were used to facilitate AML/CFT policy development or ML/TF operational coordination or cooperation. In particular, Pakistan did not demonstrate the above mechanisms were used for LEA coordination or cooperation in ML investigations of higher risk predicate crimes including with provincial authorities.

117. To enhance its coordination and cooperation of TF at the operational level, Pakistan recently established the National Task Force on CFT and TF Sub-committee of Task Force within NACTA. The task force includes all relevant national and provincial competent authorities. Recent activities of this

task force have focused on the development and implementation of policies and activities to combat Pakistan's TF risks. The task force is in the process of developing SOPs for TF investigation in all CTDs.

2

118. Overall, the assessment team formed the view that key ML/TF competent authorities work in operational silos. For example, before the establishment of the National Task Force on CFT and TF Subcommittee of Task Force there was no formal mechanism for CTDs to cooperate and coordinate their activities. The assessment team witnessed strong personal relationships at the senior level across these various federal and provincial agencies, but this is not reflected in operational responses to identified risks.

119. PF coordination is through the Strategic Export Control Division of the Ministry of Foreign Affairs (SECDiv), which established the Committee for Coordination, Review and Monitoring of Implementation and Enforcement (CRM Committee) of UNSCRs related to PF in August 2018. Before August 2018 activities were coordinated through a Standing Committee. The CRM Committee consists of relevant stakeholders including MFA, SECD, SBP and SECP with powers and functions to coordinate, review and monitor the implementation and enforcement of UNSCRs on counter-proliferation. However, the majority of SECDiv's and the CRM Committee's coordination and cooperation activities have focused on countering proliferation and not countering the financing of proliferation. National counter-proliferation units established by FBR-customs, along with Currency Declaration Units deal with aspects of proliferation financing. To date, there have been no reported cases of proliferation financing.

Private sector's awareness of risks

120. Private sector entities provided data for the NRA, but there was limited consultation with the private sector in the development of the NRA. There is no public version of the NRA and there has been limited outreach to the private sector following its adoption. Where outreach has occurred, it has been in the form of presentations on NRA outcomes during Compliance Forum meetings, mainly by SBP for the banking sector. Some REs had only recently become aware of NRA in the lead-up to the mutual evaluation. Pakistan's outreach to NPOs has also been limited.

121. Since the NRA was adopted in 2017, only banks had taken steps to integrate the NRA results into their internal risk assessments. Some banks demonstrated an understanding of TF threats and ML vulnerabilities posed by geography, customers and products/services, and to a more limited extent delivery channels. But, banks overall in Pakistan had a limited understanding TF risks. And, notably the Pakistan Bankers Association was not aware of the contents of the NRA, nor the risks faced by their members in relation to ML and TF.

122. All NBFIs displayed a limited understanding ML/TF risks and were in the initial process of implementing a risk-based approach. DNFBPs displayed a poor understanding of ML/TF risks and were yet to start implementing a risk-based approach. A number of DNFBPs disagreed with the results of the NRA. With the exception of the SBP, and some private sector reporting entities met during the onsite visit, there is a lack of attention to evolving risks and to new and emerging threats.

Overall conclusions on Immediate Outcome 1

123. Overall, with few exceptions, the public and private sectors have a low level of understanding of ML and TF risks in the country. This is also apparent across LEAs due to the lack of national, coordinated strategic leadership with regard to proactive and reactive (post attack) investigation of TF offences. There has been no input from military or security service agencies who invariably lead the

fight against terrorism on the North-West frontier. There has been no evidence of disruptive strategies focusing on other ML-related offences to counter terrorist threats.

124. Pakistan's policy and operational responses to its risks are disjointed. Little-to-no effort is being placed on higher risk entities among the DNFBPs. Pakistan lacks an overarching strategic approach to address its ML and TF risks. These deficiencies require fundamental improvements.

125. **Pakistan has a low level of effectiveness for Immediate Outcome 1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key Findings

10.6

- 1) Pakistan is using financial intelligence to combat ML, predicate crimes and to trace property for confiscation to a minimal extent. LEAs, particularly NAB and to a lesser extent FIA, are making some use of FMU's proactive disseminations to initiate and support ML/predicate investigations. Very limited evidence was provided on LEAs use of internally generated financial intelligence and other relevant information in ML or predicate crime cases.
- 2) Pakistan is using financial intelligence to combat TF to a minimal extent. FIA has not initiated a TF investigation using FMU's disseminations. Critically, the FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs. To a limited extent, CTDs are accessing FMU information and financial intelligence during a TF investigation but only with permission of the court. No evidence was provided on FIA or CTDs on the use of internally generated financial intelligence and other relevant information in TF cases.
- 3) All FIs and DNFBPs are required to file STRs, but there has been no STR reporting by CDNS, Pakistan Post and DNFBPs, and very limited reporting by foreign banks and NBFIs. The vast majority of STRs are submitted by banks, which represent large percentage of financial sector assets. However, FIs are not reporting STRs 'promptly' or on TF and higher-risk predicate crimes at a level that is consistent with Pakistan's ML/TF risk. There is a similar reporting profile for CTRs.
- 4) While FMU has direct and indirect access to several government and private databases, FMU does not have access to detailed tax records to provide a detailed analysis of STRs and information it receives due to restrictions in Pakistan's tax laws. This issue is significant since tax crimes are one of the major proceeds generating predicate crime as per Pakistan's NRA findings.
- 5) Provincial CTDs do not have the authority to receive STR information and must first get permission from the relevant courts to receive STR and other information from the FMU in their investigations.
- 6) The LEAs are receiving STR and other financial information from FMU but the number of ML and TF investigations conducted by LEAs is very low and is not consistent with the risk profile of the country.
- 7) Given the risk profile of the country, authorities do not seek information from foreign FIUs and law enforcement authorities in their investigations or to identify and trace criminal proceeds hidden off-shore.
- 8) Significant portion of STRs reported related to regulatory violations and the regulatory authorities issue guidelines and instructions in response to the findings of some of these regulatory violations, whereas authorities have also responded to some of these regulatory violations by providing feedback and training.

10.7

- 1) While some data and statistics were provided to the assessment team on ML investigations and prosecutions, Pakistan did not provide comprehensive data and statistics to demonstrate what the underlying predicate offences of the ML investigations are and whether ML investigations and prosecutions are consistent with Pakistan's ML risks.
- 2) Five federal LEAs are designated to investigate ML consistent with their authority to investigate associated predicate crimes. ML prosecutions are undertaken by internal units within each of those authorities. Pakistan's LEAs have undertaken 2,420 ML investigations, resulting in 354 prosecutions (primarily self-laundering cases). However, the current status of these cases is unclear.
- 3) The rate of ML investigations and prosecutions in connection with predicate crimes other than narcotic and tax crimes is low.
- 4) In the period under assessment, Pakistan convicted only one natural person for self-laundering related to corruption.
- 5) Pakistan's law enforcement efforts to address ML are not consistent with its risks. Some of the factors contributing to this conclusion include:
 - o There are no clear procedures on how provincial police would refer an ML case to the FIA - which has not happened to date.
 - o The non-cognizable nature of the ML offence, which is a serious source of confusion among all competent authorities involved in the investigation, prosecution and conviction of ML and may have adverse effects on the effective investigation of ML.
 - o a lack of prioritisation of ML by LEAs
 - o an overall lack of capacity to address ML cases among LEAs including a lack of forensic financial investigation skills
- 6) The sanctions set out under AMLA, CNSA and ATA for natural persons, but not legal persons are proportionate and dissuasive. However, due to lack of information, the effectiveness, proportionality and dissuasiveness of sanctions applied in Pakistan's ML convictions are unclear.

10.8

- 1) Pakistan does not pursue confiscation of assets/property, including property of corresponding value in cases of ML, higher-risk predicate crimes and TF as a policy objective, nor are there any policy documents or statements to that effect.
- 2) Up until the date of assessment, no instances of seizure and confiscation of illegal proceeds derived from ML have occurred.
- 3) Consistent and comprehensive data and statistics are not collected by all LEAs and for all asset-restraint activities related to ML and all predicate crimes.
- 4) Overall, Pakistan demonstrated the willingness to deprive criminals of their illicit proceeds by providing promising seizure rate for certain predicate offences (i.e. corruption, narcotic offences, and currency smuggling). The value confiscated and realised is not fully commensurate with the team's understanding of the risk these offenses pose to Pakistan.

- 5) Available powers were not used well to target, trace, restrain and confiscate instruments and proceeds of crime in keeping with the risk profile.
- 6) Although large amounts of proceeds of crime have been transferred to foreign jurisdictions, as highlighted in the NRA, international cooperation mechanisms (see IO. 2) have not been utilised to a sufficient extent to recover illegal proceeds.
- 7) During the period between 2012 and 2018, FBR-customs confiscated a total of PKR 584,432,481 (USD \$4.32 million) currency at various borders in Pakistan. However, Pakistan is not sufficiently utilising the outputs of the cross-border case declaration system to target or interdict cash or bearer negotiable instruments at the border.

Recommended Actions

IO.6

- a) LEAs (provincial police, FIA, NAB, and ANF) need to significantly improve their integration of financial intelligence into financial investigations. This should include enhancing LEAs' capability to develop and make use of financial intelligence to commence and pursue the investigation of TF, ML and predicate offences.
- b) Implement policies and agency-level plans which prioritise LEAs and NBR using financial intelligence for investigations of TF, predicates and ML in keeping with the risk profile
- c) Prioritise operational analysis relating to TF and to high risk predicate crimes including drug trafficking, corruption, smuggling (all types).
- d) Further extend the FMU's access to key databases including tax (in addition to the publicly available information), passport and immigration data.
- e) Prioritise development of financial intelligence relating to cross-border offences and enhance analysis of cash declarations and other FBR-Custom data.
- f) Enhance engagement between FMU and LEAs to further enhance FMU analysis techniques.
- g) Establish formal mechanisms to share FMU information with NACTA
- h) Increase the resources allocated for LEAs financial investigations and prosecutions of TF, ML and proceeds of crime (also see IO.7).
- i) Strengthen mechanisms for cooperation in financial crime cases involving numerous LEAs, and further improve engagement between FBR-IR and FBR- FBR-customs (on tax and customs) and other LEAs on priority risk areas.
- j) Enhance information exchange between foreign FIUs and FMU in cases concerning TF as well as proceeds of crime hidden off-shore.
- k) Prioritise FMU feedback on STRs and risk issues to AML/CFT supervisors (see IO.3) and outreach to FIs/DNFBPs (see IO.4).
- l) FMU and regulatory authorities should monitor the effect of regulatory response following STRs filed for regulatory violations, including whether the sector of reporting entities have taken adequate measures to address the issues specified in the respective regulatory responses (e.g. implementing the guidelines issued or change of business models and addressing ML/TF risks).

10.7

- a) Prioritise ML investigations and prosecutions in line with Pakistan's ML risks including Hawala/hundi operators.
- b) Strengthen institutional frameworks (such as adequate internal policies and procedures) and increasing LEAs capabilities and capacity to investigate ML.
- c) Raise ML awareness among provincial police and set out clear legal basis on how provincial police refer ML cases to FIA.
- d) Provide targeted ML training to LEAs, prosecutors and the judiciary to enhance their understanding of ML offences including comprehending barriers ahead of successful investigations and prosecutions.
- e) Improve LEAs capacity and capability to target and investigate complex ML cases in line with Pakistan's risk profile including foreign proceeds, stand-alone ML cases and cases involving legal persons.
- f) In accordance with Pakistan's 2015 NRA, amend the ML offence to a cognizable offence.
- g) Collect and maintain more comprehensive data/statistics on both predicate offences and ML.

10.8

- 1) Develop a national policy to pursue asset recovery in ML higher-risk predicate offences and TF, in line with Pakistan's risk and context.
- 2) Ensure all LEAs give the highest priority to tracing, freezing/seizing and confiscating proceeds of crime, including in cooperation with foreign counterparts.
- 3) Improve institutional capacity to collect and maintain more comprehensive data and statistics so as to organize and enhance the restraint activities against, ML, TF and high-risk predicate offences.
- 4) Establish a centralised asset recovery office for a more coordinated approach to asset recovery and consequently more effective use of recovery tools.
- 5) Establish standard operating procedures and act expeditiously to freeze assets at the enquiry stage to ensure that property which may become subject to confiscation is not dissipated before prosecution. This will require specialist teams and appropriate training and capacity building.
- 6) Amend legislation, other than AMLA and NAO, to cover property of corresponding value and ensure that prosecutors and the courts are aware of the availability of such remedies.
- 7) LEAs should focus efforts on restraint and confiscation for high risk crime and seizing and freezing the widest range of property and instruments, including through international cooperation requests for foreign jurisdictions to freeze assets.
- 8) LEAs should develop comprehensive asset management protocols to ensure the value of confiscated goods is preserved and maintained. In doing so, rather than scattered provisions within various Acts, a uniform domestic legal regulation would serve the purpose.

- 9) Develop a strategic and coordinated approach to cross-border confiscations including through enhancing the capacity of agencies involved and improved intelligence, profiling and agency coordination at all major cross-border ports.

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

Immediate Outcome 6 (Financial intelligence ML/TF)

General framework

127. The FMU is established under s 6 of AMLA as the national central agency to receive, analyse and disseminate STRs and CTRs from financial institutions and DNFBPs. The FMU is located within the SBP as an autonomous body with independent decision-making authority and has 57 staff members divided into four divisions: (1) Strategy and Policy Division; (2) Reports, Analysis and Dissemination Division; (3) Co-ordination Division; and (4) Administration Division. The Reports, Analysis and Dissemination Division has 11 staff members. FMU has sufficient IT hardware and software and currently uses an internally developed software application specifically to conduct analysis of STRs using CTR, border currency reports and other information. Currently the FMU receives STRs and CTRs from reporting entities in hard copies as well as in soft copies via goAML.

128. FMU has direct access to a number of government databases including border currency declarations (FBR-customs) to support its analysis functions. FBR-customs also shares currency declaration information as well as seizure cases with the FMU on a monthly basis. FMU has access to the publicly available tax records which provides basic information whether or not the taxpayer has paid taxes. Given that tax crimes are considered as a major predicate crime that generates criminal proceeds with cross-border implications (secreting and hiding funds off-shore), FMU is unable to obtain detailed tax records of tax filers as Pakistan's tax laws prohibit access to detailed tax records (s 216(1) of the Income Tax Ordinance 2001). The FMU stated that the combined effect of ss 25 and 39 of the AMLA means that the AMLA supersedes any existing law including the Income Tax Ordinance 2001 and that, therefore, the AMLA can be used to obtain tax information from the tax authorities. However, the wording of the Income Tax Ordinance at ss 216(1), (2) and (3)³¹ does not support that conclusion and, in any event, the FMU did not demonstrate use of these provisions in its responses to the assessment team.

Use of financial intelligence and other information

129. While some statistics and case examples were provided to the assessment team showing some use of FMU financial intelligence by law enforcement authorities, Pakistan did not provide comprehensive and/or consistent statistics including data covering only the period under review. This has made it challenging for the assessment team to draw conclusions from the information provided. In accordance with the FATF methodology, where evidence was not provided, the assessment team concluded that the system is not effective. Despite the inconsistency of statistics provided, law enforcement authorities claimed that FMU financial intelligence was comprehensive and provides a basis for investigative targeting and provides grounds to conduct investigations, including establishing

³¹ Section 216(3) of the Income Tax Ordinance contains very specific exceptions to this provision however none of the subsections permit release of detailed information to the FMU as an exception to subsection (1).

reasonable suspicion to use investigative powers. The following paragraphs will show the extent law enforcement authorities use FMU financial intelligence in their operations.

Table 3.1: Proactive financial intelligence disseminations by the FMU (2013 to June 2018)

Year	Law Enforcement Agencies					Regulators				Total
	FIA	NAB	ANF	FBR-IR	FBR-Customs	SBP	SECP	NADRA	PTA	
2018*	97	23	7	83	12	34	4	0	0	260
2017	97	25	2	192	51	73	5	0	0	445
2016	69	17	1	55	24	20	2	0	0	188
2015	66	18	2	0	17	18	2	0	0	123
2014	49	19	2	0	24	44	1	0	0	139
2013	71	20	10	0	48	85	1	1	3	239
Total	449	122	24	330	176	274	14	1	3	1394

*to June 2018

130. Use of the FMU's financial intelligence disseminations by LEAs is detailed below.

131. *FIA* - Proactive financial intelligence disseminations to the FIA have been used in 192 enquiries. 50 of these enquiries have been converted into investigations and at 24 December 2018 four cases remained under investigation, 44 under trial and two predicate crime convictions had been obtained. Additional information on the cases was not provided to the assessment team.

132. Regarding TF, the FIA has received 81 proactive financial intelligence disseminations related to TF. Of these cases, 27 cases were either closed or transferred while 54 cases are under enquiry. No further information was provided on FIA's use of the FMU's financial intelligence products including in relation to the FIA's three TF cases discussed in IO.9.

133. As per statistics provided, FMU disseminated 198 STRs for terrorism and/or terrorism financing. Pakistan further mentioned that over 600 STRs were filed by reporting entities upon refusal of financial services to proscribed individuals or entities, although this is not clear as per the statistics provided. In addition, Pakistan did not provide additional information on the FMU's use of these STRs or actions taken by LEAs, nor an explanation of why this total significantly exceeds the 198 STRs disseminated as terrorism and/or TF financial intelligence to the FIA.

134. The FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs (see also R.29). As discussed in IO.9, this is a structural deficiency in Pakistan's CFT regime that hampers CTDs' abilities to deal with TF matters and is a stumbling block to effective use of FMU proactive financial intelligence in TF investigations. Through the establishment of JITs by the FIA, CTDs can access some FMU financial intelligence, and have some access to FMU financial intelligence through the TF Sub-committee. However, the extent to which this occurs in practice is unclear as information was not provided to the assessment team. To a minimal extent, CTDs are accessing FMU information and financial intelligence during a TF investigation but only with permission of the court, as displayed in the below table. CTDs cannot use this process to access FMU information and financial intelligence during a TF enquiry.

Table 3.2: CTDs access of FMU information / financial intelligence during TF investigations

Year	Agency	Requests Received	Responded
2018	CTD-Punjab	26	26
	CTD-Sindh	1	1
Total		27	27

* it is not clear whether the 2018 statistics relate only to the assessment period.

135. FBR-IR - received 330 proactive disseminations from the FMU between 2016 to October 2018 of which 27 disseminations were investigated, and more than PKR 6.2 billion (USD \$45.9 million) in one major case was successfully recovered (case example below). Additional information on the 27 investigations was not provided to the assessment team nor was information provided on the status or use of other disseminations received by the FBR-IR.

Case Example 3.1 – Fraudulent Declaration, Capital Flight, Tax Evasion

Mr and Mrs XYZ were involved in unauthorised capital flight and tax evasion using off-shore companies. STRs were reported by different ECs on the basis of structured currency exchange transactions and deliberate violation of the SBP threshold of USD \$50,000 through structuring and utilizing different exchange companies. The magnitude of amount involved (identified through CTRs) was high, which triggered a suspicion. FMU identified that the suspects maintained multiple foreign currency accounts at different banks. The overall transactional pattern revealed that they were withdrawing funds from their local currency accounts, followed by purchase of foreign currency and then depositing into foreign currency accounts, which were finally remitted out of country. FMU found that the individuals were named in the Panama Papers for owning offshore companies and were in the process of selling their companies to a foreign company. Irregularities were found during the sale process and they had produced fraudulent declarations in sale agreement. It was suspected that Mr. and Mrs. XYZ were involved in dishonest and fraudulent declarations, breach of foreign exchange regulations, unauthorized flight of capital, tax evasion, and other offences, The DG FMU ordered the freezing of the accounts and FMU shared the financial intelligence with NAB, DG-I&I-IR of FBR and SBP for action as appropriate.

FBR-IR recovered the tax liability in the amount of PKR 6.2 billion (USD \$45.9 million) from the individuals in May 2017 on the basis of information shared by the FMU.

136. FBR-Customs has received 176 proactive disseminations from the FMU of which 96 disseminations have been investigated. The 176 STRs received by FBR-customs were disseminated to the concerned Regional Directorates of Intelligence & Investigations – Customs, where initial inquiries were conducted under the AMLA. In 96 STRs the inquiries have been completed, and were found to be related to domestic inter-account movements. FBR-customs stated that no evidence has been found that the suspects/entities identified in the STRs were involved in any cross-border transactions or in commission of any of the following predicate offence as enumerated in the schedule of the AMLA (relates to import-export related offences under the Customs Act 1969). Accordingly, no prosecutions were initiated on the basis of that intelligence. Feedback on STRs in which inquiries have been completed are sent back to the FMU. The remaining 79 STRs are still under inquiry. The Directorate General (Investigation and Investigations-Customs) initiated six cases relating to trade-based money laundering. However, these cases have been initiated on the basis of the Directorate General's own information and not on the basis of STRs received from the FMU. The FMU's assistance was obtained in these cases only for the identification of bank accounts.

137. ANF has received 24 proactive FMU financial intelligence disseminations which were used as a basis for freezing 25 accounts (case example below) and forfeiture of two accounts. Additional information on ANF use of FMU financial intelligence was not provided to the assessment team. Pakistan authorities state that financial intelligence is useful to ANF and provides new information about accounts in matters already under investigation or in cases at trial. It also provides leads in narcotics-related ML offences previously unknown to ANF and, further, provides information about foreign convictions in narcotics-related offences. As the case example below shows, FMU's financial intelligence was used identify bank accounts and funds in those accounts and to freeze/forfeit those funds. Additional information on ANF use in ML investigations was not provided to the assessment team.

Case Example 3.2 – Use of FMU information by ANF

ANF received an STR in 2015 against a suspect involved in a case, whereby 3 accounts containing PKR 1,233,713.00 (USD \$9,139) were reported by FMU and subsequently blocked. Later, the accounts were frozen by ANF and application was filed for confirmation of freezing and subsequent forfeiture, which is still under trial in Karachi.

138. From 1999 to present, NAB received 140³² proactive disseminations from FMU (average 7 per year) resulting in two convictions.

Table 3.3: NAB's actions on financial intelligence received from the FMU

Actions	Number
Financial intelligence reports received	140
Cases authorized by NAB on STRs	140
Under process	35
References under trial in court on STRs	11
Conviction by trial court in cases on STRs	02
Cases closed	72
Merged with ongoing cases under predicate offence	07
Transferred to other department / LEAs	13

139. *Use of internally generated financial intelligence and other relevant information by LEAs:* Although NAB and the Punjab CTD indicated that they develop and use their own financial intelligence and other information to identify and trace proceeds of crime or TF, authorities did not provide further information. FBR-IR provided some examples where its own financial intelligence is used to support predicate crime, and ML, investigations and asset recovery (see IO.6 core issue 6.3).

140. Overall, the FMU's proactive disseminations are being used, to some extent, in order to initiate ML/predicate cases (enquiries) and support investigations. However, the use of financial intelligence in TF investigations is very limited. No proactive FMU disseminations have triggered TF investigations, and provincial CTDs are not authorised to receive proactive disseminations from the FMU.

³² Between NAB's inception in 1999 and October 2018.

STRs received and requested by competent authorities

141. The FMU has information available to it from a wide of sources and databases. The FMU receives STRs and CTRs as detailed in the below tables.

Table 3.4: STRs filed with FMU

Entities	2015	2016	2017	2018*	Total	% of total STRs
Commercial Banks	2,179	2,641	3,708	2,145	10,673	71.62%
Islamic Banks	2	2	61	107	172	1.15%
Foreign Banks	-	-	2	-	2	0.01%
Insurance	-	-	-	7	7	0.05%
Micro Finance Banks	2	14	50	93	159	1.07%
Exchange Companies (A)	241	994	1,640	883	3,758	25.22%
Exchange Companies (B)	1	7	64	46	118	0.79%
Brokerage Firm	-	-	1	-	1	0.01%
Asset Management Firm	1	1	-	-	2	0.01%
Other Authorities	1	3	5	1	10	0.07%
All DNFBPs	0	0	0	0	0	0%
Total	2,427	3,662	5,531	3,282	14,902	

*to June 2018

Table 3.5: CTRs filed with FMU

From	2015	2016	2017	2018	Total	% of total STRs
Banks	537,552	654,598	741,599	486,219	241,9968	93.41%
Exchange Companies	31,632	48,438	52,217	27,009	159,296	6.15%
Micro Finance	1745	3779	4232	1600	11356	0.44%
Insurance Co	0	7	3	1	11	0%
Brokerage Firm	0	0	1	0	1	0%
Asset Management Co	0	0	0	0	0	0%
Leasing	0	0	6	6	12	0%
All DNFBPs	0	0	0	0	0	0%
Total	570,929	706,822	798,058	514,835	2,590,644	

142. *Consistency of STR reporting with Pakistan's ML/TF risks:* Overall STR reporting is only partly consistent with the make-up of Pakistan's financial sector and individual ML/TF risks of sectors including that there has been no STR reporting by CDNS, Pakistan Post and DNFBPs, and very limited reporting by foreign banks, and NBFIs (except ECs). It should be noted however that the vast majority of STRs are reported by banks which represent approximately 74% of total financial sector assets.

143. FIs are not reporting STRs on TF and higher-risk predicate crimes consistent with Pakistan's ML/TF risk. FIs are not required to identify suspicions of TF or specific predicate offences while submitting STRs, with STRs usually reported on the basis of account conduct, transaction patterns and transaction irregularities which is inconsistent with the overall profile of the customer. While authorities claim that guidance has been given by FMU, SBP and SECP to FIs on STR reporting, data provided in Table on Percentage of Total STRS Analysed And Disseminated As Financial Intelligence

By Crime-Type (2015 – 30 June 2018) suggests³³ that FIs do not have adequate systems to identify and submit STRs on higher-risk predicate crimes of drug trafficking, corruption, smuggling (all types), cheating and fraud (including tax fraud), kidnapping for ransom, extortion and illegal arms sale.

144. Regarding terrorism and TF, Pakistan indicated that banks have submitted approximately 163 STRs on TF in the period under assessment. This is inconsistent with the level of Pakistan's TF risk. Authorities state that most of these STRs were on proscribed individuals and individuals associated with proscribed entities and were from high-risk geographic areas. Authorities further state that, as per information gathered during NRA exercise, mostly the informal sector is used for TF. TF threats originate from both foreign and domestic sources, including predicate crimes such as cash smuggling, kidnapping for ransom, etc. moved mostly through informal channels – in particular hawala/hundi and cash couriers, depending on specific circumstances and the corresponding preventive measures implemented.

145. *Quality of STR reporting:* Competent authorities undertake some actions to improve the quality of STRs; (i) SBP's AML/CFT regulations issued to banks and DFIs include some examples of red flag indicators; (ii) FMU publishes case studies on its website as guidance to reporting entities; and (iii) SBP and SECP conduct compliance forums with reporting entities on a regular basis to provide information on emerging trends and other AML/CFT issues. However, these activities are general in nature. And minimal, if any, follow-up occurs with reporting entities on the nature and quality of their STRs. In general terms, the FMU indicated that the quality of STR reporting by banks is improving.

146. *Timeliness of STR reporting:* As discussed in IO.4, where STRs are filed with the FMU they are not reported "promptly". Overall, banks and ECs met by the assessment team, said on average they file STRs seven working days following a confirmed suspicion of ML and/or TF (see also R.20).

147. *CTRs:* There is a similar reporting profile for CTRs, but Pakistan indicated that both CDNS and Pakistan Post are submitting CTRs. Although the FMU analyses STRs and uses CTRs, border currency reports maintained by FBR-customs, as well as other information from reporting entities in its analysis, the FMU does not generate financial intelligence based on CTRs and border currency reports alone. Nor does the FMU conduct strategic analysis using border currency reports or CTRs alone to achieve operational objectives (there is limited use of CTRs for STR-related strategic analysis). This lack of analysis deprives authorities of the wider ability to identify, strategize and investigate tax crimes and other relevant transnational organised crimes.

148. *Cross border currency declaration:* FBR-customs shares currency declaration and currency seizure data with FMU, along with the particulars of accused persons involved in currency smuggling, on monthly basis, for matching and analysis along with other financial and tax-payers' data.

Operational needs supported by FIU analysis and dissemination

149. FMU conducts operational and strategic analysis³⁴ as discussed below in detail.

³³ As no other information was provided to the assessment team, the team has made conclusions about the consistency of STR reporting with Pakistan's ML risks on the basis of information on predicate crime suspicion of STRs analysed, which overall account for ~55% of total STRs.

³⁴ Operational analysis is for identifying suspects, their financial assets and to trace proceeds of crime; strategic analysis is for identifying trends and to provide strategic information to the law enforcement and supervisory authorities for various strategic purposes of those agencies.

150. *Operational analysis and dissemination:* The FMU prioritizes STR information based on an internal risk matrix. During the initial stages of operational analysis, the FMU database of STRs and CTRs is searched using different parameters and screening of suspect(s) in the public and private databases including the UNSCR 1267 consolidated list is conducted to prioritize its analysis. FMU further continues its analysis of account statements and the transactions by focusing on unusual transaction patterns, identify transactions for further analysis, collecting counterparty details, identifying relationships between individuals and their businesses and identifying linked accounts to trace proceeds of crime.

151. Between 2015 and 2018, the FMU analysed 55% of total STRs received (see below table) with about 44% of the STRs identified as low risk which are kept 'under analysis' for future reference with any linked STRs.³⁵ About 42% of STRs analysed are subsequently disseminated as financial intelligence to relevant authorities (see below table). During the period of 2015 to 2018, the dissemination of analysed STR by the FMU has shown an upward trend with dissemination rate of ~76% in 2018 (till June) alone. However, this represents the dissemination of STR "analysed" as supposed to the total STR FMU received during any given period. As far as analysis rate is concerned, the percentage of analysis has shown a downward trend (~81%, ~66% and 52% in 2015, 2016 and 2017 respectively). Data also shows that FMU has analysed ~29% of the STRs it received between January and June 2018. Disseminated financial intelligence is only partly consistent with the risks identified in the NRA with the following observations being made by the assessment team on basis of information provided by Pakistan:

- ~27.5% of total STRs analysed were disseminated as financial intelligence related to suspicion of 'regulatory violations' and not for ML, TF or higher-risk predicate offences;
- ~23% of total STRs analysed were disseminated as financial intelligence related to suspicion of tax evasion and tax crimes;
- ~14% of total STRs analysed were disseminated as financial intelligence related to suspicion of hawala/hundi;
- ~9.5% of total STRs analysed were disseminated as financial intelligence related to suspicion of corruption and bribery;
- ~8% of total STRs analysed were disseminated as financial intelligence related to suspicion of smuggling offences
- 5.5% of total STRs analysed were disseminated as financial intelligence related to suspicion of terrorism and TF;
- It is noteworthy that only ~1% of total STRs analysed were disseminated as financial intelligence related to drug trafficking despite being a principal ML predicate crime in Pakistan. Authorities state that this is because drug traffickers use informal sector for movement of proceeds in comparison to the use of formal channels.

Table 3.6: STRs received and analysed

Year	STRs received	STRs analysed	STRs under analysis	Analysed STRs disseminated as Financial Intelligence	% of STR analysed	% of Analysed STRs disseminated as Financial Intelligence
2015	2,427	1,977	450	449	81.46%	22.71%
2016	3,662	2,438	1,224	714	66.58%	29.29%

³⁵ FMU claims that a 'basic analysis' is conducted on all STRs.

2017	5,531	2,889	2,642	1,605	52.23%	55.56%
2018*	3,282	969	2,313	746	29.52%	76.99%
Total	14,902	8,273	6,629	3,514	55.52%	42.48%

Table 3.7: Percentage of total STRs analysed and disseminated as financial intelligence by crime-type (2015 – 30 June 2018)

Designated categories of offences	2015	2016	2017	2018*	% of total
Regulatory violation	7.35%	12.46%	42.49%	21.31%	27.40%
Tax evasion, tax crime	0.00%	26.61%	26.42%	24.93%	22.77%
Hawala/hundi	34.52%	15.69%	7.91%	12.06%	13.77%
Corruption, bribery	10.02%	16.25%	6.23%	9.38%	9.42%
Smuggling offences including Currency	22.72%	7.98%	5.61%	3.49%	7.83%
Terrorism, including terrorist financing	8.02%	12.46%	2.43%	4.56%	5.63%
Fraud	5.12%	3.92%	3.93%	3.22%	3.93%
TBML	0.00%	0.00%	2.49%	3.08%	1.79%
Virtual Currency	0.00%	2.10%	0.44%	3.35%	1.34%
Benami Accounts/Transactions	0.00%	0.00%	0.37%	4.56%	1.14%
Other**	3.56%	0.00%	0.25%	1.74%	0.94%
Trafficking in humans/migrant smuggling	0.67%	1.68%	0.75%	0.13%	0.80%
Illegal trade in financial instruments	4.45%	0.00%	0.00%	0.80%	0.74%
Illicit drug trafficking	1.11%	0.56%	0.12%	1.88%	0.71%
Capital Flight	0.00%	0.00%	0.00%	2.82%	0.60%
Illicit arms trafficking	0.00%	0.00%	0.25%	1.47%	0.43%
Extortion	2.00%	0.00%	0.00%	0.40%	0.34%
NPOs - Misuse of Donations	0.00%	0.14%	0.00%	0.54%	0.14%
Forgery	0.45%	0.14%	0.00%	0.13%	0.11%
Sexual exploitation (including children)	0.00%	0.00%	0.12%	0.13%	0.09%
Insider trading, market manipulation	0.00%	0.00%	0.19%	0.00%	0.09%

152. As far as STR disseminations on the grounds of “regulatory violations” are concerned, Pakistan provided the following information on the reasons for dissemination to regulatory authorities:

- Schedule IV STRs (STRs relating to UNSCR 1373) - possible gaps in transaction monitoring systems of the reporting entities, review of effective implementation of KYC/CDD measures, review of products risks, training needs for reporting entities’ staff.
- Branchless banking - possible gaps in the business model with the objective of mitigation of inherent ML/TF risks.
- Virtual currency - issuance of clear guidelines on this type of currency in context of emerging markets and ML/TF risks.
- Structuring of transactions - conducting transactions under threshold, specifically on the counter of Exchange Companies.
- Travel Agents - in the context of possible involvement in hawala/hundi.
- Exaggeration of statements of accounts for visa facilities.

153. In addition to use of the FMU's operational financial intelligence by AML/CFT supervisions, SBP, and to a more limited extent SECP, provided some evidence of the use of FMU products for their AML/CFT supervision activities. For example, FIU financial intelligence was used in the on-site inspections of six banks where penalties of PKR 247.417 million (USD \$1.833 million) were imposed along with instructions for the banks to take disciplinary actions against the responsible employees.

b. Strategic analysis

154. The FMU indicated that it conducts strategic analysis to identify emerging threats for ML/TF and related predicate offences using information from reporting entities and other parties. The FMU's website includes an overview of its analysis on branchless banking, virtual currency, and transaction patterns used to inflate account statement for visa purposes. The table below provides the instances where FMU has provided its strategic analysis to the relevant authorities in 2017 and 2018.

Table 3.8: Details of STRs analysed and disseminated as strategic analysis

Strategic Analysis	2017		2018		Agency Disseminated
	STRs	FIs	STRs	FIs	
Hawala/Hundi	11	1	0	0	FIA
Schedule-IV under UNSCR 1373	0	0	74	1	FIA
Branchless Banking	217	1	613	1	SBP
Structuring of Transactions /Exaggeration of statements of accounts for Visa facility	178	1	0	0	SBP
Travel Agents	0	0	19	3	FIA, SBP, FBR-IR
Misuse of remittance channels for collecting donations	0	0	42	2	FIA and SBP
Virtual currency	0	0	106	2	FIA and SBP

155. While Pakistan provided limited evidence of LEA use of its strategic analysis products, supervisory authorities have issued regulatory responses following the FMU's strategic analysis products. For example, an amendment to the branchless banking regulations was brought into force in 2016; guidelines on branchless banking were issued in April 2018; FE Circular No. 03 of 2018 dated April 18, 2018; on April 6, 2018 SBP issued a prohibition of dealing in virtual currencies/tokens and a caution letter regarding the risks of virtual currencies to the general public. Although the FMU uses CTRs to some extent in its strategic analysis, the use of border currency reports that correspond to Pakistan's risk profile, especially in relation to TF, tax crimes and corruption, was not demonstrated by Pakistan authorities.

Cooperation and exchange of information/financial intelligence

156. The FMU shares financial intelligence to some degree with supervisory authorities, e.g. with SBP and SECP and other government agencies like NADRA (on issues identified in CNIDs) and Pakistan Telecommunication Authority (in cases involving grey telephony, etc.). SBP indicated that FMU's products are helpful in identifying high-risk customers, products, geographies and delivery channels so that appropriate amendments in existing regulations and policies may be made. It also indicated that financial intelligence reports assist SBP in focusing on specific areas during inspections of banks (see above discussion). SBP stated that financial intelligence, related to use of bank account for virtual currency transactions, disseminated by FMU helped SBP to identify gaps in the existing regulations resulting in SBP issuing guidance to its reporting entities. This mechanism of exchange is however limited and could be extended to other relevant government agencies.

157. Law enforcement, regulatory and supervisory authorities also exchange information with the FMU upon request and by their own initiative. Greater intelligence sharing between FMU and the FBR-IR and FBR-customs could occur to improve the FMU's analysis.

158. FMU does not appear to have a formal mechanism to share STR information with NACTA, the body that coordinates national efforts to formulate policy and maintain coordination at the federal or national level. FMU states that since the NACTA is not an investigating or prosecuting agency for ML/TF thus does not require referrals on STRs from the FMU. Since the FMU is part of the National Task Force on CFT, it utilizes this platform to share information and expertise among key agencies at both the federal and provincial levels, including NACTA. However, the extent, if any, to which FMU information is used by NACTA's to coordinate AML/CFT efforts with the relevant stakeholders, is unclear.

159. FMU responds to information requests and enquiries made by both domestic and overseas authorities (see below tables for domestic information requests and international requests). The information exchanged includes account statements, financial transactions, background information and information related to supervisory and regulatory issues. In addition, the FIA has one officer attached with the FMU and they coordinate on a regular basis.

Table 3.9: FMU responses to domestic information requests (2013-2018*)

Incoming Requests				Outgoing Requests		
Year	Requests Received	Responded	Pending / No Action Req'd	Requests Made	Response Received	Pending / No Action Req'd
2013	10	7	3	0	0	0
2014	18	16	2	0	0	0
2015	20	20	0	0	0	0
2016	22	18	4	1	1	0
2017	32	30	2	18	13	5
2018 (to Jun)	47	45	2	3	2	1
Total	150	137	13	22	16	6

160. As far as international cooperation is concerned, FMU, law enforcement and supervisory and regulatory authorities have information exchange arrangements such as MOUs and letters of intent. As shown in tables below, exchanges of information do not reflect Pakistan's NRA findings.

Table 3.10: Incoming and outgoing requests received and made by FMU

Incoming International Requests (2014 - 2018)					
Offences	2014	2015	2016	2017	2018
Participation in organized criminal group and racketeering	0	0	0	0	0
Terrorism, including TF	1	1	0	1	1
Illicit trafficking in narcotic and psychotropic substances	0	1	0	0	0
Corruption, bribery, unexplained assets, cheating	0	0	0	1	0
Fraud	1	0	0	0	0
Robbery or theft	1	1	0	0	0
Benami Accounts/Transactions	0	0	0	0	1

Other Offence (Money Laundering)	0	0	0	6	0
Total	3	3	0	8	2

Outgoing International Requests					
Offences	2014	2015	2016	2017	2018
Terrorism, including TF	0	0	1	0	0
Corruption and bribery/ unexplained assets cheating	0	0	0	0	1
Fraud	0	1	0	2	0
Robbery or theft	0	0	0	0	0
Total	0	1	1	2	1

161. As above, outgoing requests do not match the risk profile of Pakistan. For instance, no requests to foreign FIUs have been made in relation to tax offences and drug trafficking offences. Only one request has been made in relation to corruption in last five years. Although the FMU has information exchange MOUs with foreign FIUs, the instances at which FMU sought information from foreign FIUs in its analysis or to identify and trace criminal proceeds hidden off-shore was not provided for analysis. It is important to note that FMU also received 1 and 2 voluntary disclosures of information related to ML from foreign counterparts in 2014 and 2015 respectively. One request in relation to TF was made by the FMU three years ago.

Overall conclusions on Immediate Outcome 6

162. While feedback from LEAs suggests that the financial intelligence provided by FMU is useful in their investigations and prosecutions, Pakistan is using financial intelligence to combat ML, TF, predicate crimes and to trace property for confiscation purposes to a minimal extent. Moreover, there are several impediments to the effective use of financial intelligence generally, including (i) no STR-filing outside of the main financial institutions such as banks, microfinance institutions and exchange companies (which is a fundamental gap in the country's STR reporting mechanism); (ii) lack of STR reporting by DNFBP sector reporting entities despite the risk profile of some of the sectors, and none of the DNFBP sectors are supervised for STR reporting compliance; (iii) limited access to detailed tax records by the FMU; (iv) lack of a formal mechanism to share FMU information related to TF with NACTA; (v) low rate of investigations and prosecutions following dissemination of financial intelligence; and (vi) limited information sharing between foreign FIUs and the FMU in relation to domestic predicate crimes that have cross-border implications.

163. These deficiencies require fundamental improvements.

164. **Pakistan has a low level of effectiveness on IO.6.**

Immediate Outcome 7 (ML investigation and prosecution)

General framework

165. Pakistan's legal regime has three money laundering offences. The general money laundering offence is contained in the AMLA and special types of ML offences for narcotics and TF are set out in CNSA and ATA, respectively. The elements of the all ML offences are mostly in line with the Vienna and Palermo Conventions (see R.3).

166. As discussed in R.30, ML investigations and prosecutions are under the jurisdiction of federal authorities based on the types of predicate crimes falling within each of their respective jurisdictions; namely FBR-IR (tax evasion, tax fraud, etc.), FBR-customs (types of smuggling set out in the Customs Act), NAB (corruption offences), ANF (drugs offences) and FIA (all other offences). These five federal authorities also have prosecutorial authority. Some of the agencies (e.g. FBR-customs) have their own AML cells responsible solely for investigating and prosecuting ML offences, while others (NAB, FIA) have economic/financial crime units to pursue the financial aspects of the predicate offences.

167. While some statistics and case examples were provided to the assessment team, Pakistan did not provide comprehensive and/or consistent statistics from all LEAs to show elements of an effective system, making it challenging for the assessment team to draw clear conclusions from the information provided. And, in accordance with the FATF methodology, where evidence in the form of statistics or otherwise was not made available to the assessment team, the team concluded that the system is not effective.

ML identification and investigation

168. LEAs informed the assessment team that they identify potential ML cases through FMU's financial intelligence disseminations; publicly available information; receipt of complaints from the public; suspicion of ML formed during enquiries/investigations of predicate crimes; and, referrals from other federal government agencies and provincial police.

169. Conducting financial investigations in parallel with investigations of predicate crimes is not a legal requirement for LEAs, but is at the discretion of the relevant agency. While there are a number of investigating agencies, each may cross-refer cases to other agencies if the predicate offence is within the jurisdiction of those other agencies.

170. In terms of investigative powers, LEAs have the authority to freeze, seize and utilise traditional investigative powers such as searching premises and persons, taking witness statements as well as some special investigative powers (see R.31) during the course of ML investigations. However, lack of some powers (outlined in R.31) may have a negative effect in timely identification of ML cases. As a source of identification, all LEAs responsible for pursuing ML investigations are able to seek financial information from the FMU as well as the STRs sent by the FMU at its own initiative.

Table 3.11: ML cases in the last 5 years (2013-2018)

Agency	Investigations	Prosecutions	Convictions
ANF	1528	161	nil
FIA	346	175	nil
NAB	32	4	1
FBR-customs	4	2	nil
FBR-IR*	510	12	nil
Total	2420	354	1

*The figures from FBR-IR were received during the face-to-face meeting.

Table 3.12: Statistics of major predicate crimes

Drug Trafficking (ANF)			
Year	Investigations	Convictions	Number of Persons Convicted
2014	881	333	422
2015	1216	421	512

2016	1138	412	530
2017	1015	948	1142
2018 (to 31-8-2018)	701	671	790
Total	4951	2785	3396
Tax Offences (FBR-IR)			
Year	Investigations	Prosecutions	Convictions
2013-14	485	17	2
2014-15	608	30	-
2015-16	501	35	3
2016-17	604	12	-
Total	1658	94	5
Corruption and Corrupt Practices (NAB)			
Year	Investigations	Prosecutions	Convictions
2013	408	119	71
2014	1113	208	72
2015	1297	238	132
2016	1303	320	56
2017	671	199	105
Total	4792	1084	436

171. Overall, the ML investigation figure is at 2420 with 354 (or 14%) at the prosecution stage. The number of ML convictions since 2013 is only one (1). Despite relatively high numbers of ML investigations for some type of offences - particularly drug trafficking and tax cases - the low percentage of prosecution for some types of major predicate crimes, and overall just one conviction for ML, suggests that the collection of evidence at the investigation stage is not sufficient enough to achieve a reasonable prosecution and conviction rate.

172. ANF initiates the majority of ML investigations related to drug offences. ML investigations by the FIA are next. However, predicate offences under the responsibility of the FIA range from TF, terrorism, human trafficking, small-scale corruption, embezzlement, cheating and others. It is unclear which predicate offences are underlying the above-noted FIA ML investigations. Therefore, it was not possible for the assessment team to determine whether those predicate crimes were major or high risk predicate offences matching Pakistan's risk profile.

173. On the other hand, especially with regard to corruption, some complex ML cases were identified resulting in convictions of high-ranking public officials in the Pakistan government. In those investigations, collaboration among different law enforcement agencies took place through joint investigation teams (or, JITs). Successful results were achieved. Reports of some of these investigations are publicly available (e.g. <http://www.supremecourt.gov.pk/web/page.asp?id=2506>).

174. The following factors contribute to the circumstances in which potential ML cases are identified and investigated:

- Pakistan informed the assessment team that LEAs take into account the financial aspects of the offence in each individual case and if there is a suspicion of ML, LEAs investigate ML along with predicate offences. To some extent, some LEAs undertake financial investigations in cases where criminal proceeds are believed to be obtained. This manifests itself in the number of ML investigations initiated by ANF in relation to drug trafficking. However, LEAs do not systematically conduct parallel financial investigations since the figure for investigations of ML stemming from major predicates (such as people smuggling, extortion, illegal MVTs) is not high.

For these types of offences, there is a disproportionate focus on the investigation of predicate offences at the expense of ML.

- In order to prioritize ML investigations, in 2013 the FMU sent a formal letter to all relevant investigating agencies highlighting the significance of exploring the possibility of ML offences in predicate crime investigations. Although there has been a visible rise in the number of some ML investigations relating to some specific predicate offences (e.g. drug trafficking) this increase has not been observed for other major predicate offences.
- ML is a non-cognizable offence under s 21 of the AMLA. Section 155 (2) of the CrPC requires that a “police-officer shall not investigate a non-cognizable case without the order of a Magistrate of the First or Second Class having power to try such case”. This means that, following some collection of evidence, LEAs must receive court approval to continue with ML investigations. While there is no history of refusals by the courts, from discussions during the onsite visit, the assessment team has concluded that there is a serious source of confusion among all competent authorities as to the non-cognizable nature of ML offences. This confusion may have an impact on the effective enforcement of this offence. Although, the NRA and National Action Plan recommend changing ML offences to cognizable offences (not requiring court approval to investigate), this recommendation has not yet been implemented. It should be noted that specific ML offences set forth in the CNSA and the ATA are of a cognizable nature as the predicate crimes set out under those Acts are themselves cognizable, which consequently make associated ML cognizable as well.
- Furthermore, s 41 of the AMLA operates in an analogous way. This provision requires LEAs to consult with the FMU, prior to initiating a ML investigation in relation to predicate offences under the Sales Tax Act and Federal Excise Act (i.e. types of tax fraud). Though there is no express explanation on what “consultation” means, the FMUs discretion in this regard may have an adverse impact on effectiveness.
- While identifying and investigating ML, the LEAs are able to use tools provided in their respective laws such as search, seizure, obtaining documents/information, accessing computer systems (see R.31). Special investigative techniques may be utilised by certain agencies. For instance, ANF can use controlled deliveries and undercover operations under CNSA (s 24). NAB can make use of ‘plea bargaining,’ ‘voluntary return’ and surveillance techniques for those who are reasonably believed to be involved in corrupt practices. However, these techniques are not available for all ML investigation agencies (see R.31) due mainly to the lack of general and comprehensive provisions available to all LEAs.
- Some predicate offences (e.g. extortion and kidnapping) can be investigated and prosecuted at the provincial level. However, provincial police do not have the authority to pursue ML investigations in parallel with predicate crime investigations. If there is a link to a ML offence, provincial police must refer the case to the FIA, which can investigate the ML offence. However, Pakistan did not demonstrate that this is occurring in practice. In any event, under domestic law, no such referral mechanism is in place.

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

175. The NRA 2017 identified ML risk as ‘medium’. The major predicate offences for ML according to Pakistan’s NRA are the following: corruption, smuggling (all types), drug trafficking, cheating, fraud, tax frauds, kidnapping for ransom, and extortion from businesses. In the period under review, Pakistan has convicted only one natural person of ML (see table above). The details of the conviction are

unknown but the conviction was obtained by NAB presumably in relation to corruption. Pakistan's one conviction for ML is not consistent with the risk profile of the country.

176. While some data and statistics were provided to the assessment team on ML investigation, and prosecutions, Pakistan did not provide comprehensive and/or consistent data, information and statistics to demonstrate ML investigations and prosecutions are consistent with ML risks. It is not clear what the underlying predicate offences relevant to the FIA investigations are and the reasons behind the disproportion between the ML investigation, prosecution and conviction rates. Since there is insufficient data on sole predicate investigation and prosecution rates for all major predicate offences, it is not possible to conclude whether the number of ML investigations are proportionate compared to those of predicate offences. Based on discussions during the ME onsite and information provided by Pakistan, the following observations have been made by the assessment team.

177. *FBR-customs (responsible for the investigation and prosecution of ML associated with trade-based ML, currency, goods smuggling, tax evasion):* Between 2014-2018, FBR-IR conducted four ML investigations all of which were pending permission of the court under section 21 of AMLA and there were two ongoing prosecutions. All of the cases involve trade-based ML with the predicate crime of tax evasion.

178. *FBR-IR (responsible for the investigation and prosecution of ML associated with tax offences):* For the same period, FBR-IR conducted 510 ML investigations in relation to tax offences. Twelve (12) cases were at the prosecution stage.

179. *ANF (responsible for the investigation and prosecution of ML associated with narcotics offences):* As can be seen from the tables above, for the period under review, ANF registered 4951 drug-related cases, out of which 1528 investigations of ML offence emerged. Additionally, ANF conducted 161 ongoing ML prosecutions for the same period.

180. *NAB (responsible for the investigation and prosecution of ML associated with narcotics offences):* Since 2013 NAB has investigated 32 ML cases and at the time of the ME onsite had four cases under prosecution. The one ML conviction for the period 2013-2017 was prosecuted by NAB.

181. *FIA (responsible for the investigation and prosecution of ML associated with all of predicate offences that are falling out of the jurisdiction of other agencies):* FIA pursued 346 ML investigations of which 175 are pending trial. The FIA's area of responsibility comprises a variety of offences such as embezzlement, cheating, forgery, fraud, medium- and small-scale corruption, human trafficking etc. However, based on the information received, the assessment team was unable to determine what predicate crimes were underlying those ML investigations. On the other hand, some case studies (see below) demonstrate that exposing money trails have led to significant amounts of seizure.

Case Example 3.3 – ML investigation conducted by FIA that led to significant amount of seizure

A case was registered against persons for corruption, fraud and forgery. Later on ML was determined.

Accused management of X Institute purchased various properties at exorbitant rates, violating the Public Procurement Regulatory Authority Rules. Kick-backs of PKR 1 billion (USD \$7.4 million) were paid. A benami investment amounting to PKR 38 million (USD \$ 281,481) in the name of one of the co-accused was traced in stock market.

Following the collection of evidence and the taking of statements, the personal bank accounts, lockers and movable-immovable property of the accused persons and their dependents were seized under s 5 (5) of FIA Act 1974. The value of seized assets was approximately PKR 641 million (USD \$4.75 million).

182. In conclusion, as opposed to a total of 2420 ML investigations, 354 cases (14%) were at the prosecution stage at the time of the onsite visit, whereas only one conviction was obtained. The figures on acquittals are unknown. The number of ML investigations derived in particular from drug-related offences is in line with the risk such offence, as a designated major predicate, poses to Pakistan. This may result from the awareness-raising and training for investigators in the ANF.

183. Since multiple predicate offences fall within the purview of FIA, it is not possible to detect whether ML investigations initiated by that agency are the result of higher risk predicate offences and consistent with the risk profile of Pakistan. As for hawala/hundi dealers, who pose a high ML risk, while the FIA has undertaken some action (see R.14), it has not initiated any ML investigations or prosecutions against these dealers. Indeed, according to the NRA, large amounts of proceeds of crimes are transferred to foreign jurisdictions through hawala/hundi not to mention its wide use on transferring terrorist funds.

184. Further, despite being designated as high risk predicate offences, smuggling of persons and currency there have been no ML-related investigations for these offences; all ML cases pursued by FBR-customs to date have been in connection with the trade-based ML. When it comes to corruption, although corruption is identified as a major predicate offence, NAB has conducted only 32 investigations with four (4) prosecutions.

185. For other high risk predicate offences such as smuggling, cheating and fraud, kidnapping for ransom and extortion, more needs to be done in terms of LEA actions relating to ML. Some of these offences are investigated at the provincial level but provincial police do not have the authority to pursue ML as mentioned above. Provincial police forces may only refer cases to the FIA when it encounters a ML aspect. The assessment team is concerned that lack of a well-established referral mechanism and a low level of awareness by provincial police on the ML aspects of financial crimes may be the reason behind this.

186. Overall, one conviction is not consistent with Pakistan's risk profile. When authorities were asked the underlying reasons, it was stated that the AMLA is a relatively new Act and requires more time to get efficient results. However, the assessment team noted that the AMLA came into force in 2010 (8 years prior to the onsite). Before that, the Anti-Money Laundering Ordinance (AMLO) was in effect since 2007. The assessment team is of the view that the collection of insufficient evidence, ineffective use of investigative tools, the delays at the trial stage, and the low levels of awareness as to the elements of ML offence by the judiciary, are the main grounds for the disproportion among the figures of investigation, prosecution and conviction as well as not achieving a reasonable conviction rate.

187. The following additional factors contribute to the current situation: (i) lack of internal directives or comprehensive guidance on ML investigations and prosecutions (NAB and ANF did provide the assessment team with their SOPs for investigations including ML), (ii) lack of skilled resources and capacity to investigate ML (for example, Pakistan LEAs have no forensic accountants); (iii) lack of understanding of the ML offence including within the judiciary; and (iv) prioritisation of predicate offence investigations and prosecutions over ML.

Types of ML cases pursued

188. While comprehensive and consistent statistics were not provided, discussions during the onsite visit suggested that LEAs are not focused on complex ML cases, but on self-laundering cases involving natural persons. Pakistan indicated that most ML investigations, and its one conviction, are for self-laundering. There are some rare instances of third-party or standalone ML investigations and prosecutions. LEAs indicated that they have investigated a few ML cases in relation to foreign predicate offences, but information on these cases was not provided. Pakistan is not pursuing ML cases involving legal persons.

Effectiveness, proportionality and dissuasiveness of sanctions

189. Since the details of the one (1) ML conviction were not provided to the assessment team the effectiveness, proportionality and dissuasiveness of the sanctions in practice against natural persons could not be assessed.

190. As highlighted in R.3, sanctions for the conviction of natural persons for ML offences, varies depending on the underlying predicate offence. For general ML offences, imprisonment ranges from one to 10 years with a fine which may extend to PKR 1 million (USD\$8,651). The offence of laundering terrorist property is punishable by imprisonment of five to 10 years and a fine to be determined by the court having regard to the circumstances (s 2(h) of ATA). The laundering of narcotics-related property is punishable by imprisonment of five to 14 years and a compulsory fine of not less than the prevailing value of the assets together with such assets being forfeited (s 13 of CNSA).

191. There have been no ML convictions of legal persons. However, as noted in R.3, the sanctions under the AMLA are not proportionate and dissuasive.

Other criminal justice measures

192. To a certain degree, different criminal justice measures may be applied whether or not there is an ML conviction. Civil forfeiture of property is available for international smuggling under Prevention of Smuggling Act as detailed in IO.8. Thus, it would be applicable for ML offences associated with international smuggling. Moreover, non-conviction based confiscation order of a foreign country regarding a drug offence can also be recognised by Pakistan. However, these tools have not been applied according to the data to date.

193. In addition, as an administrative measure NAB utilises voluntary return, whereby recovery of illicitly acquired assets through corrupt practices is possible if the person who obtained such assets voluntarily returns them to NAB. Upon the approval of the NAB chairman, the accused may be discharged. Since its inception NAB has often utilised this tool and recovered a considerable amount of illegal proceeds (see IO.8 for details). However, implementation of this measure is limited to NAB. Other than this measure, there are no generally applicable and available alternative criminal justice measures to utilise where an ML conviction is not possible for justifiable reasons.

Overall conclusions on Immediate Outcome 7

194. Data and statistics are not comprehensive and detailed enough to assess the extent to which the requirements of IO.7 are achieved in Pakistan. The rate of ML investigations and prosecutions, in particular related to narcotics and tax offences, appear to be in line with the risk such offences pose to Pakistan. For other major predicate offences, however, the investigation and prosecution numbers are

quite low; one conviction for ML in the past five years does not reflect the understanding of ML risks of relevant authorities including judicial authorities. There are no clear procedures on how provincial police would refer an ML case to FIA. And, up to the point of the assessment visit, no referral had occurred. The non-cognizable nature of the general ML offence (under the AMLA), has an adverse effect on the timely and successful investigation and prosecution of ML offences.

195. These deficiencies require fundamental improvements.

196. **Pakistan is rated a low level of effectiveness on IO.7.**

Immediate Outcome 8 (Confiscation)

Legislative and institutional framework

197. The legal framework in Pakistan provides a basis for authorities to restrain and confiscate property that is the proceeds or instrumentalities of crime. Confiscation of property laundered, proceeds of, or instrumentalities used or intended for use in criminal activity, is set forth in a number of statutes/ordinances depending on the nature of the offence (i.e. AMLA, CNSA, ATA, NAO, CrPC, Sales Tax Act etc.).

198. There is no general asset recovery office or administrative unit to pursue proceeds of crimes and manage seized or confiscated assets at the national level. Instead, different legal provisions set forth the rules and mechanisms to deal with such property.

199. Pakistan is able to share confiscated property to a certain extent and within the limits of the legislation (under AMLA, CNSA and through the UNCAC, as detailed under R.38). However this has not occurred to date. Confiscation of property of corresponding value is permitted for ML and corruption offences only. However, no case examples were provided. Confiscation is chiefly based on conviction. Non-conviction based confiscation is also applicable in limited instances (see R.38).

200. In relation to cross-border movement of currency and BNI, Pakistan requires written declarations for amounts over USD \$10,000 when entering Pakistan. There are strict currency export controls and SBP permission is required for most outgoing funds exceeding USD \$10,000.

201. While some statistics and case examples were provided to the assessment team as evidence for this IO, Pakistan did not provide comprehensive and/or consistent statistics from all LEAs. This has made it challenging for the assessment team to draw conclusions from the information provided. In accordance with the FATF methodology where evidence is not provided, the assessment team concluded that the system is not effective.

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

202. Confiscation is not explicitly included in any strategic policy statements as an objective for the purpose of depriving criminals of the proceeds or instrumentalities of crime.

203. The data on confiscation and the discussions with the assessment team during the on-site visit demonstrate that the focus of authorities is on detecting and recovering the proceeds of some major predicate offences through criminal measures. To a certain degree this is in line with the objective of IO.8. However, when it comes to ML, inadequate attention is paid to restraining action concerning

criminal proceeds. Apart from a few cases (see FIA case example under IO.7), there has been no implementation of seizure measures for ML offences.

204. Confiscation of property of corresponding value for ML and associated predicate offences is available under AMLA as well as NAO. However, no case examples for either ML or predicate crimes were provided to the assessment team.

3

205. Confiscation is based, in general, on conviction. With respect to non-conviction based confiscation, the Prevention of Smuggling Act (ss 31 and 32) provides for civil forfeiture of property where a judge is satisfied that property is acquired by international smuggling (of goods, currency, drug and precious stones & metals etc. as defined under s 2(s) of Customs Act). The burden of proof is on the respondent. Furthermore, non-conviction based confiscation orders of a foreign country regarding drug offences can be recognised and enforced in Pakistan (s 63 of CNSA).

206. Administrative forfeiture is available for tax recovery purposes under the Sales Tax Act (s 48(1)(ca)), Income Tax Ordinance (s 138(2)(a)) and Federal Excise Act (s 27). Although individual statistics were not provided in this regard, the authorities indicated during the on-site visit that such confiscation provisions are used to a large extent to prevent tax evasion.

207. As noted earlier, there is no general asset recovery office in Pakistan, but agencies have separate units responsible for managing the maintenance and disposal of seized and confiscated property. However, most of LEAs lack appropriate and comprehensive systems to manage seized or attached assets. A limited number of agencies (including NAB, ANF, FBR-customs) have rules or procedures for managing these assets. Effectiveness is undermined by a lack of a centralised asset recovery and asset management capabilities.

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

208. Pakistan did not provide comprehensive and/or consistent statistics for: (i) seizures by all LEAs in relation to ML and all higher-risk predicate crimes; (ii) court-confiscation orders in relation to ML and all higher-risk predicate crimes; (iii) amounts forfeited to the state for all higher-risk predicate crimes; (iv) amounts granted to the community or government agencies. The data provided was incomplete and not disaggregated by crime-type or year.

209. Asset sharing is lawful under UNCAC, AMLA and CNSA. However, the AMLA and CNSA require the presence of a bilateral agreement to take such action. To date, no asset sharing agreement has been signed and, accordingly, Pakistan has never shared assets with foreign countries. In one case (see case example below), money was obtained through a foreign predicate offence and was partly recovered in Pakistan. A portion of those funds were repatriated to the UK while the rest is awaiting the completion of the process. Pakistan is able to investigate and seize proceeds in Pakistan which emanate from foreign predicate offences. An example is given in the discussion of IO.2. Following the receipt of a MLA request from the UK in relation to fraud, NAB commenced an investigation and prevented the disposal of properties related to the offence. As of the date of the on-site visit the case was still on-going and therefore a confiscation order has not been issued.

210. Pakistan provided the assessment team with some cases where confiscation of instruments of drug offences occurred. However, it is unclear from the data provided whether other instrumentalities have been, or are being, pursued.

211. As will be detailed below, the overall confiscation amount within the assessment period for major predicate crimes (corruption and drug trafficking) is minimal. Confiscation of property of corresponding value, while available under AMLA and NAO, has not been used. TF confiscation rates are higher than for ML, but not in line with the TF risk profile of the country.

212. Within the period under review, no confiscation occurred in relation to the ML offence. Despite some high-value seizure cases in relation to ML (see FIA case example under IO.7), in a relatively high number of investigations into ML offences, (see IO.7), restraint actions have not been pursued. This suggests that the investigation and prosecution of ML is not focused on tracing and seizing illicit proceeds. With regard to corruption, NAB provided total figures (see table below) for assets seized and confiscated in relation to offences under the NAO. These figures include some corruption offences and certain fraud and financial crimes. While the seizure figures are at a moderate rate (USD \$45.5 million over five years), they are, nevertheless, very low in relation to the value of assets confiscated (USD \$0.47 million over five years)

**Total 3.13: Total amount of seized/confiscated property by NAB
corruption-related offences (2013-2017)**

Amount of Proceeds seized or frozen	Amount of Proceeds Confiscated
PKR 6,136,157,000 (USD \$45.5 million)	PKR 62,725,000 (USD \$464,630)

213. In addition, NAB has voluntary return (VR) and plea bargain (PB) powers under s 25 of NAO, both of which may result in recovery of assets. VR is the voluntary return of any gain or assets obtained through corrupt practices prior to the commencement of an investigation where, following the approval of the NAB Chairman, the accused will be discharged. PB is implemented in a similar manner except that it is applicable from the start of investigation but before the issuance of judgment. PB does not end up with complete discharge of liability, unlike the VR. Between 2014 and 2017, the total amount recovered amounts to PKR 29.376 billion (USD \$217.6 million). This amount is relatively high and reflects the firm stance of NAB against corruption. On the other hand, the Supreme Court of Pakistan has initiated a *suo moto* case³⁶ over the power of NAB to use VR and suspended its use since the end of 2016, amid the debate that VR contributes to an increase in corruption in spite of its opposite objective. Thus, it has not been applied thereafter.

214. VR and PB were used in a case for the repatriation to a foreign jurisdiction of illegally gained proceeds stemming from a foreign predicate offence. The details of the case are as follows:

Case Example 3.4 – Repatriation to a foreign jurisdiction

A complaint was made by HSBC Bank, London, where the accused persons were alleged to have fraudulently embezzled funds amounting to PKR 400 million (USD \$2.96 million) through 28 bogus/fake SWIFT messages and correspondence, and subsequently transferred this money from HSBC London to Pakistan and Japan. The STRs were then filed by various banks to SBP.

After the completion of the inquiry, PKR \$146.69 million (USD \$1.09 million) worth of funds were recovered using VR and PB. A portion of this amount was remitted to HSBC. However, following the close of operations of HSBC in Pakistan, repatriation of the rest (approx. PKR 95.3 million or USD \$706,177) was brought to the

³⁶ Legal action taken at the Supreme Courts's by its own motion.

attention of the National Crime Agency of the UK, through a letter dated 14th September 2018 to a Pakistani local bank which took over operations of HSBC, Pakistan. The repatriation process is still ongoing.

215. Drug trafficking is specified under the NRA as a major predicate offence and poses significant risk. Pakistan is a destination and transit country for illegal drugs. Its vulnerability to this offence is partly linked to its porous borders with Afghanistan and Iran. But, as indicated in the table below:

- between 2014 and 2018 (five-year period) the amount of frozen drug trafficking proceeds was USD \$19.08 million;
- approximately USD \$588,000 of that amount (or 3%) was confiscated under court order.

216. Given the significant amount of proceeds generated through drug trafficking and the threat posed, the value of frozen proceeds appears low with very little confiscation occurring.

217. An important aspect of the confiscation regime under CNSA is under s 40: if a person is convicted abroad with a final judgment *on account of a foreign predicate offence* specified as an offence also under CNSA, even in the absence of a foreign MLA request aiming to enforce a confiscation judgment, the assets acquired in Pakistan shall be forfeited to the federal government upon a court order. In practice, this type of confiscation has produced fruitful results. ANF stated that they sent MLA requests to foreign jurisdictions to gather copies of judgments issued abroad to give effect to the abovementioned tool. However, for the most part they did not receive replies (unsubstantiated when looked into details of the outgoing MLA requests of ANF).

Table 3.14: Freezing, forfeiture and realization from 2014 to 2018: ANF (narcotic offences)

Freezing	Forfeiture	Realization
USD \$19,008,818	USD \$587,965	USD \$64,167

218. When it comes to TF, the conviction rate between 2015 and 2018 is at 58 (see IO.9), with an associated PKR 14.46 million (USD \$107,111) confiscated amount as shown below. This amount is the consequence of CTDs' prosecutions because none of the enquiries of FIA led to investigation in respect of TF (see IO.9), thus has not been able to reach prosecution stage. While the data on seizure is unknown, the confiscation amount overall is perceived as low in the context of Pakistan considering the high number of terrorist organisations operating within and at close proximity to the country.³⁷ Moreover, the seizure/confiscation rate for terrorism other than TF is unknown.

Table 3.15: Confiscated amount by CTDs in TF cases (PKR)

Year	CTD Punjab	CTD Sindh	CTD Balochistan	CTD KP
2015	218,520	5,000	0	515,000
2016	60,913	10,700	0	261,000
2017	59,110	10,600	0	1,016,010
2018	1,353,457	10,169,900	701,050	83,050
Total	1,692,000	10,196,200	701,050	1,875,060
Total for all provincial CTDs		PKR 14,464,310 (USD \$107,143)		

³⁷ Although some high volume seizures in relation to TF and ML shared by the FIA, they have not been taken into consideration as the date of seizure was subsequent to the onsite visit by the assessment team.

219. Hawala/hundi is also a fundamental method of transferring criminal proceeds abroad not to mention its considerable use in the financing of terrorism as noted in the NRA. The records of the FIA suggest that from 2015 to the end of the onsite visit (October 2018), the amount of seizures made in connection with hawala/hundi dealers is PKR 2.656 Billion (USD \$19.67M) in total. The seized amount is significant. However, what portion of this amount was confiscated by the time of the on-site visit in October 2018 was not stated.

220. In terms of tax, the data shared by FBR-IR indicates that the amount of recovery of tax through attachment of property/bank accounts for the last five years is PKR 113.489 billion (USD \$840 million). However, the separate rates of civil (i.e. collection of unpaid taxes) and criminal (i.e. tax offences) recoveries is not clear from the statistics provided. Pakistan did not disaggregate tax collection figures from tax offence seizures.

221. With regard to smuggling of goods, as shown below, the value of all the seized goods including gold, currency, petroleum products, etc. between 2014-2018 is approximately USD \$477 million according to the FBR-customs' records. The confiscated amount is again unknown.

Table 3.16: Values of seized goods attempted to be smuggled³⁸

Year	Value (PKRs)	Value (USD equivalent)
2014-2015	9,668,772,371	\$71,620,536
2015-2016	14,142,936,176	\$104,762,490
2016-2017	15,447,200,930	\$114,423,711
2017-2018	25,176,369,345	\$186,491,625
Total	64,435,728,822	\$477,298,361

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

222. Pakistan implements a declaration system for incoming and outgoing cross-border transportations of currency and bearer negotiable instruments (BNIs). Persons bringing currencies and/or bearer negotiable instruments into Pakistan exceeding an aggregate value of USD \$10,000 or equivalent should complete a declaration form and for amounts greater than USD \$10,000 outgoing travellers require specific SBP permission. For adults above 18 years old, there is an annual limit of USD \$60,000.

223. Customs established Currency Declaration Units (CDUs) at all land/sea entry ports. Displayed Notices and announcements require travellers to make currency declarations. On suspicion, a personal search of selected passengers and scans of their baggage are conducted.

224. During the period between 2012 and 2018, FBR-customs confiscated a total of PKR 584,432,481 (USD \$4.32 million) in currency at various borders in Pakistan (table below). Types of smuggling, including currency smuggling, are outlined in the NRA. Smuggling (in various forms) is one of the highest risk predicate offences. And unregulated trade routes with Iran and Afghanistan are key pilferage points for smugglers. Nevertheless, these cases did not lead to judicial investigations into TF or ML, inconsistent with the risk profile. The inefficiency in identification of ML/TF aspects of these cases may be caused by a number of reasons including, but not limited to, insufficient time frames to

³⁸ Including vehicles, gold, currency, petroleum products, and any type of goods.

restrain currency/BNI to ascertain whether evidence of ML/TF may be found (see R.32.8), inadequate questioning of travellers or inactive review of declarations of significant amounts.

225. No seizure/confiscation has occurred with regard to BNIs.

Table 3.17: FBR currency confiscation

Year	Value of Currency Confiscated (PKR)	Approx. USD equivalent
2014-15	159,477,526	\$1.18 million
2015-16	104,527,415	\$774,277
2016-17	238,885,000	\$1.77 million
2017-18	81,542,540	\$604,018
Total	PKR 584,432,481	\$4.32 million

Case Example 3.5 – Currency Seizure at International Peshawar Airport

On 2 October 2018, a consignment of foreign currency was exported by M/s MLEC (EC) from the international airport at Peshawar to Dubai. The currency was being taken by a company employee named Mr MAT, along with concealed illegal money concealed as a 'legal consignment.' All currency was seized and 'First Incident Report' was lodged against Mr. MAT and M/s. MLEC (EC).

The seized currency, amounting to PKR 120 million (approx. USD \$889,000) consisted of 14 types of foreign currency including UK pound sterling, UAE dirham, euros and Norwegian krone, all of which were deposited with the SBP in Peshawar.

FBR-customs sought Court permission under s 21 of AMLA to initiate a ML investigation against three suspects. The request was denied. An appeal has been filed by Customs and is currently pending in the High Court.

Case Example 3.6 – Currency Seizure at International Islamabad Airport

On 27 September 2018, information was received that an organized gang would attempt to smuggle foreign currency from Islamabad international airport through an international flight. The operation led to recovery of foreign currencies totalling PKR 38.69 million (USD \$286,593). Two accused persons namely Mr. AK and Mr. GD were arrested on the spot. One of the accused persons namely Mr. AK who already boarded on the aircraft was arrested along with foreign currency from inside the aircraft prior to take-off.

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

226. Although terrorism (excluding TF) poses a significant risk to the security, economic and territorial integrity of Pakistan, the seizure and confiscation amount is nil. In respect of ML particularly, in view of the relatively high number of investigations into ML offences (see IO.7) the lack of confiscation action reflects that the focus of the investigations and prosecutions are not specifically on tracing money. In addition, TF confiscation amounts (approx. USD \$107, 000 in 5 years) needs to be improved further.

227. Discussions during the onsite visit indicate that all relevant agencies are committed to combatting certain major predicate crimes, namely corruption, drug trafficking, currency smuggling

and smuggling of goods. To a certain extent this is occurring. While this willingness is demonstrated partially by the amount of proceeds seized, use of confiscation mechanisms is not fully reflective of Pakistan's risks.

228. The proceeds generated from major crimes in Pakistan are also transferred overseas so as to be laundered out of the country as pointed out in the NRA. However, repatriation of such assets to Pakistan does not appear to be pursued by judicial/law enforcement authorities as a priority.

Overall conclusions on IO.8

229. While Pakistan has demonstrated a willingness to deprive criminals of their illicit proceeds through seizures relating to predicate offences (particularly corruption, narcotic offences, and currency smuggling), the value confiscated by Pakistan is not commensurate with the frequency of these offenses in Pakistan and movement of funds overseas. Confiscation in relation to ML has not been carried out in the assessment period. Pakistan has no policy objective to trace, seize or confiscate assets related to ML, high risk predicate crimes and TF. Property of corresponding value is not pursued and LEAs need to do more to trace and freeze the widest range of assets. The deficiencies mentioned overall require fundamental improvements.

230. **Pakistan has achieved a low level of effectiveness in Immediate Outcome 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

10.9

- 1) TF investigations are under the jurisdiction of federal and provincial authorities; though provincial CTDs have investigated the vast majority of TF cases and prosecuted all of Pakistan's TF cases. The FIA has not prosecuted any TF cases and the status of its three cases, including one case from 2008, is unclear. The FIA lacks skilled capacity and capability.
- 2) In the period under review, Pakistan has convicted 58 individuals of TF, which is not consistent with Pakistan's overall level of TF risk. The vast majority of TF convictions have been obtained in Punjab with ~30% of total convictions occurring between March and October 2018.
- 3) While the number of Punjab CTD investigations/convictions is generally consistent with the level of TF risk in Punjab, sufficient information was not provided to demonstrate Punjab CTD TF actions were representative of the full range of corresponding provincial TF risks; TF actions in all other provinces are not consistent with provincial TF risks these CTDs lacking skilled capacity and capability.
- 4) While NACTA has taken some recent steps aimed at improving TF coordination and integration with counter-terrorism strategies through the National Task Force on CFT and TF Sub-committee of Task Force, at the time of the ME onsite visit, TF did not appear to have been fully integrated into Pakistan's broader counter terrorism approach particularly at an operational level and in all provinces.
- 5) Sufficient information was not provided on how TF is being identified. Critically, FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs. To a minimal extent, CTDs are accessing FMU information and financial intelligence during TF investigations with permission of the court but only with permission of the court. This is a structural deficiency in Pakistan's CFT regime, which hampers CTDs abilities to deal with TF matters and creates a stumbling block to effective TF investigations.
- 6) Pakistan has not undertaken any investigations into legal persons providing funds or otherwise facilitating the movements of funds to terrorist organizations.
- 7) Based on available information, the assessment team considers the TF sanctions are only moderately dissuasive.

10.10

- 1) Pakistan gives domestic effect to UNSCR 1267/1989/2253 and 1988 by issuing SROs following each update from the relevant UN Committee, which are legally enforceable upon registration with the MFA. Despite recent improvements in implementing UNSCR 1267 without delay, there are numerous instances where SROs were issued several days after listing at the UN.
- 2) Pakistan implements UNSCR 1373 by proscribing individuals and entities pursuant to the ATA. The authority to proscribe entities rests at the federal level with the MOI, and Pakistan has delegated the authority to proscribe individuals to provincial government home departments.

Before October 2018, there were no written procedures in place to support implementation of UNSCR 1373 by provincial governments.

- 3) Even though domestic designations are largely communicated to FIs, it is less clear that all DNFBPs are informed of changes to the proscription lists on a timely basis. Furthermore, at the time of the ME onsite visit, the consolidated list of domestically proscribed individuals was only publicly available on an intermittent basis and lacked essential identification information (e.g., CNICs) needed to effectively freeze the assets of proscribed individuals.
- 4) While banks have automated screening systems and have frozen funds pursuant to UNSCR 1267 and 1373 (MFBs have also frozen funds pursuant to UNSCR 1373), screening and freezing actions by all other FIs and DNFBPs is not consistent with Pakistan's TF risks.
- 5) There are mixed understandings between banks, FIs, and DNFBPs on the obligation to prohibit the ongoing provision of financial services, and Pakistan did not provide information to demonstrate that the ongoing prohibition was being effectively implemented.
- 6) Several UN-listed organisations continue to operate openly in Pakistan, including holding fundraising events. Despite some positive recent actions taken by Pakistan since February 2018, it is clear that UNSCR 1267 is not being fully implemented. Pakistan is also burdened by ongoing court cases challenging the legal basis of UN listings, undermining efforts to bring the TF activities of UN listed individuals and organisations under control.
- 7) Pakistan did not provide information to demonstrate its actions to deprive terrorists, terrorist organisations and terrorist financiers of assets (and instruments related to TF activities) are commensurate with the TF risk profile of Pakistan.
- 8) Pakistan has a large NPO sector. Except for some initial actions by SECP in relation to the NPOs it licences, at the time of the ME onsite visit Pakistan was in the process of identifying at-risk NPOs and had not adopted a targeted approach to the NPO sector that is consistent with its TF risk profile.

10.11

- 1) There are major deficiencies identified in R. 7. Although banks have made good efforts to comply with the sanctions regime, it is unclear if Pakistan Post, CDNS, cooperatives, and DNFBPs as well as natural and legal persons are required to implement TFS for PF.
- 2) Under the coordination of the Inspection and Enforcement Team and more recently the Committee for Coordination, Review and Monitoring of UNSCR Resolutions on Counter-Proliferation, Pakistan has undertaken a number of counter proliferation activities including monitoring bank accounts of DPRK diplomats. These activities in combination with screening by FIs have not identified funds or other assets owned or controlled by designated persons/entities.
- 3) Banks have a reasonable understanding of their obligations and have adequate screening systems. This seems to be as a result of self- monitoring and sanction awareness rather than outreach by the relevant authorities. The non-banking sector displayed a mixed understanding with only larger entities having screening systems. No funds or other assets, owned or controlled by designated persons/entities, have been frozen.

- 4) While SBP and SECP are undertaking some monitoring, as part of general supervisory actions on TFS (see IO.3), of the building blocks of FIs TFS for PF measures, actions exclusively focused on TFS for PF were not demonstrated by SBP or SECP.
- 5) DFNBP displayed very limited understanding and implementation of TFS for PF obligations, and there has been no guidance, outreach or monitoring of DFNBP.

Recommended Actions

IO.9

- a) Pursue joint-agency activities at both the federal and provincial level to ensure authorities jointly identify, assess and understand both domestic and trans-national TF risks and use that as a basis to guide and prioritize TF investigations
- b) Implement mechanisms to allow FMU to spontaneously disseminate financial intelligence directly to all CTDs, and demonstrate their effectiveness. This will need to consider and address the provincial and federal variants applicable to the various law enforcements agencies across the four provinces. Legislative change will provide continuity compared to MOUs or SROs scope and timescale limitations.
- c) Prioritise TF investigations and prosecutions in line with Pakistan's TF risks including strengthening institutional frameworks/policies/procedures, increasing LEAs capabilities and capacity, and proactively requesting and providing international cooperation in TF cases.
- d) Continue to enhance integration of TF into Pakistan broader counter terrorism approach particularly at an operational level, including supporting policies and actions that lead to LEAs identifying and investigating the widest range of TF activity consistent with Pakistan's TF risk profile.
- e) Continue to support measures to increase the dissuasive application of sanctions for TF against natural and legal persons convicted of TF.
- f) Continue and increase prioritisation and adequate resourcing activities to enhance capacity and support for FMU, LEAs, prosecutors and the judiciary involved in TF cases.

IO.10

- a) Address TC deficiencies highlighted in R 6 and strengthen Pakistan's legal framework for implementing TFS for TF without delay.
- b) Continue to improve implementation of TFS obligations by all FIs and DFNBP particularly in sectors less compliant, through clear direction and risk-based outreach. This includes continuing to issue comprehensive and/or case specific guidance material on TFS that is sector-specific and takes into account the TF risks
- c) Support FIs and DFNBP to extend their TFS implementation against designated persons and entities or persons and entities acting on behalf of or at the direction of designated persons or entities.
- d) Improve the collection and understanding of BO information to improve the implementation of TFS for facilities and services owned or controlled, directly or indirectly, by designated persons and entities (and those acting on their behalf of, or at their direction)

- e) Finalise the ongoing assessment of the TF risks in the NPO sector as part of a broader TF risk assessment update, identify at-risk NPOs. Based on the findings of risk assessments, initiate and resource a greatly enhanced and targeted programme of outreach to at-risk NPO sectors and overall TF risk mitigation measures, without disrupting or discouraging legitimate NPO activities.
- f) Ensure up-to-date TF risk information is proactively shared with NPOs (both those operating within and outside Pakistan) on an ongoing basis and the NPOs are supported in their TF risk mitigation actions.
- g) Enhance the monitoring of at-risk NPOs and targeted investigations and prosecutions of domestic and trans-national cases of abuse of NPOs for TF.
- h) Enhance administrative and enforcement actions in relation to cases of abuse of NPOs for TF, specifically for non-registered entities operating as NPOs.
- i) Given Pakistan's extensive use of its domestic proscription authority, Pakistan should nominate additional individuals and entities for designation at the UN, and should extend requests to other countries for UNSCR 1373 consideration in an effort to enhance the impact of sanctions beyond Pakistan's jurisdiction.

IO.11

- a) Address TC deficiencies highlighted in R.7 and strengthen Pakistan's legal framework for implementing TFS for PF without delay.
- b) Continue to expand the work of the CRMC, conduct outreach, and provide guidance to the private sector on TFS related to PF, including how to identify sanctions evasion activity being conducted on behalf of listed individuals and entities.
- c) Monitor FIs and DFNBP for compliance with obligations pursuant R.7 and impose appropriate sanctions for non-compliance.

231. The relevant Immediate Outcomes considered and assessed in this chapter are IO9-11. The recommendations relevant for the assessment of effectiveness under this section are R.5-8.

Immediate Outcome 9 (TF investigation and prosecution)

232. Pakistan faces significant TF threats from a wide range of terrorist organizations. Pakistan has proscribed 66 organizations and approximately 7,600 individuals under the ATA in compliance with obligations under UNSCR 1373. However, the 2017 NRA includes negligible identification and analysis of Pakistan's TF threats (assigning an overall TF risk rating of 'medium'), and at the time of the ME onsite visit an updated TF risk assessment was being completed.

233. As discussed in IO.1, across government agencies and the private sector Pakistan's understanding of TF risk needs fundamental improvement. The lack of TF risk-understanding adversely affects the ability of Pakistan operational agencies, particularly at the federal level, to target TF for investigation and prosecution.

TF investigations, prosecutions and convictions consistent with Pakistan's risk-profile

234. While LEAs have demonstrated that some TF matters are investigated, authorities were not able to show that LEAs are identifying and investigating the widest range of TF activity (e.g. domestic or trans-national provision, collection, movement or use of funds) in keeping with the TF risk profile. This reflects, in part, that LEAs have no shared understanding of both domestic and trans-national TF risks to guide their TF investigations.

235. TF investigations and prosecutions fall under the jurisdiction of both federal and provincial authorities:

- At the federal level (including Islamabad Capital Territory) the FIA's Counter-Terrorism Wing (CTW) is the investigative and prosecutorial authority for TF. The FIA has offices in each of Pakistan's four provinces as well as headquarters in Islamabad. However, despite being given the mandate to investigate TF in 2015, the CTW only recently dedicated officers specifically to investigate TF.
- At the provincial level, TF is investigated by four provincial Counter-Terrorism Departments (CTDs) and prosecutions in the provinces are undertaken by provincial criminal prosecution services. Resources and capabilities vary significantly in the provinces. The Punjab CTD is sufficiently resourced and has a dedicated Counterterrorism Financing Unit (CTFU) (since 2015) to specifically detect and investigate TF. It has sufficiently trained personnel and pursues investigations in line with the province's risk profile. On the other hand, despite the reported TF risk from Afghanistan, the Balochistan CTD is under-resourced and under-trained. Before 2018, Balochistan CTD was not undertaking TF investigations with any investigations undertaken by the general police. Similarly, CTDs for Khyber Pakhtunkhwa and Sindh are under-resourced and in various stages of developing their TF investigative capacity.

236. The FIA's CTW and provincial CTDs can form joint investigative teams (JITs). An SOP issued on 19 September 2018 by the NACTA provides a framework for these teams. However, despite Pakistan's high TF risk, both the FIA and the CTDs (with the exception of Punjab), appear focused primarily on CT and are not sufficiently organised, trained and resourced to conduct TF investigations, though in 2018 Pakistan has begun to increase funding and focus on TF capability and capacity of CTDs and the FIA.

237. Federal level TF prosecutions are handled by the FIA. Very recently the FIA designated a dedicated TF prosecutions unit, but for the majority of the assessment period FIA prosecutions for TF were managed by those prosecutors managing CT prosecutions.

238. Provincial level TF prosecutions are managed by officials from the Provincial Prosecutor General's Office (PGOs). In Punjab, the CTD has embedded officers in the PGO to familiarize prosecutors with cases during the early stages. Other CTDs have begun coordinating TF cases with various prosecution offices, though this process is not consistent or fully developed. At the conclusion of the CTD's investigation, they refer the cases to the PGO, who then determines whether or not to bring any particular case to trial. PGOs may refer files back to investigative authorities to address deficiencies before deciding to take any particular case to trial. CTDs can seek specialized assistance from prosecutors at the federal level, but it is unclear if this is done in practice.

239. In total, Pakistan has registered 228 TF cases since 2015 and convicted 58 individuals (as at October 2018), all of which were obtained at the provincial level with the vast majority in Punjab (see table below). While detailed information was not provided on which sections of the ATA these actions

were taken under or what TF actors/activities were involved, Pakistan did inform the assessment team that in general terms: (i) most cases from Punjab pertain to collection of donations with individuals found to be affiliated with organizations such as AQ, JUA, SSP, JeM, LeJ, ASWJ³⁹, Da'esh etc. (see case below), (ii) most cases in Sindh and KP pertain to extortion and kidnapping for ransom with persons affiliated with Al-Qaida, Da'esh and TTP etc., and (iii) most investigations in Balochistan are associated with Da'esh, TTP and LeJ.

240. During the onsite visit the assessment team was of the understanding that the FIA had not registered any TF cases past the enquiry stage,⁴⁰ though Pakistan later informed the assessment team that the FIA had registered three cases: one case related to an attack in a foreign country in 2008, and two linked cases related to extortion and murder. Very limited information was provided on these cases: it is unclear if the two linked cases were registered prior to the onsite visit, and no information was provided on the current status of these cases or to explain the purported TF aspect.

241. A total of nine TF convictions for all other provinces in Pakistan (since 2015) is not consistent with Pakistan's overall level of TF risk or the level of province specific TF risk. In addition, Pakistan did not provide information and evidence to demonstrate these convictions (or CTD investigations) were in line with provincial TF risk profiles. Pakistan's focus on TF conviction is recent with approximately 30% of Pakistan's TF convictions occurring between March 2018 and October 2018.

Case Example 4.1 – Skin/Hides Collection for a Proscribed Organization⁴¹

Facts

Mr. A, an active member of Sipah-e-Sahaba (SSP), an organization proscribed under the ATA, was illegally collecting sacrificial hides for raising funds for the banned outfit. It was also informed that he is waiting for a vehicle for transporting the hides. CTD Punjab officials arrived at on the spot and apprehended Mr. A. The accused could not produce any approval from the provincial authorities allowing for the collection and disposal of these hides. CTD authorities recovered 8 skin hides of different animals in addition to PKR 2,150.

Investigations

The investigating officer completed all legal formalities on site, including preparation of site plan, arrested memo of the accused, possession of sacrificial hides, money recovered from the accused, and written statements of witnesses. As the case was directly related to terrorism financing, it was instantly registered under section 11-N of ATA 1997. Further investigations were conducted including seeking banking information and mobile SIM ownership. Based on the investigation, it was determined that Mr. A had links with the proscribed organization.

Judgment

Mr. A was convicted under Sect 11-N of ATA 1997 and sentenced to imprisonment for 5 years along with a fine of PKR 10,000.

³⁹ 'AQ' (Al Qaeda); 'JUA' (Jamiat ul-Ansar); 'SSP' (Sipah-e-Sahaba Pakistan), 'JeM' (Jaish-e-Mohammed); 'LeJ' (Lashkar-e-Jhangvi); 'ASWJ' (Ahlus Sunnah Wal Jamaah Association).

⁴⁰ An 'enquiry' occurs prior to a formal investigation. Only at the investigation stage is criminal evidence in support of a charge collected.

⁴¹ Additional information was request on this case example but not provided by Pakistan. Pakistan did provide some other case examples but they lacked sufficient detail to include in the MER.

Case Example 4.2 – Kidnapping for Ransom and Extortion**Facts**

In April 2017, a businessman was kidnapped in Peshawar. Following the kidnapping, the captor's wife received a call from Afghanistan, demanding a ransom of 30 million PKR. This was transported to Afghanistan in exchange for the kidnapped individual's release. In December 2017, three individuals attacked the Agricultural Training Institute in Peshawar, killing eight and wounding 28.

Investigations

Following the interrogation of individuals arrested in connection with the investigation, CTD Khyber Pakhtunkhwa determined that the group who kidnapped the businessman subsequently delivered the ransom money to TTP members. To date, authorities have seized several vehicles, multiple weapons, including an explosive vest and suicide jackets, and more than 100,000 PKR in connection with this attack.

Judgment

Details omitted for confidentiality – case is ongoing.

Table 4.1: Details of TF actions taken by CTDs (as at October 2018)

Punjab			
Years	No. Cases Registered	No. of Arrests Made	No. of Persons Convicted
2015	74	101	25
2016	24	32	10
2017	5	8	3
2018	17	25	11
Sub-Total	120	166	49
Sindh			
Years	No. Cases Registered	No. of Arrests Made	No. of Persons Convicted
2014	0	0	0
2015	1	1	1
2016	2	2	1
2017	6	9	2
2018	15	28	1
Sub-Total	24	40	5
Khyber Pakhtunkhwa			
Years	No. Cases Registered	No. of Arrests Made	No. of Persons Convicted
2014	0	0	0
2015	5	8	0
2016	19	20	3
2017	20	32	1
2018	33	69	0
Sub-Total	78	125	4
Balochistan			
Years	No. Cases Registered	No. of Arrests Made	No. of Persons Convicted
2014	0	0	0
2015	0	0	0
2016	0	0	0
2017	0	0	0
2018	6	6	0
Sub-Total	6	6	0
TOTAL	228	337	58

TF identification and investigation

242. At the federal level, the FIA identifies and initiates TF investigations through five channels:

- (i) STRs received from FMU;
- (ii) complaints;
- (iii) referrals from other CT units;
- (iv) foreign requests through FMU or INTERPOL; and
- (v) requests from MoI.

243. The FIA has received 198 terrorism and TF financial intelligence products from the FMU, but has not registered any investigation based on these disseminations (see IO. 6). The assessment team assumes the FIA's three cases (see above discussion) were initiated on request of the MoI or public complaint (the FIA has received 27 complaints). The FIA reported that they have not received any requests from foreign jurisdictions to initiate TF investigations nor have they initiated any TF investigations based upon ongoing CT efforts or referral from provincial CTDs.

244. At the provincial level, CTDs identify and investigate TF but the information provided was not sufficient to evaluate how TF cases are identified and initiated. It is unclear what number of TF cases have been linked to terrorist attacks; if CTDs have identified and initiated TF cases not directly linked to terrorist attacks; and whether any provincial cases have been initiated based on formal or informal international cooperation.

245. A major issue for all CTDs is that while they are the designated LEAs for the investigation of TF (see R.30), the FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs (see R.29). This is a structural deficiency in Pakistan's CFT regime that hampers CTDs' abilities to deal with TF matters and is a stumbling block to effective TF investigations. Through the establishment of JITs by the FIA, CTDs can access some FMU financial intelligence, and have some access to FMU financial intelligence directly and through the TF sub-committee. However, Pakistan did not demonstrate these two mechanisms were reducing the impact of this structural deficiency on CTDs abilities to identify and investigate TF. To a minimal extent, CTDs are accessing FMU information and financial intelligence during a TF investigation but only with permission of the court (see IO.6). CTDs cannot use this process to access FMU information and financial intelligence during a TF enquiry (see R.29).

246. From discussions during the onsite visit and information provided by authorities, the following observations have been made by the assessment team on the capacity and capability of CTDs to identify and investigate TF.

247. Each CTD is intended to staff a Research and Analysis Wing to identify TF methodologies and produce reports for relevant agencies, though at the time of the onsite visit only Punjab CTD had developed this capacity. Despite the lack of formalized teams to produce provincial-specific reports on TF activity, the assessment team found that CTDs generally understood their unique TF provincial risk profiles, and were aware of some regional trends and TF typologies, though this understanding did not extend to other relevant authorities throughout the government. For example, CTD Punjab estimated that 90% of TF for proscribed organizations was derived from donations and the collection of animal hides, while CTD Balochistan identified cash couriers transiting the Afghanistan-Pakistan border and self-funding as the primary means of TF.

248. CTDs have each established standard operating procedures (SOPs) to conduct TF investigations supplemented by a national SOP issued by NACTA in September 2018 that provides additional guidance on the formation of JITs to conduct TF enquiries and investigations. These JITs are constituted by the government of Pakistan pursuant to s 19(1) of the ATA, and will be headed by an officer not below the rank of Superintendent of Police. JITs are meant to constitute members of all relevant LEAs, in addition to supporting elements from the intelligence agencies and armed forces. However, Pakistan provided no evidence on the use of JITs or any other operational LEAs cooperation and coordination mechanism to identify and investigate TF (as discussed in IO.1 Pakistan recently established the National Task Force on CFT and TF Sub-committee of Task Force, which at the time of the ME onsite had met twice with both meetings focused on operational and investigative policy and not cooperation and coordination of current operational activities of CTDs or FIA).

249. Though CTDs recognized the strong links to foreign funding in their TF investigations, there have been no requests for foreign assistance, either through formal or informal means (see IO.2).

250. In general, Pakistan does not make use of any special investigative techniques to support its terrorism or TF investigations, such as the use of controlled deliveries (see R.31).⁴² Furthermore, there is a general lack of financial investigative expertise or forensic capabilities at the FIA as well as CTDs.

251. Pakistan has not undertaken any investigations into legal persons providing funds or otherwise facilitating the movements of funds to terrorist organizations.

TF investigation integrated with, and supportive of, national strategies

252. Pakistan has developed several overarching documents guiding its national security strategy, including the National Internal Security Policy 2018-2023 and NACTA's 20 Point Action Plan. Pakistan has undertaken some policy measures and recently established TF committees (see below) to integrate TF into its broader national security strategy, but at the time of the ME onsite TF is not fully integrated into Pakistan's broader counter-terrorism approach particularly at an operational level and in all provinces besides Punjab.

253. NACTA has demonstrated very recent efforts to improve the TF coordination and integration with counter-terrorism strategies and activities, though it remains too early to assess the effectiveness of these efforts. This includes the establishment of a TF sub-committee in August 2018 intended to bring together key stakeholders from across the federal and provincial governments to facilitate enhanced cooperation, disseminate best practices, and maintain greater accountability of CFT efforts, though this sub-committee had only convened on two occasions prior to the onsite visit. During the onsite, officials acknowledged that in the past, Pakistan had prioritized CT over CFT and that the elevation of TF issues as a matter of national priority is a recent change. Officials also acknowledged that competent federal and provincial authorities are not fully staffed to address the challenges relating to TF such as the expertise needed for detection and investigation, including forensic financial investigations.

Effectiveness, proportionality and dissuasiveness of sanctions

254. Pakistan indicated that for successful TF convictions, the average prison sentence was 5.4 years and the average fine was PKR 37,778 (USD \$280). Sentencing is determined solely by judicial

⁴² While NACTA issued a SOP for TF investigations, it was published after the conclusion of the assessment team's onsite visit and only contains basic definitions describing certain types of special investigative techniques, not strategic approaches to integrate these techniques into ongoing counter-TF efforts.

discretion and is based upon one of two offences under the ATA: s 11(F) (imprisonment of 1-5 years) or s 11(N) (imprisonment of 5-10 years). While offenses under s 11(F) mandate a minimum imprisonment of 1 year, in numerous instances judges awarded sentences for less than one year, including 11 cases where individuals convicted for TF served less than 30 days imprisonment. In both offenses, sentencing also carries a fine, though no minimum or maximum limits are established. Authorities have not developed any sentencing guidelines to assist judges in determining appropriate sanctions after conviction.

255. Prosecutions of TF cases filed by CTDs are handled by provincial courts. Conviction rates (except for CTD Punjab to some extent) are generally low. Though Pakistan did not provide the assessment team with statistics on the convictions of the various offences, it appears that the authorities differentiate between TF activities that can be tied to the execution of a terrorist act in determining appropriate sanctions and apply higher penalties if a direct link can be made by the prosecution.

256. As there have been no investigations into legal persons providing funds or otherwise facilitating the movements of funds to terrorist organizations, there have been no convictions and therefore no sanctions imposed on legal persons in Pakistan.

257. Pakistan did not provide sufficient information on the nature of the TF activity for successful convictions to demonstrate sanctions applied are proportionate. It appears that the average imprisonment is at the low range of the more severe charge and with almost 20% of convicted TF offenders serving under the mandatory minimum imprisonment times, the assessment team considers the sanctions to be only moderately dissuasive.

Alternative measures used where TF conviction is not possible (e.g. disruption)

258. Pakistan undertakes a range of actions to prevent terrorism and associated TF (for example, large scale military and law enforcement operations, regulating the collection of animal hides, and restricting the use of social media for designated/proscribed individuals); however, Pakistan did not demonstrate it was employing other measures to disrupt TF where it was not practical to secure a TF conviction.

Overall conclusions on Immediate Outcome 9

259. Pakistan has a high-level commitment to fighting terrorism, and while NACTA has taken some recent steps aimed at improving TF cooperation, coordination and integration with counter-terrorism strategies, TF investigations and prosecutions have not been fully integrated into a national strategy in-line with Pakistan's TF risks, and federal and provincial operational cooperation is very recent. Approximately 30% of the total number of TF convictions occurred between March and October 2018, with the vast majority of all TF convictions in Punjab. There have only been three cases registered by the FIA, though the timing and link to TF of all three is unclear.

260. Overall, Pakistan's TF actions are not consistent with Pakistan's overall TF risks and, critically, the FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs. This is a structural deficiency in Pakistan's CFT regime that hampers the ability of those CTDs to effectively deal with TF matters in their provinces and creates a stumbling block to effective TF investigations. These deficiencies require fundamental improvements.

261. Pakistan has a low level of effectiveness for Immediate Outcome 9.

*Immediate Outcome 10 (TF preventive measures and financial sanctions)**Implementation of targeted financial sanctions for TF without delay*

262. There are moderate shortcomings in Pakistan's framework for TFS related to TF with Pakistan implementing UNSCRs 1267/1989/2253 and 1988, and UNSCR 1373 through two separate legal frameworks described in R.6.

263. *Implementation of TFS pursuant to UNSCR 1267:* Updates to the UNSCR 1267/1989/2253 and 1988 sanctions lists are transmitted from Pakistan's UN mission to the MFA. The MFA then issues an SRO, which identifies changes in designations and is disseminated to relevant national competent authorities (e.g., FMU, SBP and SECP) and concurrently published in the official Gazette and on the MOFA's website (<http://www.mofa.gov.pk/contentsro.php>). SROs have immediate legal effect within Pakistan once issued, and there is no limit on the duration of the domestic designation - individuals or entities will only be removed following issuing of an SRO upon changes to the relevant UN list.

264. Pakistan's implementation of UNSCR 1267 without delay has significantly improved and since early 2018 SROs have generally been issued without delay. However, for multiple years in the assessment period- prior to 2018 - there were numerous instances where SROs were issued with significant delays following changes to the UNSCRL listings. Furthermore, though SROs impose a legal freezing obligation at the time of issuance, timely notification by supervisors of updated UN freezing obligations to inform their regulated entities is inconsistent across Pakistan and subject to further delay. Pakistan did not demonstrate that the competent authorities circulate SROs to all DNFBPs.

265. As discussed in R.6, the SROs do not define who is obliged to take actions to freeze funds and assets or is prohibited from providing funds. There are additional requirements obliging banks, DFIs, MFBs, ECs, regulated persons and companies to comply with SROs. However, there are no enforceable requirements for Pakistan Post, CDNS, cooperatives or DNFBPs. Pakistan informed the assessment team that the scope of the term 'all concerned' (or other similar terms where used in some SROs) is intended to have a wide interpretation; however, without a legal definition, Pakistan did not demonstrate that it is enforcing TFS requirements on these FIs, DNFBPs and all natural and all legal persons in Pakistan.

266. At the time of the onsite, all Pakistani nationals and entities based in Pakistan listed under UNSCR 1267 and its successor resolutions had been identified on SROs, including numerous UN-listed individuals and organisations operating in the Afghanistan-Pakistan border region.

267. Pakistan has unilaterally submitted two nominations to the 1267 Committee for proposed listing, identifying two entities and one individual.⁴³ This small number of nominations to the UN Committees is not commensurate with Pakistan's TF risk, as evidenced by the discrepancy with the number of individuals domestically proscribed pursuant to UNSCR 1373 (see below).

268. *Implementation of TFS pursuant to UNSCR 1373:* Pakistan implements UNSCR 1373 through a proscription process, which differs between individuals and entities. At the time of the onsite, there were 66 entities and approximately 7,600 individuals proscribed in Pakistan.

269. For proscription of entities, the MOI is the competent authority with proscriptions published on NACTA's website (<https://nacta.gov.pk/>) and communicated via Notifications to relevant

⁴³ One entity was listed by the 1267 Committee in 2017. The nominations of the other entity and individual were blocked by committee members.

stakeholders and then to regulated entities by the relevant supervisor. However, the public list only identifies the name of the organisation and its proscription date, and does not include any additional information such as location, narrative summaries, or associated proscribed individuals or entities. The consolidated list of proscribed entities is published under the 1st Schedule pursuant to the ATA, which also provides the authorities with additional powers, such as the authority to prohibit passports for foreign travel, cancellation of arms licenses, and enhanced reporting on income and expenditures.

270. The proscription of individuals has been delegated to provincial authorities by the MOI (in 2014). Proscription decisions are made by provincial Home Departments following recommendations that are proposed by District Intelligence Committees comprising the relevant LEAs and intelligence agencies. Home Departments issue Notifications following any update to the list of proscribed individuals, which they share horizontally with other provincial Home Departments as well as with stakeholders at the federal level, including NACTA, SBP, and SECP, for dissemination to reporting entities. Until NACTA issued procedural guidelines on October 17, 2018, there was no formal written procedure to standardize this process across the provinces.

271. The list of proscribed individuals is published under the 4th Schedule of the ATA, which during the ME onsite visit was published to the NACTA website. However, at the time of the onsite, publicly-available information on proscribed individuals was limited to name, father's name, and province/district⁴⁴. Pakistan indicated that additional information, including the CNIC numbers, are included on the circulated Notifications, though some reporting entities disputed this and for the period under review Notifications were not consistently disseminated to all FIs and DNFBPs. Furthermore, information identifying the associated terrorist group and narrative statement of the case is not included on the Notifications, depriving the reporting entities key information to support implementation and freezing actions.

272. The term of proscription is for three years, upon which time a review by the relevant District Intelligence Committee is necessary to maintain the proscription of individuals. Pakistan informed the assessment team that it maintains a database that automatically flags proscriptions 60 days prior to the expiration date for review. However, Pakistan did not demonstrate to the assessment team that all expiring proscriptions were given appropriate reviews to ensure no one was removed from the proscription list without demonstrating a change in behaviour.

273. While Pakistan has approached foreign governments with information regarding TF activity in their jurisdictions, Pakistan provided no information that it has made any UNSCR 1373 requests to foreign jurisdictions. This is not in keeping with the risk profile and the high number of domestic proscriptions. However, in 2017, Pakistan proscribed Tehreek-e-Azadi Jammu & Kashmir (TAJK) in response to a request from a foreign jurisdiction. It also does not appear that Pakistan has proscribed any foreign individuals under UNSCR 1373 and has not identified whether the authorities had adopted any other strategies or are using other tools to freeze the funds and deprive foreigners of financial services in Pakistan. Given Pakistan's TF risk profile this represents a significant risk for ongoing TF activity.

274. There have been a number of freezing actions taken under both UNSCR 1267 and UNSCR 1373, including property which includes complex issues of ownership and use by 3rd parties. Pakistan has a regulatory framework to govern the licensing of access to funds, however the authorities did not

⁴⁴ Post the ME onsite visit, CNIC numbers are provided for the vast majority of proscribed individuals listed on NACTA's website.

demonstrate effective implementation of measures to consider and access funds or claims from innocent third parties, taking into account the risks of sanctions evasion.

275. While SBP and SECP have undertaken some outreach to their regulated sectors and both issued guidance as highlighted below, overall, insufficient guidance and risk information has been provided to assist FIs and DNFBPs to understand the risks and context of TFS implementation and scenarios of sanctions evasion in Pakistan:

- The SBP issued guidance in 2015 and updated in October 2018 to Banks, DFIs and MFBs on compliance with Pakistan's Notifications pursuant to UNSCRs.⁴⁵
- The SECP has issued guidance to all regulated persons on AML/CFT Obligations including TFS for TF.⁴⁶

276. Given the context of Pakistan, there are very low numbers of cases where possible false positives are identified by FIs and confirmation is sought with authorities. Pakistan did not demonstrate well developed systems for giving feedback to FIs on possible false positives, though there are several instances that banks conducted queries with SBP regarding false positives.

277. *Implementation on TFS by FIs and DNFBPs:* In practice, most banks conduct automated screening against the UN lists and for proscribed individuals and entities. Banks screen new and existing customers against these lists, generally using software programs. It is not clear to what extent banks check these lists against parties to transactions facilitated by these institutions. Several banks also noted that they screened against the Office of Foreign Assets Control (OFAC) Specially Designated Nationals (SDN) List as well as the EU sanctions list. While after the onsite visit Pakistan added CNIC data to the published list of proscribed individuals to improve the ability of FIs and DNFBPs to implement TFS and avoid taking action against false positives, for the duration of the period under review Pakistan did not demonstrate it had an effective system to handle the adjudication of high numbers of false positives. Screening by NBFIs (to include exchange companies) and DNFBPs is generally limited to the on-boarding of new customers. Some firms admitted that they did not screen the UN/ATA lists, but only conducted EDD on unknown clients.

278. While some banks indicated they would not provide financial services to a designated/proscribed individual or entity, other FIs and DNFBPs were less clear about their obligations to prohibit the provision of funds or other financial services to designated individuals and entities. Despite the mixed understanding of the obligation, Pakistan did not provide information to demonstrate that FIs and DNFBPs were refusing to provide financial services to designated/proscribed individuals and entities.

279. Pakistani authorities and reporting entities did not demonstrate implementation that supported screening for persons acting on behalf of or at the direction of designated/proscribed persons and entities. The expectation and practice appears to be limited to identifying matches with designated/ proscribed persons and entities. Until recently, the lack of publicly available information on proscribed individuals undermined banks' screening processes. Very little focus is given to apply TFS to persons or entities working on behalf or at the direction of designated persons and entities. Due to deficiencies in understanding and obtaining beneficial ownership information, most FIs are not in a position to ensure that TFS for TF are applied to designated persons that are beneficial owners. Pakistan has not frozen any assets for individuals acting for or on behalf of designated or proscribed individuals

⁴⁵ see http://www.sbp.org.pk/l_frame/GuidelinesComplianceUNSCResolutions-09-Jun-2017.pdf.

⁴⁶ see <https://www.secp.gov.pk/document/guidelines-on-secp-aml-cft-regulations-2018/?wpdmdl=32289>.

or entities. In one instance, SBP denied the application from an individual for an EC license after discovering that the applicant's father was linked to an UN-listed entity. However, the assessment team received conflicting information on whether any further actions or investigations were undertaken, and if the case was referred to law enforcement.

280. As discussed in IO.3, SBP has specific inspection procedures to supervise the implementation of TFS during their onsite visits and can impose fines and sanctions for noncompliance in accordance with SRO 331(I)2012. In 2018, SBP conducted TFS thematic inspections of nine banks and imposed fines on eight banks for a total of PKR 460.96 million (USD \$3.4 million) for violations of AML/CFT regulations relating to proscribed entities and individuals. These fines were in response to identifying banks taking delayed action to freeze accounts, opening accounts for designated or proscribed individuals and entities, and for not updating internal lists of designated or proscribed individuals and entities. Despite Pakistani authorities noting that exchange companies were at risk for TF, SBP reported no instances of non-compliance with UNSCRs or ATA violations.

281. As discussed in IO.3, SECP has conducted very limited supervision activities related to TFS and has not imposed any fines on regulated entities for TFS non-compliance.

282. There has been no AML/CFT supervision of DNFBPs (see IO.3).

283. *Implementation TFS outside of the FI and DNFBP sectors:* There have been challenges with implementing asset freezing beyond FIs and DNFBPs. With the exception of some recent actions discussed in detail below, Pakistan has not taken sufficient measures to fully implement UNSCR 1267 obligations against all listed individuals and entities – especially those associated with Lashkar-e-Tayyiba (LeT)/Jamaat-ud-Dawa (JuD), and Falah-i-Insaniat Foundation (FIF) as well as the groups' leader Hafiz Saeed.

284. Despite being listed by the UNSCR 1267 Committee in 2008 (JuD) and 2012 (FIF), before February 2018, JuD/FIF openly operated in Pakistan, including holding public rallies and fundraising events. Numerous Pakistani media reports showed FIF raising funds ostensibly for humanitarian relief, as well as operating a large ambulance fleet, which calls into question whether the prohibition on providing funds and financial services was being fully implemented.

285. In February 2018, Pakistan passed the Anti-Terrorism (Amendment) Ordinance 2018, which amended the ATA to automatically proscribe individuals and entities listed at the UN. Immediately following the adoption of this amendment, Pakistan seized numerous articles of property (both moveable and non-moveable - see below) belonging to JuD/FIF, after minimal actions had been taken prior to this point. However, the ordinance's duration was limited to 120 days (and is thus expired) and was not renewed or permanently adopted into law. It is not clear why Pakistan decided to make UN-designated entities automatically proscribed for 120 days given that during the onsite visit authorities stated that this Ordinance was never necessary in order to implement Pakistan's UNSCR 1267 obligations. Pakistan's recent efforts to fully implement UNSCR 1267 against JuD/FIF were further challenged by a Lahore High Court interim order in April 2018, which prevented the authorities from interfering with the "charitable institutions" of JuD/FIF, despite their status as UN-listed organizations. The opinion further stated that "no action shall be taken except in accordance with the law." Given the questions surrounding the legal basis employed by Pakistan to implement UNSCR 1267 against these groups, it is unclear what impact this decision has on the authorities' ability to fulfil its obligations. In September 2018, Pakistan's Supreme Court rejected an appeal from the federal government challenging the order, effectively allowing JuD/FIF to continue operating openly, although Pakistan claims that

assets frozen under the temporary ordinance remain under government control (see below discussion in core issue 10.3).

286. Furthermore, proscribed entities, including JuD/FIF, commonly solicit funds through the collection of sacrificial animal hides, especially in the time surrounding Ramadan, generating significant proceeds. This activity was permitted to continue throughout the majority of the review period until NACTA issued guidelines in August 2017 that prohibited any donations of funds/hides to organizations proscribed under the ATA. Since September 2017, LEAs have registered 438 cases (65 associated with JuD/FIF) against individuals for violations of these regulations, though Pakistan did not provide the assessment team with any information on the resulting convictions obtained or sanctions imposed.

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

287. Pakistan has a large NPO sector and significant TF risks in the sector. NPOs are able to choose to be licenced at the federal level as an association under s 42 of the Companies Act or registered at the provincial level. There are also international NPO (INPOs) present in Pakistan (see R. 8).

288. Pakistan has not identified which types of NPOs are at risk of abuse for TF. In spite of Pakistan's update to its TF risk assessment (in progression at the time of the ME onsite visit) and recent activities (see below), Pakistan's understanding of TF risk in the NPO sector, across the public and private sectors, is very limited (see IO.1).

289. *Licensed NPOs.* SECP is in the initial process of developing a targeted approach to at-risk NPOs including conducting outreach and oversight of the NPOs it licenses under s 42 of the Companies Act (see R. 8). In September 2018, SECP issued *Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) Guidelines for Non Profit Organizations (NPOs)* available from <https://www.secp.gov.pk/document/aml-cft-guidelines-for-npos-2018/?wpdmdl=32268>. While this document does not provide an overview of Pakistan's NPO sector as a whole, the guidelines identify methodologies that terrorist organizations may use to exploit NPOs, fundamental principles of good practice, and red flags/high risk indicators for NPOs.

290. Based on risk factors included in the NPO Guidance, SECP has identified 47 out of approximately 900 NPOs as high-risk. SECP indicated that it has undertaken inspections of 15 of these high risk NPOs. Based on these inspections, SECP initiated licences revocation process for eight NPOs.

291. Since July 2018, SECP and NACTA have conducted eleven outreach sessions to NPOs on CFT issues, with more than 400 licenced NPOs attending the sessions. While these sessions are a positive initiative to implement a targeted approach, the outreach did not cover the majority of NPOs in the sector.

292. In addition, Pakistan has begun taking steps to develop a framework to promote accountability, integrity, and public confidence in the administration and management of at-risk NPOs, but it is too early for Pakistan to demonstrate their effectiveness in mitigating TF risk. For example, NACTA working in conjunction with the Pakistan Centre for Philanthropy (PCP) has published a list of vetted NPOs/charitable organizations on its website to assist the public in identifying safe giving vehicles. While not for CFT violations, SECP has de-registered numerous NPOs (see below table) and coordinated with SBP to freeze accounts of NPOs after their licenses were revoked, which to some extent promotes accountability, integrity and public confidence in the administration and management of licenced NPOs.

Table 4.2: SECP action against non-compliant NPOs

Financial Year	Mode of winding up	
	By Registrar	Voluntary winding up
2013-14	6	
2014-15	1	1
2015-16	53	
2016-17	56	1
2017-18	20	
Total	136	2

293. *Registered NPOs.* NPOs can choose to register solely with provincial authorities (see R.8), and at the time of the ME onsite there were approximately 63,000 provincially-registered NPOs across Pakistan. While there have been some whole-of-Pakistan media campaigns (for example, “Haq HaqdarTak”) aimed at raising awareness of the risks associated with the abuse of NPOs for terrorism and TF, overall, provincial authorities have not assessed their provincial-level NPO risks or initiated a targeted approach to outreach or monitoring of NPOs vulnerable to terrorist financing abuse. As discussed above, at the time of the ME onsite visit, Pakistan was in the process of assessing the TF risks in the NPO sector as part of a broader update to its TF risk assessment.

294. Punjab has recently passed a new NPO Act drafted with support of NACTA. Due to the recent enactment, the effectiveness of this new legislation was not able to be demonstrated by Pakistan.

295. *International NPOs.* INPOs are required to be registered with the MOI by signing of a MoU (see R.8). As part of the registration process there are some requirements that promote accountability, integrity and public confidence in the administration and management of INPOs (see R. 8), and the MOI publishes on its website a list of registered INPOs. However, Pakistan did not demonstrate that the MOI has assessed TF risks and vulnerabilities associated with the INPOs or initiated a targeted approach to outreach or monitoring of INPOs vulnerable to terrorist financing abuse. Rather, it appears that Pakistan is denying nearly all INPOs from registering as opposed to adopting a risk-based approach.⁴⁷ As discussed above, at the time of the ME onsite visit, Pakistan was in the process of assessing the TF risks in the NPO sector as part of a broader update to its TF risk assessment.

Deprivation of TF assets and instrumentalities

296. To some extent, Pakistan uses TFS in combination with criminal confiscation to deprive terrorists and terrorist financiers of assets and instrumentalities, as detailed below.

297. *Actions taken pursuant to UNSCR 1267 designated individual and entities:* Since 2013 a total of 36 bank accounts have been frozen for a total value of ~USD \$69,492 (see table below). SBP reported that freezing actions pertain to the following: Jamat Ahle Sunnat in 2017; JUD, Taliban, Al Furqan Foundation in 2015; Taliban in 2014; and FIF, Ahmed Shah Noorzai in 2013. No other FI or DNFBP has frozen funds pursuant to UNSCR 1267.

298. Pakistan did not provide details of occasions where FIs or DNFBPS denied financial services to UNSCR 1267 designated individual and entities (see c.6.5(e)).

⁴⁷ Source: <https://tribune.com.pk/story/1911633/1-govt-refuses-register-42-ngos/>

Table 4.3: Freezing action by banks pursuant to UNSCR 1267

Year	Accounts Frozen	Value (PKR)	Value (USD)
2017	1	52,069.79	\$386
2016	nil	nil	nil
2015	6	2,733,132.30	\$20,245
2014	5	74,303.84	\$550
2013	23	6,521,988.40	\$48,311
Total	36	9,381,494.33	\$69,492

299. In addition to bank accounts frozen, Pakistan has undertaken the following actions pursuant to UNSCR 1267. Actions are as follows:

- A total of 190 properties of UN-listed entities in Punjab were seized, including 82 madrasahs/markaz; 70 hospitals/dispensaries; 25 educational institutions; and 13 office centres.
- In KP, the provincial authorities have seized 5 madrasahs and 8 masjid; 2 commercial offices in Peshawar and 1 dispensary in Haripur; 1 office, 1 madrassah, 1 dispensary, and 1 hospital in Mansehra; 1 vehicle (belonging to FIF) and 3 offices (of JuD) in Abbottabad; and 1 office and 1 dispensary in Dera Ismail Khan.
- Took control and grounded the ambulance fleet operated by FIF as vehicles were discovered by LEAs.

300. Comprehensive details on when these actions took place (the assessment team assumes most actions occurred following the February 2018 Anti-Terrorism (Amendment) Ordinance), which province actions were taken in, and which terrorist groups the assets were associated with was not provided.

301. Pakistan intends to continue operating the seized facilities. Pakistan has appointed administrators to oversee the seized facilities operated by the government, and has undertaken some efforts to “re-brand” these institutions and to inform the public perception that these institutions were no longer operated by JuD/FIF.

302. *Actions taken pursuant to UNSCR 1373 proscribed individual and entities:* Pakistan did not take any actions to freeze the accounts of proscribed organisations during the period under review, with the exception of assets frozen for proscribed organisations that are also listed under UNSCR 1267 (see above). Since 2016 (Pakistan only commenced record keeping on freezing of accounts for proscribed individuals in September 2016) 4,770 banks accounts have been frozen with a value of PKR 43.21 million (USD \$320,074), and 1,441 MFB accounts totalling PKR 1.95 million (USD \$14,444). However, detailed statistics on year of freezing action were not provided and it is not clear which terrorist groups the accounts frozen were associated with. Furthermore, the assessment team understands that proscribed individuals are regularly de-listed and their accounts unfrozen. Pakistan did not provide any information on the value of unfreezing actions or what measures were put in place to ensure that these unfrozen funds were not made available for terrorist purposes once removed from the 4th Schedule. No other FI or DNFBP has frozen funds pursuant to UNSCR 1373.

303. Pakistan provided no details of occasions where FIs or DNFBPS did not provide financial services to proscribed individuals or entities. Pakistan did however mention that over 600 STRs were

filed by reporting entities upon refusal of financial services to proscribed individuals or entities. However, Pakistan provided no additional information on the FMU's use of these STRs or actions taken by LEAs, nor an explanation of why this total significantly exceeds the 198 STRs disseminated as terrorism/TF financial intelligence to the FIA⁴⁸.

304. Despite the ongoing high-profile operations of multiple UN-listed individuals and organizations inside of Pakistan, Pakistan reported it received zero requests and there are no examples of approving or licensing the use of assets or financial services in accordance with UNSCR 1452, which calls into question whether Pakistan is fully implementing UNSCR 1267 and its successor resolutions.

305. *Criminal confiscation related to terrorism and TF:* In addition to funds frozen under Pakistan's TFS regime, in Pakistan's 58 convictions for terrorist financing offences (see IO.9), PKR 14.46 million (USD \$107,111) has been confiscated. However, it is unclear if the confiscation amounts included in the below table reflect the value receipted by the state or orders stipulated by the court, and the value of seizures by LEAs was not provided. Pakistan indicated that the FIA has seized the following items in their TF cases (see IO.9 for detailed discussion of these cases). No further information was provided on these seizures.

- 45 properties located in Karachi worth of 3.5 billion PKR seized under s 5(5) of FIA Act 1974 in ML and TF cases;
- All bank accounts used for TF in terrorist attacks in foreign jurisdictions are seized and exhibited in court.
- A gas station located has been seized under s 5(5) of FIA Act 1974.

306. Pakistan did not provide details of asset confiscation in terrorism cases (see IO.8).

Table 4.4: Criminal confiscation

Confiscated Amount (PKR)				
Years	Punjab	Sindh	Balochistan	KP
2015	218,520 (USD \$1619)	5,000 (USD \$37)		515,000 (USD \$3815)
2016	60,913 (USD \$451)	10,700 (USD \$79)		261,000 (USD \$1933)
2017	59,110 (USD \$437)	10,600 (USD \$78)		1,016,010 (USD \$7526)
2018	1,353,457 (USD \$10,026)	10,169,900 (USD \$75,333)	701,050 (USD \$5193)	83,050 (USD \$615)
Total	1,692,000 (USD \$12,533)	10,196,200 (USD \$75,527)	701,050 (USD \$5193)	1,875,060 (USD \$13,889)

Consistency of measures with overall TF risk profile

307. *Consistency of actions taken pursuant to UNSCR 1267 with Pakistan's TF risk profile:* While banks have undertaken some freezing actions, overall, the value and number of accounts frozen is not fully consistent with Pakistan's TF risk profile, particularly in recent years. Furthermore, the level of screening and absence of freezing actions in all non-bank FIs and DNFBPs is not consistent with Pakistan's TF risk profile.

⁴⁸ It is also unclear to the assessment team if they are included in the 963 STRs disseminated as regulatory violations financial intelligence to the SBP or SECP.

308. Recent actions by Pakistan to take control of JuD and FIF property are positive steps to address some of Pakistan's key TF risks. However, Pakistan did not demonstrate to the assessment team that it has established effective asset management of this frozen property. Furthermore, Pakistan did not demonstrate that these actions are supporting broader CT/CFT strategy. For example, Pakistan provided no information on the prosecution of individuals and entities associated with the frozen property relating to TF, and continued freezing actions against JuD, FIF and other regional terrorist networks.

309. *Consistency of actions taken pursuant to UNSCR 1373 with TF risk profile:* Pakistan is proscribing individuals under the ATA pursuant to UNSCR 1373 consistent with provincial TF risk profile, and to some extent the proscription of individuals is supporting provincial CT/CFT strategy. However, as individual proscription decisions are made at the provincial level, Pakistan did not demonstrate they are part of a national CFT strategy. For instance, there do not appear to be any measures in place to vet and de-conflict efforts across provincial agencies that would determine if a proscription would actually assist in disrupting the activities of a larger terrorist network.

310. The comparatively small amounts of funds frozen in banks and MFBs and the level of screening and absence of freezing actions in all other non-bank FIs and DNFBPs is not consistent with Pakistan's TF risk profile. Pakistan did not provide information to demonstrate that FIs and DNFBPs across Pakistan are taking freezing actions based upon proscription decisions outside of their home province. The amount of funds frozen is also not commensurate with the level of operating activity of terrorist organisations in Pakistan, as evidenced by the large fleet of ambulances, staff, and property used by JuD/FIF. Pakistani FIs and DNFBPs do not have a good understanding of beneficial ownership (see IO.4), and as a result, Pakistan has not frozen any accounts for individuals acting for or on behalf of designated or proscribed individuals or entities.

311. *Consistency of NPO actions with TF risk profile:* While SECP is in the initial process of developing a targeted approach to outreach and oversight of the NPOs it licenses, these NPOs represent a small proportion of the total NPO sector in Pakistan, and overall, Pakistan has not adopted a targeted approach to the NPO sector that is consistent with its TF risk profile. At the time of the ME onsite visit, Pakistan was in the process of assessing the TF risks in the NPO sector as part of a broader update to its TF risk assessment.

Overall conclusions on Immediate Outcome 10

312. Pakistan has issued SROs to establish the legal requirement to implement all individuals and entities included on the UN 1267/1989/2253 and 1988 sanctions lists; however, pre-2018 these SROs were not issued without delay. Pakistan implements UNSCR 1373 through a proscription process, which differs between individuals and entities. At the time of the onsite, there were 66 entities and approximately 7,600 individuals proscribed in Pakistan. While banks have automated screening systems and have frozen funds pursuant to UNSCR 1267 and UNSCR 1373, most other FIs and DNFBPs are conducting manual screening during customer on-boarding at best and have not frozen any funds, which is not consistent with Pakistan's TF risks. Pakistan has taken some recent actions against some UN-listed terrorist organizations such as JuD/FIF but the assessment team has significant concerns on their continue operation in Pakistan and that actions are being applied to all terrorist organisations in Pakistan. Except for some initial actions by SECP, Pakistan has not adopted a targeted approach to the NPO sector that is consistent with its TF risk profile. These deficiencies require fundamental improvements.

313. **Pakistan has a low level of effectiveness for Immediate Outcome 10.**

*Immediate Outcome 11 (PF financial sanctions)**Exposure to WMD-related sanction evasion*

314. Pakistan has some exposure to DPRK and Iran financial activity and possible sanctions evasion. DPRK diplomats are present in Pakistan and have accounts in Pakistani banks. Pakistan's geographical context with Iran presents WMD proliferation and PF vulnerabilities, and Pakistan and Iran have trade relations.

315. Pakistan undertakes some on-going measures to limit exposure to sanctions evasion emerging from its proliferation-sensitive or military goods including but not limited to its export control activities. Pakistan relies on assorted laws (i.e. Export Control Act 2004 and the Chemical Weapons Convention Implementation Ordinance of 2000), SROs, and guidelines to license and enforce the import, export, and transit of nuclear materials, chemicals, biological substances, and munitions items.

Implementation of targeted financial sanctions related to proliferation financing without delay

316. There are moderate shortcomings in Pakistan's legal framework for TFS related to PF. With the issuing of SRO 1260(I)/2018 during the ME onsite visit, Pakistan has sought to oblige all natural and legal persons to monitor the relevant UNSC websites and automatically freeze and prohibit funds without delay upon listing, delisting and amendments (updates to listing) by the UNSC. However, as discussed in R.7, SRO 1260(I)/2018 contains no definition of who is obliged to freeze funds and who is prohibited from providing funds. There are additional requirements obliging banks, DFIs, MFBs, ECs, regulated persons and companies to comply with SROs (see R 7). However, there are no enforceable requirements for Pakistan Post, CDNS, cooperatives or DNFBPs to comply with SROs. Pakistan informed the assessment team that the scope of the term 'all concerned' is intended to have a wide interpretation; however, without a legal definition, Pakistan did not demonstrate that it is enforcing TFS for PF requirements on these FIs, DNFBPs and all natural and all legal persons in Pakistan. As a consequence it is unclear if these FIs, DNFBPs and all natural and all legal persons in Pakistan are required to implement TFS for PF.

317. Prior to SRO 1260(I)/2018, Pakistan issued an SRO to give domestic effect to each change in Iranian and DPRK designation. These are enforceable upon issuance by the SECDiv (see R 7). For designated Iranian individual/entities, on 18 February 2016 Pakistan issued SRO 172(i)/2016 to give effect to UNSCR 2231. While the implementation day of UNSCR 2231 was 16 January 2016, the impact of this delay on effectiveness is limited given that for the purposes of TFS for PF, UNSCR 2231 mainly contained de-listings. For DPRK designated individual/entities, on 16 October 2006 Pakistan issued SRO 1063(I)/2006 to give effect to UNSCR 1718. Since 2013 Pakistan has issued approximately eight other SROs to give effect to updates in DPRK designations. In general, these SROs were not issued without delay with SROs issued up to one month after updates in listing. All SROs issued prior to SRO 1260(I)/2018 have similar definitional shortcomings as discussed above (also see R 7).

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

318. As at the date of the onsite visit (October 2018), no funds or other assets of designated persons/entities had been identified or frozen.

319. On February 2018 under SRO 1067(I)/2018 Pakistan established the Committee for Coordination, Review and Monitoring of UNSCR Resolutions on Counter-Proliferation (CRCM). The CRCM is chaired by the Director General of the SECDiv and includes both the SBP, SECP and other relevant competent authorities as members (other competent authorities can be included at the discretion of the chair) with the mandate to; (i) coordinate, review and monitor the implementation and enforcement of TFS for PF; (ii) issue guidelines and conduct awareness raising, and (iii) exchange information. Pakistan indicated that the CRCM could be used to share information on sanction-evasion activity and other PF risks, but due to its recent establishment at the time of the onsite, it had not done so.

320. Prior to the establishment of the CRCM, the Inspection and Enforcement Team (IET), established in August 2016, was mandated to coordinate Pakistan's counter proliferation regime including TFS for PF. Between 2016 and 2018, the IET conducted five meetings and coordinated a number of counter proliferation activities including banning over-flights and refuelling stopovers of Air Koryo, and LEA actions against illegal activities of DPRK diplomats. In addition, since 2016 Pakistan has on-going monitoring of DPRK diplomat accounts in banks, which is used to detect illegal activity including transactions that may be related to proliferation. This on-going monitoring has not identified assets or funds owned or controlled by designated persons/entities.

FIs and DNFBPs' understanding of and compliance with obligations

321. Some general guidance has been provided to FIs on their TFS obligations relating to proliferation of WMD. Very little detailed outreach has been conducted or awareness-raising. During the onsite visit, most banks displayed a reasonable understanding of TFS obligations related to DPRK and Iran, and articulated to the assessment team that they are receiving SROs and have automated screening systems for all transactions and all customers. While no banks were aware of SRO 1260(I)/2018, their screening systems are automatically updated with new UN listings so the impact of this change is minimal on effectiveness. Banks also displayed a reasonable understanding of their obligations on the provision of funds or other financial services to designated DPRK individuals or entities. It should be noted that this positive outcome is the result of FI self-governance and awareness linked to the risk of international sanctions and the loss of correspondent banking services rather than the efforts of Pakistan authorities. Notwithstanding, as discussed below, Pakistan did not demonstrate that supervisory measures had been taken to support internal routines and allocation of resources within FIs for compliance with WMD-related TFS.

322. Even less support has been given to the non-banking sector for WMD-related TFS. During the onsite visit private sector representatives displayed varied levels of understanding of their TFS obligations. Some larger entities displayed a reasonable understanding of their obligations and had automated screening system for new and existing customers and to a lesser extent all transactions. All other FIs displayed a limited understanding of TFS obligations related to DPRK and Iran with many FI confusing TFS for TF and PF. Smaller FIs conduct manual sanctions screening against SROs, during customer on-boarding only. Most FI indicated they would not provide financial services to DPRK or Iran nationals, if identified. These FIs were not aware of the SRO 1260(I)/2018. As discussed below, Pakistan did not demonstrate that SECP has supervisory measures for ensuring and monitoring compliance exclusively with TFS for PF.

323. DFNBP displayed very limited understanding and implementation of TFS for PF obligations. Outreach and awareness-raising on WMD-related TFS has not occurred with this sector.

Competent authorities ensuring and monitoring compliance

324. Pakistan recently established the CRCM to coordinate, review and monitor the implementation and enforcement of TFS for PF and issue guidelines and conduct awareness-raising. At the time of the ME onsite visit the CRCM had held only one meeting and agreed to adopt a coordinated approach to outreach and awareness raising, and to undertake joint SECDiv and FBR-customs capacity building activities. Some outreach has occurred, but this has been limited to only one large public sector organisation, a private company and the Pakistan Chemical Manufacturer Association.

325. The IET coordinated a number of counter proliferation activities; however, Pakistan did not demonstrate that these activities, particularly on-going monitoring of DPRK accounts, were used to inform monitoring for compliance by SBP or SECP (see below).

326. Both SBP and SECP are undertaking some monitoring of FIs' routines for implementing WMD-related TFS as part of general supervisory actions on TFS (see IO.3). However, Pakistan did not provide evidence of monitoring actions focused on TFS for PF undertaken by SBP or SECP. No supervision of WMD-related TFS has been undertaken for other NBFIs or DNFBNPs.

327. SBP and SECP have issued AML/CFT guidance and undertaken some AML/CFT outreach including on WMD-related TFS as follows:

- The SBP issued guidance in 2015 (updated October 2018) to Banks, DFIs and MFBs on compliance with Pakistan's Notifications pursuant to UNSCRs⁴⁹, and conducted six AML/CFT outreach events since March 2016 that included elements and/or modules on TFS for PF (as discussed in IO.3).
- The SECP has issued guidance to all regulated persons on AML/CFT Obligations including TFS for PF⁵⁰, and conducted 12 AML/CFT outreach events since May 2017 that included elements and/or modules on TFS for PF (as discussed in IO.3).

328. While regulated persons are required to file monthly freezing minutes with the SECP, details of FIs and DNFBP compliance has not been provided. It is also unclear how these freezing minutes are used to inform SECP monitoring and enforcement actions.

329. There has been no guidance, outreach or monitoring of DNFBNPs.

Overall Conclusions on Immediate Outcome 11

330. There are moderate technical shortcomings in Pakistan's legal framework to implement TFS for PF, which impact on effectiveness. Despite this, banks have a reasonable understanding of their obligations and adequate screening systems but have not frozen any funds. There is no focus on screening for persons acting on behalf of, or at the direction of, designated persons or entities. The non-banking sector displayed a mixed understanding and only larger entities having automated screening

⁴⁹ See http://www.sbp.org.pk/L_frame/GuidelinesComplianceUNSCResolutions-09-Jun-2017.pdf

⁵⁰ <https://www.secp.gov.pk/document/guidelines-on-secp-aml-cft-regulations-2018/?wpdmdl=32289>

systems – they have not frozen any funds. Overall, there has been limited guidance and outreach to FIs. DFNBP's displayed very limited understanding and implementation of TFS for PF. Details of SBP's and SECP's monitoring of compliance was not provided to the assessment team.

331. These deficiencies require fundamental improvements.

332. **Pakistan is rated a low level of effectiveness on IO.11.**

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

- 1) CDNS, Pakistan Post and DNFBPs have very limited understanding of their ML/TF risks and AML/CFT obligations and are not implementing preventive measures.
- 2) Most FIs and DNFBPs have not, in practice, moved to a risk based approach to implementing preventive measures. Insufficient risk information is available to FIs and DNFBPs to support effective risk-based approaches.
- 3) All FIs (except CDNS and Pakistan Post) have a satisfactory understanding of their AML/CFT obligations but an insufficient understanding of their ML/TF risk. Banks are relatively more sophisticated in identifying, and to a certain extent, assessing their ML/TF risks. Overall, the application of a RBA is undermined by FIs' understanding of ML/TF risks.
- 4) The application of CDD requirements varies across the financial sector with the lack of understanding of ML/TF risk and application beneficial ownership requirements being the most serious deficiency. However, most banks have CDD policies and procedures based on a RBA, but do not demonstrate effectiveness in this area. Most FIs apply record-keeping requirements effectively.
- 5) While banks and ECs are implementing enhanced and specific measures, these are not sufficiently risk-based. All other FIs do not implement effective measures including in relation to PEPs and TFS.
- 6) Overall STRs reporting is not consistent with the make-up of Pakistan's financial sector and ML/TF risks. There has been no STR reporting by CDNS, Pakistan Post and DNFBPs.
- 7) Banks and ECs are implementing internal controls, but further improvements are needed to improve the compliance culture in these entities. Internal control requirements for non-bank FIs are new, and where they are implemented they have had limited impact on the compliance culture.

Recommended Actions

- a) Based on a comprehensive understanding of the ML/TF risk associated with CDNS, Pakistan Post, and DNFBPs, specific AML/CFT obligations should be extended to these entities.
- b) Regulators, supervisors, the FMU and LEAs should adopt a range of measures, to immediately increase REs understanding of their ML/TF risks in the specific context of Pakistan.
- c) Regulators, supervisors, the FMU and LEAs should adopt a range of measures, to immediately increase REs understanding of AML/CFT obligations and provide additional guidance on implementation of risk mitigation measures in the following priority areas: (i) enhancing the outreach and information sharing on ML/TF risks; (ii) issuing more detailed sector-specific guidance on risk and the RBA including the expectation of REs in relation to NRA findings; (iii) risk-based implementation of beneficial ownership obligations (iv) PEP obligations, (v) STR obligations, and (vi) identification and mitigation of TF risk.

- d) Authorities should focus on: (i) the robustness of FIs' risk assessments to ensure that these reflect actual threats and corresponding vulnerabilities exposing these institutions to risk; (ii) the effectiveness of FI's ongoing due diligence to ensure a continuous detection of risks; (iii) the consolidated supervision of financial groups, to ensure a robust management of ML/TF risks by these groups; and (iv) the implementation of AML/CFT compliance programs to mitigate ML/TF on the basis of ML/TF risk confronted by FIs.
- e) Supervisors should apply proportionate and dissuasive sanctions in relation to breaches of the requirements to enhance REs compliance of their AML/CFT obligations, (see IO.3).
- f) REs should take a more pro-active and diligent role in increasing their understanding of ML/TF risk and AML/CFT obligations by ensuring appropriate and adequate training programmes are designed or identified for their front-line staff, compliance officers and directors.

333. The relevant Immediate Outcome considered and assessed in this chapter is IO4. The recommendations relevant for the assessment of effectiveness under this section are R.9-23.

Immediate Outcome 4 (Preventive Measures)

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

334. With the exception of the banking sector, relatively little progress has been made in the implementation of a risk-based approach amongst FIs and non-FIs. The move to a risk-based approach among DNFBPs has not yet occurred. Assessment of Pakistan's ML/TF risk and detailed guidance on risk-based approaches were not available to FIs prior to 2017. Sharing NRA-findings with FIs was limited to presentations on the outcomes of the NRA process during Compliance Forum meetings.

335. With the exception of CDNS, Pakistan Post and smaller NBFIs, FIs appear to have a reasonable understanding of their AML/CFT obligations but an insufficient understanding of their ML/TF risks. Banks implement more sophisticated measures than other FIs to identify, and to a certain extent, assess their ML/TF risks. Overall, the application of a RBA is undermined by FIs' low level of understanding of their ML/TF risks.

336. CDNS and Pakistan Post have a more limited understanding of AML/CFT obligations (although these are not enforceable – see relevant recommendations in the TC Annex) and a low level of understanding of their ML/TF risks. DNFBPs have a poor level of understanding of their AML/CFT obligations (although these are not enforceable – see relevant recommendations in the TC Annex) and of their ML and TF risks.

337. The following comments rely primarily on discussions with FIs and DNFBPs during the onsite visit. Pakistan provided limited other evidence from reporting entities or competent authorities to demonstrate that reporting entities adequately apply AML/CFT preventive measures commensurate with their risks.

a) Banks, DFIs, MFBs and ECs

338. Some banks and ECs appear to have conducted internal ML/TF risk assessments. Risk factors, such as customer's identity, products/services, transaction channels and geography are assessed and customers are rated as high, moderate or low risk. While other banks and EC have undertaken self-

assessment gap-analysis, these are not ‘risk assessments’ per se but in the nature of self-analysis to identify gaps with SBP regulatory requirements relating to AML/CFT.

339. Banks appear to consider the proceeds of corruption, drug trafficking, smuggling and tax evasion as their key ML threats. This view is derived largely from the NRA in combination with their internal risk assessments. However, as discussed in IO.1, there is no public version of the NRA. SBP supervised entities received only an overview of the NRA findings during compliance forum meetings. Most banks identify ML vulnerabilities posed by geography inside Pakistan (e.g., FATA and KPK; border regions), or other countries (e.g. Iran and DPRK). Banks identify PEPs and NPOs as the highest ML risk customer-category and cash products, trade products, and remittances as the highest risk products/services. Concerns remain that banks lack an understanding of vulnerable delivery channels for ML. Overall, banks appear to have a reasonable understanding of customer ML risk but, particularly for smaller banks, this understanding may not extend to an understanding of enterprise level ML risk.

340. DFIs identify that the largest ML risk is the loan recipients with complex corporate structures. Some MFBs commented that their residual ML risk is low. Most ECs identify proceeds of corruption and smuggling as top threats of ML and PEPs as highest ML risk customer categories. Similar to banks, these FIs demonstrated a reasonable understanding of customer ML risk.

341. Banks, DFIs, MFBs and ECs appear to have a limited and mixed understanding of TF risk with their understanding mainly based on whether a customer was a listed or proscribed individual/entity. These institutions appear to have a limited and mixed understanding of TF vulnerabilities posed by geography, customers, products/services and delivery channels. For example, there are challenges with some institutions exposure to any TF risk while other entities consider that all products could be used for TF, or that TF risk is mainly restricted to the border areas.

342. Banks, DFIs, MFBs and ECs appear to have an adequate understanding of their AML/CFT obligations. These institutions appear to be quickly becoming aware of recent AML/CFT changes and additional requirements. Some institutions tend to apply standards going beyond domestic requirements, due to the purchase of IT solutions or databases from foreign third-party providers.

343. Most banks, DFIs, MFB and ECs generally assess the risk of customers and implement enhanced due diligence if their risk assessments identify higher risks. However, CDD measures, particularly enhanced CDD, seem to be uniformly applied to different risk situations and, therefore, not reflective of the risk-based approach. Only larger banks appeared to have designed and implemented mitigation measures somewhat adapted to customer ML/TF risks they identified. However, these measures are undermined by their limited understanding of ML/TF risks, particularly TF. Most banks, DFIs, MFBs and ECs take a zero-tolerance approach to some ML risks by refusing business with certain types of perceived higher risk customers (e.g. PEPs and NPOs) or transactions to or from specific jurisdictions.

b) NBFIs (including securities brokers, non-bank finance companies, insurance companies and modarabas)

344. Most NBFIs are in the process of undertaking internal ML/TF risk assessments. Overall, NBFIs have a limited understanding of ML/TF risks associated with customers, geography, product/services and delivery channels. Their understanding of ML/TF risks is restricted to transactions involving the use of cash, high value transactions and listed/proscribed individuals/entities. Concerns remain that many NBFIs consider that once on-boarding KYC/CDD and TFS screening are applied their residual

ML/TF risk is low to very low. Furthermore, while many NBFIs appear to be aware of the NRA, they generally do not agree with the findings.

345. Most NBFIs appear to understand their AML/CFT CDD and record-keeping obligations, and some larger institutions apply standards going beyond domestic requirements. However, smaller NBFIs appear to lack an understanding of reporting obligations (confusion between STR and CTR requirements) and TFS obligations.

346. Most NBFIs are in the early stages of implementing a RBA and are currently applying rules-based mitigating measures that do not reflect differing ML/TF risks. Most NBFIs appear to take a 'zero-tolerance' approach to some ML risks and would refuse business with certain types of perceived higher risk customers (i.e. PEPs and NPOs) if identified during customer on-boarding.

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c) DNFBPs

347. Overall, DNFBPs have a poor level of understanding of ML/TF risks and AML/CFT obligations. Concerns remain that real estate agents face challenges in understanding the extent of their ML risks, and the sector may consider that it is exposed only to low ML threat. Accountants highlight that the real estate sector is facing a high ML threat, especially related to tax evasion. The RBA has yet to be implemented by any DNFBPs. Some DNFBPs (real estate and DPS) verify identity of a limited range of customers by CNICs (national identity) but this is not done for the purpose of mitigating ML/TF risks. No other effective measures to mitigate risks are implemented.

Application of CDD and recordkeeping by FIs and DNFBPs

348. The application of CDD requirements varies across the financial sector with deficiencies related to beneficial ownership being the most serious deficiency. Customer identification and verification measures and ongoing due diligence are generally performed with limited effectiveness. Record keeping measures are relatively more effective. Banks demonstrated a better implementation of these requirements than other FIs, as discussed below in detail.

a) Banks, DFIs, MFBs and ECs

349. Most banks DFIs, MFBs and ECs have CDD policies and procedures. They profile every new customer and perform enhanced due diligence where the customer is high risk (i.e. PEPs, NPOs and correspondent banks). ECs consider risk factors like the customer's background, country of origin and apply EDD measures to NPOs, PEPs and other high risk customers. Banks, DFIs, MFBs and ECs implement identification measures and verification of a local individuals' identity through the system of NADRA including biometric verification, which is installed in banks, DFIs and MFBs' branches. Biometric verification is applied to prospective customers since June 2015. Banks and DFIs are advised to carry out biometric verification of all existing customers since October 19, 2018. NADRA verification is not free (a nominal fee is payable).⁵¹ Banks, DFIs, MFBs and ECs appear to apply a more limited use of other sources of reliable, independent-source documents and data or information to verify customer identity.

350. Banks, DFIs, MFBs and, where applicable, ECs, conduct periodic reviews and updating of documents, data and information collected under the CDD process. Efforts of most of these FIs appeared to be based on periodic updating plans, with higher frequency for higher risk customers. Banks did

⁵¹ In general, NADRA levies a fee of PKR 25 (USD\$ 0.18) and there is a discount rate for financial inclusion purpose (i.e., the charge for MFB is PKR 4).

provide some limited examples of where business was refused or accounts were closed when ongoing customers CDD information is incomplete or cannot be completed.

351. Regarding financial inclusion, in line with the *National Financial Inclusion Strategy Pakistan* some banks and MFBs have adopted some simplified CDD measures as part of a tiered approach to know-your-customer (KYC) requirements for low risk bank accounts such as Asaan⁵² accounts. These banks and MFBs have implemented commensurate risk-mitigation measures, such as limits on the monthly debit turnover or transaction amounts.

352. Most banks, DFIs, MFBs and ECs are applying record-keeping requirements effectively. CDNS and Pakistan Post identify customers under rules-based policies using CNICs with their use of other sources of reliable, independent sources document and data or information to verify the customers being limited. Where on-going monitoring is applicable it appears to be rules based with a lack of refusal of or accounts were closed when ongoing customers CDD information is incomplete or cannot be completed. AML/CFT related recordkeeping is more limited.

b) NBFIs (including securities brokers, non-bank finance companies, insurance companies, and modarabas)

353. Most NBFIs are commencing processes to implement risk-based CDD measures. At the time of the onsite visit some NBFIs appeared to conduct identification and verification measures that are not adapted to business relationships presenting higher risks (e.g., no additional measures regarding non-resident customers or foreign companies). Overall, NBFIs appear to place an over reliance the national ID card with verification done through the NADRA. Use of other sources of reliable, independent sources document and data or information to verify customers appear very limited. Most FIs conduct periodic reviews and updating of documents, data and information collected under the CDD process. Due to the deficiencies in customers' risk profiling mechanisms; it is unclear if NBFIs effectively maintain documents, data and information in an up-to-date manner. NBFIs met by the evaluation team stated that they seldom refused or closed business relationship with ongoing customers when CDD information is incomplete or cannot be completed. Supervisory findings commonly reflect breaches related to failure in updating customer information.

354. Most NBFIs apply record-keeping requirements effectively. However, some institutions were penalized for noncompliance with record keeping requirements.

355. *Identification of BO by all FIs:* There are challenges with all FIs' understanding of the concept of beneficial ownership and identification and verification during CDD. In general, banks and ECs understanding of beneficial ownership is focused on the natural persons that exert control through ownership interests, and are satisfied with verifying the identity of beneficial ownership only through incorporation documents. Insurance companies displayed a rudimentary and flawed understanding of beneficial ownership and consider the beneficial owner to be a nominee. The assessment team has concerns that NBFIs lack an understanding of the concept of beneficial ownership. No FIs have refused business when beneficial ownership information could not be obtained or verified.

c) DNFBPs

356. DNFBPs only apply customer identification measures prescribed in business regulations which are rules-based. DNFBPs' understanding of CDD is limited to verification of CNIC, and they have very limited understanding of BO, ongoing due diligence, and have very limited examples of refusal to

⁵² Accounts available to low risk customers to receive home remittances.

provide client services for incomplete CDD. Record keeping is limited to transaction records and client identity documents as detailed in their business regulations.

Application of EDD measures

a) Banks, DFIs, MFBs, ECs and NBFIs (including securities brokers, non-bank finance companies, insurances and modarabas)

357. Overall, FIs are limited in their effective application of EDD measures. Measures applied to PEPs are not effective especially considering the significance of corruption (which is accepted by FIs in Pakistan as a high risk predicate offence). Measures related to correspondent banking relationships, new technologies, and wire transfers are relatively more effective. The implementation of TFS is not effective considering Pakistan's significant TF risks. Measures related to higher-risk jurisdictions are not commensurate with the risk. CDNS, Pakistan Post and DNFBPs do not apply EDD measures. Banks (including DFIs and MFBs), and to a lesser extent ECs, have relatively more sophisticated EDD measures than NBFIs, as discussed below in detail.

(i) PEPs

358. Pakistan faces very serious ML risks from PEPs and their families and associates, in particular domestic PEPs. It is not clear that sufficient guidance on risk and risk mitigation has been provided to support a RBA related to the implementation of PEP obligations. Those FIs that do focus on implementation of PEP obligations appear overly reliant on name matching with PEP databases.

359. Most banks (including DFIs and MFBs) and some large NBFIs have policies/procedures and are using automated IT solutions to screen for PEPs and have implemented enhanced and specific measures for PEPs, such as senior management approval before initiating a business relationship and some checks on the source of funds. While smaller NBFIs have indicated that they take a zero-tolerance approach to PEPs and do not establish business relationships with PEPs; however, concerns remain that they lack proper risk management systems to identify PEPs.

360. Regarding the identification of PEPs, only larger banks appear to have risk management systems to identify foreign and domestic PEPs including family members and close associates. Most ECs and NBFIs have inadequate identification systems and understanding of PEPs including only maintaining lists of domestic PEPs; manually checking customers' names against persons in the national assembly or provincial assembly; and do not consider military officials as domestic PEPs. All FIs consider the identification of PEPs a challenge particularly identification of beneficial owners that are PEPs. Furthermore, supervisory findings commonly reflect breaches related to the updating of list, identification, marking and approvals of PEPs.

(ii) Correspondent banking

361. In general banks appear to be implementing correspondent banking requirements consistent with the FATF standards including in relation to payable-through accounts. When providing correspondent banking relationships they implement specific measures before engaging with respondent banks, such as gathering information on the respondent's business and AML/CFT controls and obtaining senior management approval. Authorities noted 12 cases in the last two years where local banks refused to enter into business relationship with foreign correspondents because full information to comply with due diligence requirements or satisfactory answers were not provided. It

appears that banks do not establish business relationships with respondent banks from some high risk jurisdictions or shell banks.

(iii) New technologies

362. Although requirements were very new for most FIs (see R.15), it appears that some large banks have assessed the risk of new products, practices, and technologies prior to launching (e.g. ATMs) and have developed internal policies and procedures to address the identified risks. Smaller banks are not adequately assessing the risk associated with new technologies before implementation. Where NBFIs are implementing new technologies, risk assessments and internal policies and procedures are not being developed and implemented prior to launch.

(iv) Wire-transfer rules

363. Banks and ECs have demonstrated an understanding of wire transfer rules, including ensuring that necessary originator and beneficiary information is included when initiating, forwarding, or receiving a wire transfer. If a transfer is rejected by the receiving bank due to incomplete information, banks and ECs will seek to complete the information and resend the transfer. Institutions reject wire transfers received if necessary information is lacking. It is not clear how effectively originating banks are implementing this requirement considering the weaknesses in their CDD which are likely to affect the accuracy and veracity of information of originators of transfers.

364. Regarding batch files, there is no requirement for batch files to contain information required under R 16. Pakistan indicated that in processing batch wire transfers, all banks/DFIs and ECs are required to identify, verify, and record adequate details of originator information in every single wire transfer transaction. However, it was not demonstrated that this is occurring in practice. Without a prohibition on batch files, enforceable requirements covering c.16.2 and evidence from FIs or competent authorities to the contrary, the assessment assumes FIs' batch files do not always include adequate information to be fully traceable within Pakistan.

(v) Targeted financial sanctions –TF

365. Pakistan faces significant risks of TF. Banks, DFIs, MFBs, ECs and some larger NBFIs conduct automated screening of new and existing customers against the UN lists and those proscribed under the ATA. As discussed in IO.10, only banks have frozen accounts of designated individuals, and since 2016 only one account has been frozen pursuant to UNSCR 1267. Regarding UNSCR 1373, no freezing of proscribed organisations accounts have occurred, but since 2016, 4,770 proscribed individuals bank accounts (value of ~USD \$320,074), and 1,441 proscribed individuals MFB accounts (value of ~USD \$14,444) have been frozen. Additionally, there are several instances where banks conducted queries with SBP regarding false positives. ECs have not frozen any funds, and SBP's supervisory findings of banks and ECs commonly reflect breaches related to deficiencies in screening and freezing mechanisms.

366. All other FIs are manually screening for TFS for TF during on-boarding of customers only, and rely on SROs disseminated by competent authorities, which are not issued without delay (see IO.10). There have been no funds frozen by all other FIs. Supervisory findings reflect breaches related to incomplete scope of screening, such as not screening all transactions/customer types.

367. Additionally, for all FIs, screening against parties to transactions is limited; very little focus is given to apply TFS to persons/entities working on behalf or at the direction of designated or proscribed persons/entities; and due to deficiencies in understanding and obtaining BO information, TFS for TF

are not applied to designated persons that are beneficial owners. Furthermore, the lack of publicly available information on proscribed individuals undermines FIs screening processes (see IO.10).

(vi) Higher-risk countries identified by FATF

368. Except for CDNS and Pakistan Post, most FIs demonstrated an understanding of higher-risk jurisdictions such as Iran and DPRK. The requirement for banks to apply enhanced due diligence to business relationships and transactions (not just correspondent relationship) from higher-risk jurisdictions are newly introduced in October 2018. Banks and other FIs indicate that they take a zero-tolerance approach to higher-risk jurisdictions and do not establish business relationships or conduct transactions with natural and legal persons from higher-risk jurisdictions.

5

b) DNFBPs

369. DNFBPs are not applying enhanced or specific measures for PEPs, new technologies or TFS for TF. This is mainly due to a lack of understanding associated ML/TF risk, understanding of their AML/CFT obligations and/or lack of AML/CFT requirements.

Reporting obligations and tipping-off

370. The FMU publishes some case studies on its website and SBP and SECP both provide some information on emerging trends and other AML/CFT issues to improve STRs reporting, but these activities are general in nature and there is limited follow-up with reporting entities on the nature and quality of their STRs. Overall, STR reporting is not consistent with Pakistan's ML/TF risks and the make-up of Pakistan's financial sector - there has been no STR reporting by CDNS, Pakistan Post and DNFBPs, and very limited reporting by foreign banks and NBFIs (see IO.6).

a) Banks, DFIs, MFBs and ECs

371. The lack of good information on ML/TF risk undermines STR reporting by banks as well as DFIs, MFBs and ECs. Commercial banks and ECs (Category A) are reporting the vast majority of STRs, which includes STRs for attempted and rejected transactions, media coverage of crime cases, and inconsistencies in customer profiles. While commercial Banks represents a large proportion of the financial sector, reporting by all other banks (including DFIs, MFBs and foreign banks) and ECs (Category B), is not consistent with their ML/TF risks – since 2017 reporting by MFBs has improved.

372. As noted in IO.6, STRs filed with the FMU are not reported “promptly”. Overall, banks and ECs appear to file STRs on average seven working days following a confirmed suspicion of ML and/or TF.

373. FIs are not required to identify suspicion of a specific predicate offence while submitting STRs. So STRs are usually reported on the basis of conduct of the customer's account, transaction patterns and any transaction-irregularity which contradicts with the overall profile of the customer. While the reasons for STRs submission are unclear and banks indicated they have developed their own red flag scenarios and alerts, FMU disseminations suggest these tools need further refinement, particularly in relation to TF and that supervisors need to provide more guidance on reporting STRs.

374. Banks and ECs do report attempted transactions involving suspicion and STRs when they reject transactions with natural and legal persons from higher risk jurisdictions. Banks and ECs have mechanisms to prevent tipping-off such as making it part of Code of Ethics which is signed by employees and directors and implementing employee due diligence policy and procedures for hiring employees with a clean history.

375. Regarding terrorism and TF, Pakistan indicated that banks have submitted approximately 163 STRs on TF in the period under review, this is not consistent with the level of Pakistan's TF risk. Authorities state that most of these STRs were on proscribed individuals and individuals associated with proscribed entities and were from high-risk geographic areas.

b) NBFIs (including securities brokers, non-bank finance companies, insurance companies, and modarabas)

376. Since 2015 there has been a total of 10 STRs submitted by NBFIs. This is not consistent with Pakistan's ML/TF risks, the size of the sectors and risk ratings in the NRA. In general terms, these FIs do not have transaction monitoring systems with adequate red flags, scenarios and alerts to identify suspicious transactions.

c) DNFBPs

377. While DNFBPs are required to submit STRs (see R.23), no DNFBP has actually submitted an STR to the FMU. This is not consistent with Pakistan's ML/TF risks.

Internal controls and legal/regulatory requirements impending implementation

378. Banks (including DFI and MFB), and to a lesser extent ECs, have relatively more sophisticated internal controls than NBFIs and DNFBPs, as discussed below in detail. CDNS and Pakistan Post are not subject to enforceable internal control requirements (see R 18).

a) Banks, DFIs, MFBs and ECs

379. Banks, DFIs, MFBs and ECs are implementing internal controls and have AML/CFT compliance officers, screening new staff, and have on-going training programmes and internal audit functions in place. To some extent, these controls; (i) are undermined by FIs' understanding of ML/TF risks, (ii) are not ensuring STR reporting consistent with risk, and (iii) supervisory findings commonly reflect breaches related to independence of compliance officers, limited oversight of board and senior management and capacity issues.

380. Though not required for FIs except Regulated persons, some financial groups have developed and implemented AML/CFT policies at the group level to the extent possible under the current legal framework. However, sanctions applied by foreign regulators on branches operating abroad suggest that group-wide AML/CFT programs implemented by financial groups are generally not effective, since it does not ensure that stricter standards are implemented when there are jurisdictional STR reporting and TFS differences. Foreign FIs in Pakistan are allowed to share information required for the purpose of AML/CFT with their headquarters in home countries once they get permission from supervisors of Pakistan.

b) NBFIs, securities brokers, non-bank finance companies, insurance companies and modarabas

381. Internal control requirements for NBFIs are newly introduced by SECP in June 2018, and at the time of the ME onsite, NBFIs were in the process of implementing the new requirements. Where internal controls such as audits and training programmes are implemented, they are not adequately implemented with regard to ML/TF risks and they are not sufficiently sophisticated to improve the skills of staff with AML/CFT responsibilities (i.e., low STRs reporting by NBFIs).

c) DNFBPs

382. DNFBPs are not implementing programs against ML/TF. This is primarily due to the lack of regulatory requirements.

Overall Conclusions on Immediate Outcome 4

383. With the exception of CDNS, Pakistan Post and smaller NBFIs, FIs appear to have a reasonable understanding of their AML/CFT obligations. Although banks have a relatively better understanding of ML/TF risks, the understanding of ML/TF risk overall by FIs is insufficient and is not supported by regulators, LEAs and the FMU. Overall, the application of a RBA is undermined by FIs' understanding of ML/TF risks. The application of CDD measures, especially regarding beneficial ownership, is not effective. While the reporting of suspicious transactions in commercial banks and ECs roughly represents the make-up of the financial sector, reporting by all other FIs is not consistent with Pakistan's ML/TF risks. While banks, DFIs, MFBs and ECs are implementing enhanced and specific measures, all other FIs are not implementing effective measures including in relation to PEPs and TFS. CDNS, Pakistan Post and DNFBPs have very limited understanding of their ML/TF risks and are not implementing preventive measures. These deficiencies require fundamental improvements.

384. **Pakistan has a low level of effectiveness on IO.4.**

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

- 1) Pakistan has controls in place to prevent criminals and their associates from entering the market. However there are deficiencies in the screening process as follows: reliance on integrity-information for key executives is solely furnished by MFBs and the absence of a screening process for senior management of NBFIs and modarabas. It is not clear that risk mitigation is sufficiently considered in the application of market entry controls.
- 2) Pakistan is taking some enforcement actions against Hawala/hundi under the Foreign Exchange Regulation Act 1947. However, due to a lack of detailed information from Pakistan authorities, it is unclear how well breaches are detected; and the dissuasiveness of sanctions could not be established.
- 3) SBP and SECP do not have a clear understanding of Pakistan's overall ML and TF risks, nor do they have a clear understanding of the ML and TF risks unique to the sectors they supervise.
- 4) SBP is improving its risk-based approach to prioritise supervision consistent with the findings of risk assessments and is using a range of sanctions at its disposal for regulatory breaches of AML/CFT obligations. Some improvement in AML/CFT compliance is evident as a result of SBP's supervision, but the value of monetary sanctions imposed is low.
- 5) SECP has not implemented a risk-based supervisory approach, and it has not conducted any AML/CFT supervision of the insurance sector. AML/CFT supervision of other sectors has been limited to KYC/CDD requirements. Sanctions for non-compliance are limited. There is little evidence that SECP's supervisory activity is improving AML/CFT behaviour.
- 6) There is no AML/CFT supervisory oversight of Pakistan Post, CDNS and DNFBPs.

Recommended Actions

- a) Develop, implement and effectively enforce an AML/CFT regulatory and supervisory framework for Pakistan Post CDNS, and all DNFBPs, and establish supervisory controls with regard to ML/TF risks with high priority supervision on real estate dealers and precious metal and gems dealers.
- b) Continue to develop and enhance the risk-based assessment supervision across different regulated entities and between different regulators.
- c) Ensuring supervisors are undertaking a full range of supervisory practices for both on-sites and off site supervision that are complementary and commensurate with risks of FIs and DNFBPs.
- d) Enhance enforcement actions against Hawala/hundi under the Foreign Exchange Regulation Act 1947.
- e) Review the existing penalty framework and the policy by which penalties are imposed to ensure that applicable administrative, civil and criminal sanctions are proportionate, effective and dissuasive and are applied consistently to fast-track improved compliance.
- f) Continue to develop risk-based supervision capacity within SBP and SECP.

- g) Enhance sector outreach to all reporting entities and develop a variety of programmes to assist in improving reporting entities' understanding of risks.
- h) SBP and SECP should continue enhancing the coordination forum and guidance feedback sessions with all stakeholders across regulated FIs and LEAs.

385. The relevant Immediate Outcome considered and assessed in this chapter is IO3. The recommendations relevant for the assessment of effectiveness under this section are R.26-28 and R.34 and 35.

Immediate Outcome 3 (Supervision)

Background

Tables 6.1: Entities/persons supervised by SBP and SECP (August 2018)

SBP regulated entities	Number of entities
Banks	
Public Sector Banks	5
Specialized Banks	4
Private Commercial Banks	15
Islamic Banks	5
Foreign Banks	5
Total banks	34
Micro finance banks (MFBs)	11
Development finance institutions (DFIs)	9
Exchange companies (ECs)	
ECs – type A	27
ECs – type B	25
Total ECs	52
Total regulated entities	106

SECP regulated persons	Number of persons
Securities Brokers	227
Non-Bank Financial Companies (NBFIs)	70
Modarabas	29
Insurance Companies	50
Total regulated entities	376

386. Pakistan Post and CDNS are part of the government of Pakistan and offer financial saving accounts, saving certificates, and prize bonds. However, as noted in the TC Annex, neither are supervised for AML/CFT. The deposit-taking activities are mainly for general revenue financing for the government.

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

387. Banks, DFIs, MFBs and ECs are required by law to be licensed by the SBP. The securities sector, NBFIs, modarabas, and insurance are required to be licensed or registered by the SECP. However, DNFBPs are not obliged to be licensed by their professional bodies or associations other than registration for membership purposes. There is no supervisory regime for any of the DNFBPs.

*State Bank of Pakistan (SBP)*⁵³

388. SBP conducts licensing and supervising activities for banks, DFIs, MFBs, and ECs. A screening process, known as the 'Fit and Proper Test' (FPT), is designed to reduce the likelihood of criminals and their associates from owning or operating reporting entities. FPT criteria include checks for criminal convictions, integrity, honesty, reputation and track record. These criteria are applied to sponsors (both individual and companies) for banking license applications, investors acquiring strategic control, major shareholders in banking companies, and the appointment of directors, CEOs, and key senior executives. The FPT process includes misconduct/violation checks within SBP and other agencies as well as foreign counterparts. SBP circulates information checks internally and also send confirmation letters to domestic and international counterparts.

389. For MFBs, FPT is applied when reviewing licensing applications and appointment/re-appointment of board members and CEOs. For key executive appointments, SBP's prior approval is not required, however MFBs are required to furnish information that those executives meet the FPT criteria. In this regard, SBP relies on information provided by MFBs about the integrity of their key executives - a significant deficiency for MFB's screening process.

390. The screening for ECs' licensing process is applied through the issuance of a 'No Objection Letter' (NOC) mechanism by SBP for EC's application/establishment. Further, SBP's prior approval is required for any changes in any significant parameters including, but not limited to, directorship, shareholding, and chief executive officer.

391. Between 2016 and 2018 there were 33 cases where information on foreign nationals was sought from foreign central banks/regulators to meet FPT criteria.

392. In relation to preventing beneficial owners becoming significant controlling shareholders of regulated FIs, SBP analyses control pattern and structures of FIs, and requests information on natural persons if shareholders are legal persons. SBP also performs screen checks against UNSCR lists.

393. Between 2016 – 2018 the following actions were undertaken by SBP:

- Four banks/MFBs licencing applications were received: two applications were fully compliant with SBP's requirements. The remaining two are on hold as they were not able to fulfil SBP's requirements.
- One licence application was rejected due to a prospective investor failing to comply with FPT requirements when acquiring a private bank.

⁵³ In this section, 'sponsors' refers to individuals or companies as shareholders of a bank that holding sponsor shares. 'Sponsor shares' mean 5% or more paid-up shares of a bank. (Source: BPRD Circular No. 04 of 2008 re: Deposit of Sponsor Shares in Blocked Account with Central Depository Company of Pakistan (CDC).

- 13 EC applications were declined. The reasons for rejection included: apparent beneficial owner was associated with one of the UNSCR list; beneficial owner was different from the intended applicant; and proposed directors were involved in illegal foreign exchange cases.

394. After licenses have been approved, SBP continues to check FPT criteria during their on-site and off-site inspections, including during thematic reviews. In addition, ECs have a limited license period (three years). Licences need to be renewed based on the review of ECs operational performance by SBP. No data or statistics were provided to show how many cases of ongoing monitoring by SBP were able to detect subsequent non-compliance with FPT requirements.

395. Hawala/hundi is illegal in Pakistan under the Foreign Exchange Regulation Act 1947 (see R.14). Pakistan is taking some enforcement actions against hawala/hundi under that Act. However, due to a lack of detailed information from Pakistan authorities, it is unclear how well breaches are detected; the number of visits / raids by FIA that result in seizures and arrests; and the dissuasiveness of sanctions could not be established as there is no information available on length of sentence and/or size of fine relative to assets seized.

Table 6.2: FIA enforcement action under FERA against hawala/hundi since 2015

Zones	Cases reg'd	Seized amount; case property	Arrested	Cases under investigation	Cases at trial	Convictions	Acquittals
KPK	582	PKR 704.118 M (USD \$5.26M)	638	68	269	200	45
Punjab	519	PKR 1,386.54 M (USD \$ 10.27M)	737	89	276	86	68
Islamabad	54	PKR 100.86 M (USD \$747.1K)	69	7	9	32	6
Baluchistan	116	PKR 78.744 M (USD \$583.29K)	184	29	7	59	21
Sindh	76	PKR 386.31 M USD \$2.86M	150	32	37	1	6
Totals	1347	PKR 2.656 B (USD \$19.67M)	1778	225	598	378	146

Securities and Exchange Commission of Pakistan (SECP)

396. SECP also has 'Fit and Proper Criteria' (FPC) to assess integrity (including criminal record checks), honesty, reputation and track record of persons/parties involving in the business of the companies:

- For the securities sector, the FPC is applied to sponsors and/or directors who want to engage in securities businesses or wish to become the beneficial owner or significant controlling interest in, or the holder of, a senior management function in a company.
- For NBFIs, the promoters, directors, chief executive and chairman of the board of directors must meet the FPC criteria.
- For modarabas, the criteria are only applied for members of the board of directors and sponsors. However, during onsite visits the requirements were amended to include ultimate beneficial ownership of promoters and major shareholders.
- The absence of a screening process for senior management of NBFIs and modarabas is a significant deficiency.
- For insurance companies, there is a requirement to have sound and prudent management, in which a person holding the position of chairman or CEO should be a fit and proper person in

terms of experience or qualifications. A person is deemed not fit and proper if any association of that person, for whatever reason, is detrimental to the interests of the insurer. In addition, the requirement to check for criminal convictions by directors is required by the Companies Act 2017.

397. Information is checked against enforcement actions within SECP's department and other counterparts (including SBP). In addition, SECP performs screen checks against the UNSCR lists before regulatory approval is given. Compliance with FPC criteria is ongoing. Changes to any persons' conditions with reference to the FPC criteria is required to be reported to the reporting entity within three business days and SECP within seven business days. Ongoing monitoring with FPC requirements by SECP occurs during regular inspections (on-site or off-site) with sanctions imposed for breaches.

398. Pakistan provided no evidence of rejection because of positive criminal background checks or any issues related to AML/CFT requirements at initial licensing/registration or during on-going monitoring.

DNFBPs

399. Casinos, and gaming in general, are prohibited in Pakistan.

400. There are no licensing requirements for real estate dealers, and precious metals and stone dealers in Pakistan.

401. Accountants, lawyers, and notaries are required to register their businesses with professional associations. However, the fit and proper requirements for these DNFBPs relate only to educational and professional background requirements. With the exception of lawyers, there are no general requirements relating to criminal background checks and therefore no controls to prevent criminals and associates from owning or controlling DNFBPs.

Supervisors' understanding and identification of ML/TF risks

State Bank of Pakistan

402. As noted in chapter 1, Pakistan's NRA concluded that the banking sector has a medium vulnerability to ML and TF. However, SBP officials, while agreeing with the overall sector rating, were not clear on how the rating was arrived at. SBP did agree that differing banks have differing risk ratings and that some of the banks in Pakistan were, in their view, high risk. However, SBP was not able to articulate how these varying institutional risks were consistent with the overall sector risk of 'medium'. SBP has a greater focus on banks than other sectors it supervises. Banks comprise of approximately 74% of financial sector assets in Pakistan. However ECs have reported the second largest reporting numbers of STRs and EC-Bs are rated the same as banks in the NRA – medium risk. SBP's understanding of ML risks relative to each sector is mixed and its level of TF risk understanding was unclear.

403. SBP has not undertaken any formal ML/TF sectoral risk assessments.

Securities and Exchange Commission of Pakistan

404. SECP participated in the development of the 2017 NRA. SECP was also (like SBP) unclear how risk-ratings for each sector it supervises was arrived at despite agreeing on the overall ratings for each

sector. Like SBP, the understanding by SECP of TF risks was not as clear as it was for ML risk. SECP was not able to fully articulate how the risks differ despite having differing typologies in Pakistan.

405. SECP has not undertaken any formal ML/TF sectoral risk assessments.

406. For the securities sector, SECP has developed its ML/TF risk understanding by profiling securities brokers based on cash transactions details, results of off-site AML/CFT inspections, composition of clients, and size of assets held. The risk profiling assessed 239 securities brokers and classified 30 brokers as high risk, 33 brokers as medium risk, and the remaining 176 as low risk.

407. SECP has a risk profile of the insurance sector based on volume and size of transactions. Among 50 insurance companies, nine (9) are life insurance companies and 41 are non-life insurance companies. SECP has given risk rating of the life insurance companies as follow: two (2) are rated as high risk; two (2) are rated as medium risk, and five (5) insurers are rated as low risk. SECP did not indicate risk ratings relating to non-life insurance companies. This shows that SECP has not comprehensively assessed the overall ML/TF risks in the insurance industry. In addition, SECP has identified that single premium life insurance products is the high risk area therefore SECP has to approve transactions within a certain threshold for a single life insurance products.

408. SECP has only recently developed risk profiling for NBFIs and the modaraba sector and has identified seven asset management companies, one leasing company, and two modaraba as high risk.

DNFBPs

409. While there are significant ML/TF risks in the DNFBP sector, DNFBPs are not supervised for AML/CFT compliance in Pakistan.

Risk-based supervision of compliance with AML/CFT requirements

State Bank of Pakistan (SBP)

410. The SBP uses a 'Consolidated Assessment of Internal Controls' framework which contains an assessment component referred to as 'Components of Controls for Operational ML/TF Risk Management'. In that matrix the SBP assesses a financial institution's AML/CFT controls across four areas: control environment risk assessment and integration; control activities; software and systems; and monitoring and corrective measures. Each of these four areas contains a very detailed check list of risk factors relating exclusively to AML/CFT measures internal to each bank. The SBP has used this framework for both general and thematic inspections. From 2016 to 2018, SBP conducted a number of general and thematic reviews focused inspections in the followings areas:

- a. Assessment of compliance with AML/CFT regulations;
- b. Transaction monitoring system;
- c. Customer risk profiling and e-KYC mechanism;
- d. Trade-based money laundering risk;
- e. Assessment of compliance with FATF recommendations;
- f. ML risk assessment in sale/purchase of currencies in Exchange Companies; and
- g. Implementation of UNSC's sanctions regime within FIs.

411. Pakistan has indicated that SBP conducted focused TFS compliance supervision mostly for banks in 2018 in which enforcement actions were taken against eight (8) banks and imposed penalties

of PKR 460.960 million (USD \$3.415 million), for maintaining/ not freezing accounts/funds relating to associates of proscribed persons.

Table 6.3: AML/CFT supervision findings for banks, DFIs and ECs

SBP Regular Inspections: Banks/DFIs/MFBs:			
Period	Number of FIs	Scope of Inspections	Findings re: AML/CFT deficiencies
2016-2017	16 Banks 4 MFBs 1 DFI	Full scope	Lack of oversight of board and management in implementing AML/CFT regime, KYC/CDD issues, no customer risk profiling, no transaction monitoring system, the need for capacity building, etc.
2017-2018 (to June 2018)	15 Banks 6 MFBs 3 DFIs	Full Scope	
SBP Regular inspections: Exchange Companies (ECs)			
Period (July – June)	Number of FIs	Scope of Inspections	Findings: AML/CFT Deficiencies
2016-2017	16 ECs	Full scope	Lack of oversight of board and management in implementing AML/CFT regime, KYC/CDD issues, no transaction monitoring system, the need for capacity building, etc.
2017-2018	14 ECs	Full Scope	
SBP thematic AML/CFT inspections			
Thematic area	Number of FIs	Findings re: AML/CFT deficiencies	
AML/CFT policies	9 Banks	Screening and freezing mechanism, senior management oversight of AML/CFT, PEPs identification, CRPs not link with TMS	
Trade-based money laundering (TBML)	11 Banks	Middle management awareness of TBML, Banks missing TBML strategy, non-coverage of TBML risk in KYC policy, no training for staff in the field of TBML	
Transaction monitoring system (TMS)	8 Banks	Absent of TMS in the banks, lack oversight of TMS issues, no alerts on the transaction threshold	
ML risks in sale purchase of currencies in ECs	5 ECs	ML risks awareness in operational level, CDD implementation in buying/selling currencies	
Customer risk profiling and e-KYC banks mechanism	6 Banks	Lack oversight of board and management, non-updated list of prescribed entities, designated nationals, fourth schedule, PEPs, and lack of compliance role in screening, PEPs and fourth schedule	
SBP special inspections/investigations			
Period (July – June)	Number of FIs	Scope of inspections	Findings: AML/CFT deficiencies
2016-2017	9 ECs	- Support to FMU with respect to financial intelligence - Resolving complaints and queries	Identification of illegal and fraudulent practices, gaps in CDD, customer profiles, TMS alert management mechanism on breaching regulatory requirements

2017-2018	20 STRs	• Support to FMU with respect to financial intelligence • Resolving complaints and queries	
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412. SBP performs its on-site supervision based on the international 'CAMELS' framework: a mix of rule-based and risk-based principles with a particular focus on prudential concerns. This framework consists of six aspects: capital, asset, management, earning, liquidity, and systems and control. The last aspect - systems and control - is used to assess banks' internal control, including ML/TF risks. Further, with regard to ML/TF risks specifically, SBP has developed a risk-based assessment matrix to incorporate the level of effectiveness of controls and the intensity of inherent risks to arrive at residual ML/TF risks in banks. SBP has started to consolidate this ML/TF risk matrix into the overall CAMELS framework to have a consolidated risk framework for the overall bank's supervision purposes. This consolidation shows that ML/TF risks have become part of banks' supervision regime.

413. SBP conducts off-site supervision in order to collect data and information along with on-site inspections to ensure the application of proper controls and risk management. Off-site supervision and enforcement activities are intended to monitor corrective actions after on-site inspections in order to fulfil FI's AML/CFT obligation. SBP did not provide further data or to demonstrate the detail of off-site supervision activities by SBP.

414. SBP has three broad supervisory areas with over 340 staff in total:

- Supervision and monitoring (on-site and off-site inspections): 172 officers
- Policy area (Banks, ECs, Microfinance, Payment System): 140 officers
- Banking Conduct and Consumer Protection: 30 officers.

415. In each supervisory area there are focal AML/CFT officers to ensure monitoring, enforcement and compliance with AML/CFT requirements. The SBP has recently established risk-based supervision but mostly for the banking sector with lesser focus on DFIs and ECs. SBP's lack of focus to implement an effective risk-based supervision framework within these entities given their risk profile, including consideration of individual bank assessments and feeding more information on risk into the risk matrix assessment tool for banks, is a weakness.

Securities and Exchange Commission of Pakistan (SECP)

416. SECP conducts supervision for the securities sector, NBFIs, modaraba, and the insurance sector, based on risk parameters. The parameters consist of the number of cash transaction, composition of clients/unitholders, and size of assets/funds under custody.

417. For the securities sector, SECP has conducted on-site inspections, JIT inspections, thematic reviews and special investigations focused on KYC/CDD requirements.

Table 6.4: SECP's supervision of the securities industry

Year	SECP on-site inspections for KYC/CDD	FIs under JIT inspections for KYC/CDD	SECP thematic reviews KYC/CDD	SECP for identification of DABBA	SECP follow-up inspections
2013	25	-	-	-	-
2014	25	-	-	-	-
2015	23	19	-	-	-

2016	15	51	-	-	8
2017	5	73	-	6	-
2018	-	12	28	-	-
Total	93	155	28	6	8

Table 6.5: SECP's supervision of the insurance industry (without AML/CFT content)

SECP General Inspections: Insurance Sector	
Year	Number of General Inspections
2013	5
2014	2
2015	2
2016	3
2017	4
2018	2

Table 6.6: SECP inspections of NBFIs and modarabas

SECP Thematic KYC/CDD Inspections: NBFIs, Modarabas		
Year	Number of Inspections	Number of Thematic Reviews*
2013	9	Nil
2014	12	Nil
2015	9	Nil
2016	4	22
2017	7	Nil
2018 (to Oct 18)	16**	10

*thematic reviews specifically focused on compliance with KYC/CDD.

**inspections include eight (8) enquiries with specific scope of KYC/CDD.

418. To date, the number of SECP inspections of its regulated sectors is relatively low and not necessarily related to AML/CFT supervision. In addition, SECP has profiled financial institutions into *high, medium and low* risk institutions. Inspections and thematic reviews were focused on KYC/CDD requirements based on the profiles formed for individual institutions. However, SECP has now required each reporting institution to conduct individual AML/CFT risk assessments and those assessments will be incorporated into a comprehensive risk framework to be prepared by SECP.

419. Pakistan did not provide further details on off-site supervision activities by SECP.

420. SECP has conducted very limited supervision activities related to TFS other than for regulatory approval purposes and has not imposed any fines on regulated entities for TFS non-compliance.

DNFBPs

421. While there are significant ML/TF risks in the DNFBP sector, DNFBPs are not supervised for AML/CFT compliance in Pakistan.

*Remedial actions and effective, proportionate, and dissuasive sanctions**State Bank of Pakistan***Table 6.7: Monetary penalties imposed on banks for AML/CFT violations by SBP**

SBP Monetary Penalties for AML/CFT			
Year	Number of Banks	Penalties in PKR	Approx. USD Equivalent
2015	19	1,224,270,000	\$9,068,666
2016	21	249,162,500	\$1,845,648
2017	21	203,807,500	\$1,509,685
2018*	18	521,494,000	\$3,862,918
Total	71	2,198,734,000	\$19,833,346

** at October 2018

Table 6.8 Comparison between the monetary penalties imposed and total bank assets

Year	Monetary Penalties (PKR)	Total Assets (PKR)	% of Monetary Penalties
2015	1,224,270,000 (USD \$9.1m)	14,143,200,000,000 (USD \$104.76b)	0.0087%
2016	249,162,500 (USD \$1.8m)	15,831,100,000,000 (USD \$117.27b)	0.0016%
2017	203,807,500 (USD \$1.5m)	18,341,500,000,000 (USD \$135.86b)	0.0011%

422. Based on the size of banks' assets, the amount of penalties imposed on banks for AML/CFT breaches by SBP from 2015-2018 was very small. In the recent period after March 2018, SBP has imposed more significant monetary penalties on certain procedural weaknesses in banks in implementing sanctions regime under UNSCR SRO, an amount of PKR 460,960,000 (USD \$3,414,518). However, SBP has taken administrative action against banks in relation to AML/CFT deficiencies during 2016 – 2018 as follows:

- 11 banks: warning/reprimand letters;
- 8 banks: forced to take internal disciplinary action to bank's staff for non-compliance with AML/CFT requirements;
- 25 instances: banks' board members and/or senior management rejected, replaced, or removed.

423. For the ECs sector, SBP has imposed non-direct monetary penalties before 2018 and started to impose direct monetary penalties after the amendments to the foreign exchange law in 2018. The following table provides statistics re: enforcement actions against ECs during 2013 – 2018:

Table 6.9: SBP enforcement action: Exchange Companies

Year	No. sanctioned	Penalties	Admin action
2013-15	7	USD \$4.25 million forced sale ⁵⁴	• One branch each, of two ECs, suspended. • One EC branch permanently cancelled
2016	12	USD \$19 million forced sale	• 11 outlets permanently suspended

⁵⁴ A forced sale is an execution sale – i.e., the forced sale of an EC's assets by the supervisor, SBP.

2017	9	USD \$8 million forced sale	• 11 outlets permanently closed • License of one EC suspended for 3 months • 3 outlets of other ECs suspended
2018	9	PKR 2,010,000 (USD \$14,888.88)	Monetary penalties imposed related to violations of AML/CFT requirements.

424. Moreover, SBP has taken the following administrative action against ECs:

- 8 branches suspended;
- 1 franchise suspended;
- 7 branch licenses of 3 ECs have been revoked;
- 1 EC license has been suspended

Table 6.10: SBP monetary sanctions on MFBs for AML/CFTs violations

Year	Number of MFBs	Penalties PKR	USD equivalent
2015	1	150,000	1,111.00
2016	3	550,000	4,074.00
2017	4	1,648,000	12,207.00
2018	6	2,289,000	16,956.00
Total	14	PKR 4,637,000	USD \$34,348.00

Securities and Exchange Commission of Pakistan

425. SECP supervision is based on the risk profiling of the institutions. SECP has taken action for KYC/CDD breaches following on-site inspections, joint inspections with PSX, and follow-up inspections.

Table 6.11: SECP enforcement action in the securities sector

Nature of adjudication	Year	Warning	Penalty	Penalty PKR	~ USD
KYC/CDD breaches observed in Inspection	2013	4	-	-	-
	2014	6	7	525,000	3,889
	2015	7	1	25,000	185
	2016	1	-	-	-
	2017	-	1	5,000,000	37,037
	2018	-	-	-	-
Sub Total		18	9	5,550,000	41,111
KYC/CDD breaches observed in follow-up inspections	2013	-	-	-	-
	2014	-	-	-	-
	2015	4	-	-	-
	2016	4	-	-	-
	2017	-	-	-	-
	2018	-	-	-	-
Sub Total		8	-	-	-
KYC/CDD breaches observed by SECP and forwarded to PSX for enforcement action	2013	-	-	-	-
	2014	-	-	-	-
	2015	-	-	-	-
	2016	-	-	-	-
	2017	-	2	125,000	926
	2018	-	-	-	-
Sub Total				125,000	926

KYC/CDD breaches observed in Joint Inspections with PSX	2013	-	-	-	-
	2014	-	-	-	-
	2015	-	-	-	-
	2016	31	3	130,000	963
	2017	13	7	260,000	1,926
	2018	2	2	60,000	444
Sub Total		46	12	450,000	3,333
KYC/CDD breaches observed in limited scope under Joint Inspections with PSX	2013	-	-	-	-
	2014	-	-	-	-
	2015	-	-	-	-
	2016	-	1	20,000	148
	2017	1	2	230,000	1,704
	2018	-	-	-	-
Sub Total		1	3	250,000	1,852
Grand Total		73	26	6,375,000	47,222

426. For the insurance sector, during 2013–2018 SECP has imposed adjudication recommendation note or warning letter with respect to AML/CFT matters (assumed to be identified through off-site AML/CFT supervision) as stated in the following statistics:

Table 6.12: SECP enforcement action in the insurance sector

Year	Number of Penalties	Fines	Compliance/Warning Letters
2013	nil	nil	nil
2014	nil	nil	nil
2015	nil	nil	nil
2016	nil	nil	nil
2017	1	300,000 PKR (~USD \$2,222)	9
2018	nil	nil	nil

427. In the NBFIs and modaraba sector SECP has taken action for KYC/CDD breaches in the form of Warning/Compliance Letter only during 2013 – 2018 as stated in the following statistics:

Table 6.13: SECP enforcement action in the NBFIs and modaraba sector

Year	Number of Penalties	Fines	Compliance/Warning Letters
2013	nil	nil	16
2014	nil	nil	16
2015	nil	nil	41
2016	nil	nil	25
2017	nil	nil	43
2018	nil	nil	87

428. Most of the SECP's sanctions are in the form of Warning/Compliance Letters since SECP's AML/CFT Regulations were recently issued on 13 June 2018. Therefore, implementation of AML/CFT measures is in the early stage of its implementation. In addition, there are no sanctions or enforcement actions by SECP that are related to wider AML/CFT weaknesses other than KYC/CDD deficiencies.

429. SECP's sanctions are not effective, proportionate and dissuasive to address differing forms, intensity or severity of AML/CFT breaches.

DNFBPs

430. While there are significant ML/TF risks in the DNFBP sector, DNFBPs are not supervised for AML/CFT compliance in Pakistan.

Impact of supervisory actions on compliance

431. SBP has stated that there are improvements in the Transaction Management System, dedicated AML/CFT officer/functions, KYC/CDD measures through mandatory implementation of biometric verification, and system/software screening. During the onsite visit with banks, it was confirmed that there were some improvements with regard to AML/CFT measures, especially for Biometric Verification for KYC/CDD purposes (although as noted in IO.4 this is in limited use).

432. STR reporting levels in the sectors regulated by SBP are low taking into account risk, despite the filing requirement having been in place since 2010. The statistics presented on STR's has shown improvement in the AML/CFT measures and in compliance levels as an impact of supervisory actions by SBP only since 2015 onward.

433. There is little evidence of improving compliant behaviour in the securities, insurance, NBFC and modaraba sectors. SECP's AML/CFT supervision is not ML/TF risk sensitive and supervisory activities have been focused only of CDD/KYC requirements. Critically, SECP was unable to demonstrate their supervisory activities had an effect on non-bank FIs' compliance with PEP and TFS requirements, and on STR reporting.

DNFBPs

434. While there are significant ML/TF risks in the DNFBP sector, DNFBPs are not supervised for AML/CFT compliance in Pakistan.

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

435. SBP has taken positive steps to reach out to the sectors it supervises. SBP has issued AML/CFT-related guidance and has organised interactive mechanisms through the Compliance Forum and conducted capacity building programmes on various AML/CFT issues with the banking and EC sectors. SBP has also collaborated with the FMU to discuss important issues on AML/CFT obligation.

436. SECP has started to conduct training programmes for FIs following completion of the NRA in 2017. To date, there have been five training sessions organised on AML/CFT obligations. The SECP AML/CFT Regulations 2018 requires its regulated entities to organise staff training in AML/CFT. However, the number of training events conducted is limited. In addition, no two-way communication is being conducted as guidance or feedback to the industry before 2018. The banking sector's industry body has also conducted minimal outreach to the sector on AML/CFT.

437. While there are significant ML/TF risks in the DNFBP sector, DNFBPs are not supervised for AML/CFT compliance in Pakistan. Very limited outreach in relation to AML/CFT occurs for DNFBPs. The FMU is currently conducting awareness-raising of AML/CFT risks in some DNFBPs sectors. Some guidelines have been issued for accountants, real estate agents, and precious metals and jewellery dealers (through industry associations); however, limited knowledge by those sectors of the guidelines was apparent during the on-site visit and more broadly of AML/CFT issues.

Overall Conclusions on Immediate Outcome 3

438. SBP and SECP have, to some extent, mechanisms in place to prevent criminals and associates from entering the market through their respective reporting entities. The absence of screening mechanism for senior management screening for NBFIs and modarabas shows a significant deficiency in the market entry prevention. In addition, there are no similar mechanism for DNFBPs which are, as yet, neither regulated nor supervised. Both supervisors have a low-to-moderate understanding of ML/TF risks in their sectors, SBP has developed a risk-based supervision approach based on an integrated CAMELS framework while SECP has not done so, but uses simple risk parameters of its reporting entities to determine monitoring actions.

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439. SBP has, to some extent, utilised a range of sanctions for regulatory breaches while SECP focuses on warning/compliance letters. In general, there have been no dissuasive and proportionate sanctions imposed to date. The impact of supervisory action has not, as yet, had a significant impact given that the various AML/CFT measures have been put in place only very recently. SBP outreach to stakeholders is limited. SECP has developed training programmes to build awareness of AML/CFT measurements but this is ongoing.

440. There have been no supervision and enforcement actions with respect to DNFBPs and very limited outreach to DNFBPs notwithstanding the risk ratings assigned in the NRA.

441. The systematic monitoring of compliance with the international and autonomous sanctions regimes have been conducted while SBP has also asked the banking sector to do a self-assessment on its compliance.

442. These deficiencies require fundamental improvements.

443. **Pakistan has a low level of effectiveness for Immediate Outcome 3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

- 1) Pakistan has not identified and assessed the ML/TF risks associated with all forms of legal persons. Both the public and private sectors have a low level of understanding of those risks.
- 2) The ML/TF risks posed by trusts, including *waqfs*, have not been assessed. There is no information on foreign trusts operating in the country. As with legal persons, both the public and private sectors have low levels of understanding of the ML/TF risk posed by these structures.
- 3) Reporting entities regulated by the SBP and SECP are required to obtain beneficial ownership information from legal persons and trustees before entering into a business relationship but neither companies nor trustees are required to collect that information.
- 4) SECP registers basic ownership information on all types of legal persons; however rates of compliance with registration requirements are low. The quality of registered data is not confirmed by monitoring and sanctions for non-compliance with registration requirements are weak.
- 5) There are no mitigating measures in place to address the risks associated with bearer shares, bearer share warrants and nominee shareholders.
- 6) There are no legal obligations for companies or trustees to hold beneficial ownership information or for such information to be disclosed to, or registered with, the authorities including in relation to immovable property trust deeds registered under the Registration Act 1908.
- 7) LEAs can access information recorded in immovable property trust deeds, but this information is limited to the parties named in the deed; it does not contain beneficial ownership information.
- 8) There are no obligations for trustees who are customers of DNFBPs to declare their status.
- 9) Pakistan's steps towards reforming laws to deal with beneficial ownership issues is a positive development and efforts are currently underway to improve legal shortcomings in the area.

Recommended Actions

Pakistan should:

- a) Formally assess ML and TF risks for all types of legal persons and legal arrangements (including *waqfs*) and conduct outreach to the public and private sectors on ML/TF risks.
- b) Introduce legislation and regulations (as necessary) to require legal persons and legal arrangements to obtain adequate, accurate and timely beneficial ownership information of those natural persons who ultimately own or control those structures.
- c) Introduce legislation or other measures to mitigate the risk associated with bearer instruments and nominee arrangements for companies including, for instance, disclosure requirements for ultimate beneficial owners/controls of those instruments

- d) Increase the capacity and enforcement powers of the SECP and other competent authorities to monitor and sanction legal persons and arrangements which do not adhere to legal requirements.
- e) Ensure that persons who breach the required measures are subject to effective, proportionate and dissuasive sanctions.
- f) Require trustees to disclose their status to DNFBPs when forming business relationships.
- g) Centralize the current system of trust deed registration for immovable property trusts to facilitate easy access to such information by competent authorities.
- h) Improve information sharing between SECP, FBR - Revenue, FMU, LEAs and sub-registries.

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

Immediate Outcome 5 (Legal Persons and Arrangements)

Background and Context

(a) Overview of legal persons

445. The types of legal persons that can be formed or established in Pakistan are outlined in the TC annex at R.24. Information on the creation and types of legal persons in Pakistan is available through the SECP's Registrar of Companies and is publicly available on the SECP's website. In addition to the head office in Islamabad, the SECP has nine company registration offices throughout the country with over 100 officers, 50 of whom are in the Karachi office. The registry maintains a centralized data base so that branch and head offices all share the same company information. 80% of companies in Pakistan are registered and established online.

Table 7.1: Companies and other legal persons as of 30 June 2018 (SECP data)

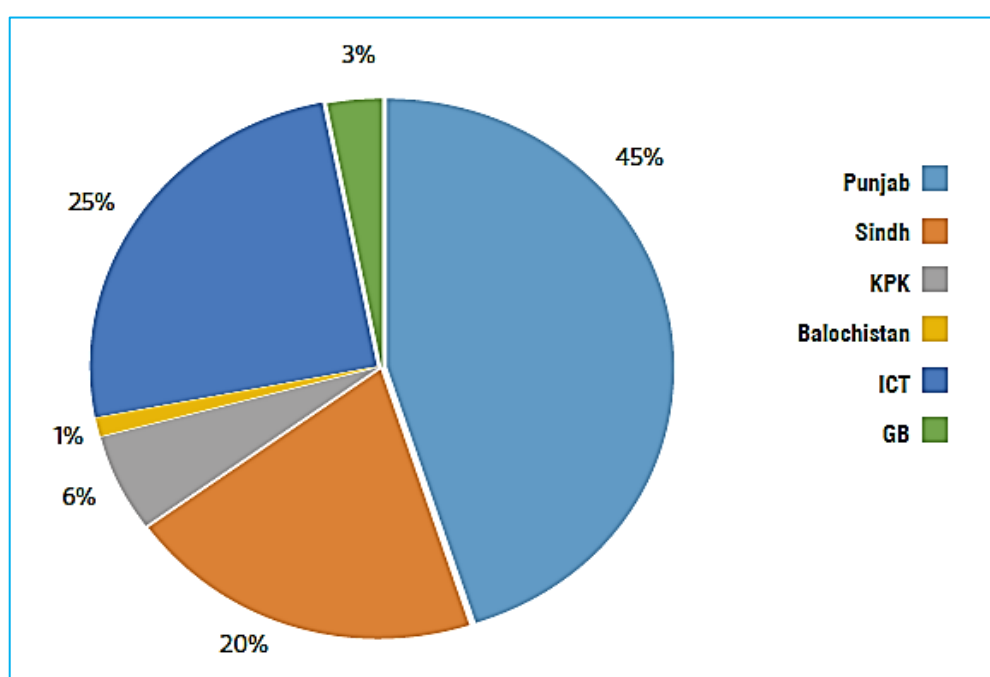
Types of Companies	New incorporations 30 Jun 18	Total as at 30 Jun 2018
1. Companies limited by shares:		
• Public listed companies	0	532
• Public unlisted companies	71	2,525
• Private companies	9,134	77,084
• SMCs	2,007	5,182
Total companies limited by shares	11,212	85,323
2. Associations - NPOs	84	906
3. Companies limited by guarantee	3	75
4. Foreign companies	55	1,001
5. Public unlimited liability companies	0	1
6. Private unlimited liability companies	0	1
Total companies w/o shares	142	1,984
Total limited liability partnerships	5	5
Total registrations	11,359	87,312

Table 7.2: Foreign companies as of 30 June 2018 (SECP data)

Country	Newly incorporated 2017/18	Total as at 30 June 2018
United States	3	154
United Kingdom	5	118
France	1	25
Germany	1	30
China	21	145
Japan	0	37
Australia	1	21
Middle East countries	6	80
Far East countries	9	133
Other European countries	4	138
Other Asian countries	0	27
Other countries	4	93
Total	55	1,001

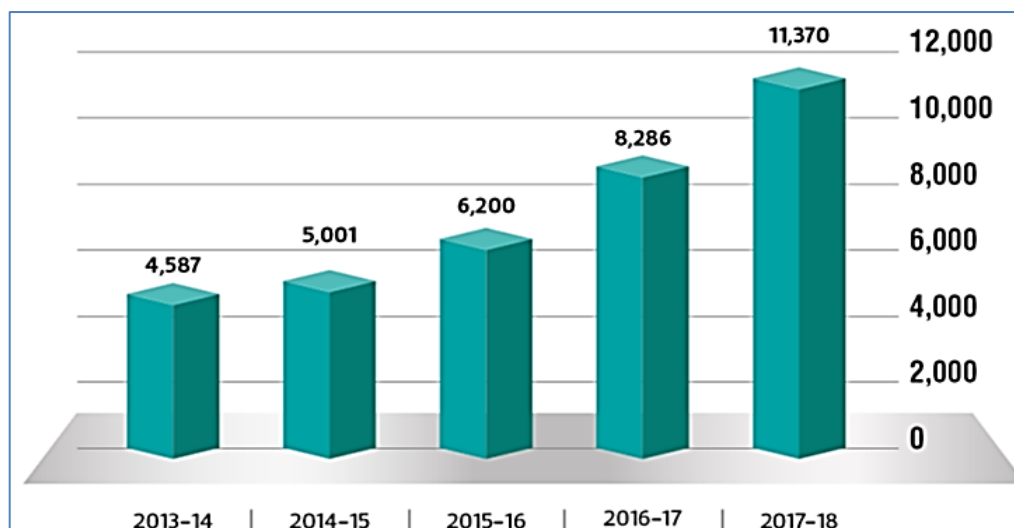
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446. The following chart outlines the breakdown of incorporations by province in the fiscal year 2017/18:

Figure 7.1: Breakdown of new incorporations by Province/Territory

447. According to the below graph in the SECP's 2018 annual report, the number of company incorporations has been growing steadily (almost tripled) in the last five years:

Figure 7.2: Number of Registered Companies Over 5 Years



448. During FY-2018, SECP registered a total of 11,370 companies (certain irrelevant classes of companies are not stated in the above tables), raising the total number of registered companies to 87,620 - a growth of 37% over the corresponding year; and a total of 558 companies with total paid-up capital of PKR 1,297.375 billion (USD\$9.61 billion). Market capitalization stood at PKR 8,665.045 billion (USD \$64.12 billion) on 30 June 2018.

(b) *Overview of legal arrangements*

449. The types of legal arrangements that can be formed or settled in Pakistan include trusts and *waqfs*. Trusts are governed by statutory law and common law and resemble structures in most common law countries. Other than indicating that a *waqf* resembles a charitable trust, Pakistan provided no information on *waqfs*.⁵⁵

450. No government agency is responsible for regulating and/or supervising trusts and *waqfs*.

451. Under the s 3 of the Trust Act 1882 a trust is “an obligation annexed to the ownership of property, and rising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.” The parties to a trust are the “author of the trust” (settlor), trustee and beneficiaries. The subject-matter of the trust is called “trust-property” or “trust-money.” The “beneficial interest” or “interest” of the beneficiary is a person’s right against the trustee as owner of the trust-property. The instrument, if any, by which the trust is declared is called the “instrument of the trust.”

452. Instruments, or deeds, of trust are not required in order to settle a Pakistani trust except with respect to trusts relating to immovable property (real estate). Trust deeds (not the trust itself) relating

⁵⁵ *Waqfs* are referenced in the Trust Act 1882 at s 1: “...nothing herein contained affects the rules of Muslim law as to waqf, or the mutual relations of the members of an undivided family as determined by any customary or personal law...” Under s 2(e) of the Punjab Waqf Properties Ordinance 1979, the term *waqf property*, “...means property of any kind permanently dedicated by a person professing Islam for any purpose recognised by Islam as religious, pious or charitable...”

to immoveable property must be registered under the Registration Act 1908, however, trusts relevant to moveable property are not required to be registered under any Act.

453. Pakistan was unable to provide any statistics on the number of registered trust deeds relating to immoveable property and was not able to approximate the number of the trusts (foreign and domestic) in Pakistan except to indicate that as of March 2016 there were 2, 861 trusts (including *waqfs*) registered with the FBR for tax purposes. Up-to-date statistics (to 2018) were not provided.

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

454. Information on the creation and types of legal persons in Pakistan is available through the registrar in SECP. The relevant web links for SECP are easy to find and describe the various legal entities available to be formed in Pakistan; the name and contact information for the relevant authority competent for registration; and the procedures to be followed to register, establish and operate a legal person.

455. There is, however, no publicly available information on trusts and other legal arrangements, including *waqfs*, in Pakistan. Case law relevant to trusts, including case law on the legal obligations and fiduciary duties of trustees, is not available. Some law firms have privately operated websites with basic information on trusts and *waqfs* but more detailed information on the law and obligations applicable to trustees and beneficiaries, and the persons involved in *waqfs*, is very limited. What is available is not helpful to the general public seeking information.

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

456. As noted in the IO. 1 discussion, Pakistan did not assess the risk of ML and TF relating to all types of legal persons and trusts (including *waqfs*), in the NRA nor has Pakistan undertaken any form of assessment of those structures outside the ambit of the NRA at the departmental or agency level.

457. Discussion with SECP company registration officials on the issue of risk during the on-site visit was limited. SECP has a limited understanding of the varying ML and TF risks associated with differing forms of legal persons in Pakistan, both domestically formed and foreign registered companies. SECP indicated that the predicate offences of insider trading and market manipulation were concerns relating to companies and LLPs, but that companies and LLPs pose a very low risk of ML and TF. SECP's views were, however, informed by what they saw as risk in an operational industry setting and not on the basis of corporate or internal structure. Views on risks relevant to LLPs ('very low risk') were predicated on the basis of a limited number of such entities in Pakistan and, again, not on the basis and nature of the internal legal structure of those entities. On a comparative basis, officials were unable to indicate whether publicly-listed companies had differing risks compared to private, closely held, companies. The understanding relating to ML and TF risk associated with foundations on the one hand and companies limited by guarantee, on the other, appears rudimentary.

458. Views on risks relating to companies and trusts expressed by other relevant government agencies (FBR – Revenue, Ministry of Law and Justice) were also limited. And no government officials were available to discuss ML and TF risks relating to trusts and *waqfs*. Authorities did not provide an outline of the different forms of trusts operating in Pakistan – domestic, foreign, discretionary, fixed and testamentary. While the authorities indicated that testamentary trusts do not exist in Pakistan, this was not demonstrated and law firms appear to provide testamentary trust services (although chiefly among wealthier clients). While the FATF focuses on express trusts or similar arrangements, conflicting observations, including with respect to testamentary trusts, were symptomatic of a larger

misunderstanding of the trust environment in Pakistan. Provincial authorities responsible for registering immoveable property trust deeds indicated that registration of real estate trust deeds was common although the number of registered deeds could not be provided.

459. Legal arrangements operating in Pakistan and their risks were not well understood among the private sector reporting entities, including lawyers and accountants. While some professionals were able to articulate the differing forms of legal persons and displayed some knowledge of trusts, none was able to indicate whether there were differing risks of ML and TF relating to either. Accountants indicated that the use of trusts in Pakistan was very limited (one indicated that in 35 years of practice he had never seen a trust in Pakistan), while law firms highlighted the regular use of trusts for project finance.

460. In conclusion, the understanding among public and private sectors relating to ML/TF risks and vulnerabilities of legal persons and trusts in Pakistan is at a very low level.

Mitigating measures to prevent the misuse of legal persons and arrangements

(a) Mitigating measures - legal persons

461. The SECP requires basic information on company registration. In addition, under the Companies (General Provisions and Forms) Regulations 2018 every company must keep a register of its members (shareholders) which includes the shareholder's full name, nationality and national identification number (or passport number) telephone number, addresses, residence and other identifying information (s 19(a)). Those regulations also require that every company must keep a register of its directors as well as other officers. Changes in ownership and office holders must be notified to the company registry with special forms under the regulations (s 20). SECP however does not verify any of the information held as required above and does not require any beneficial ownership information beyond the immediate shareholders to be held by companies or notified to the SECP registry; and companies are only required to inform the registrar of changes of more than twenty five percent of their shareholding, membership or voting rights, within 15 days of those changes.

462. As noted in the TC Annex, reporting entities regulated by the SBP (banks, DFIs) under SBP AML/CFT Regulations 2018⁵⁶ and those regulated by SECP (securities brokers, commodities brokers, insurers, takaful operators, NBFIs and modarabas) under SECP AML/CFT Regulations 2018⁵⁷ are required to obtain beneficial ownership information from legal persons before entering into a business relationship. However, as also noted in the TC Annex, SECP issued Circular 16, 2018 entitled 'Maintenance of Register of Ultimate Beneficial Ownership Information by the Companies' on 29 August 2018. This circular would require all companies to take reasonable measures to obtain up-to-date information relating to their ultimate beneficial owners, but was not enforceable at the time of the ME on-site visit.

463. With respect to foreign companies doing business in Pakistan or not, s 452 of the Companies Act 2017 requires any Pakistani national who owns shares in a foreign company or is an officer of a foreign company to report that fact to a Pakistani company they own shares in as a 'substantial shareholder'. That second (Pakistani formed) company must in turn report the foreign share ownership to the SECP's company registry where it is held in a "Global Register of Beneficial Ownership." However, the effect of this section is minimised by the fact that it only applies to Pakistani nationals who own shares in a domestically incorporated company and then on-purchase shares in a foreign company. It

⁵⁶ Regulation 1(7) and (8).

⁵⁷ Regulations 6(2)(3)(a) and 7(1).

does not apply to Pakistani nationals who do not have shares in, or serve as an officer of, a Pakistani company but do purchase shares in a foreign company. Moreover, it only applies to Pakistani nationals directly but not indirectly to Pakistani nationals who purchase shares in a foreign company through the vehicle of a Pakistani company (for example).

464. SECP officials indicated during meetings with the assessors that they were of the view that bearer shares and bearer share warrants are prohibited under the Companies Act 2017. However, for the reasons stated in the TC Annex at R.24, although they are not explicitly prohibited, the Act does permit their issuance. There are no mitigating measures in the Companies Act or elsewhere to address the risk posed by these instruments. There is a general lack of understanding among authorities, especially SECP officials, as to what these instruments are, how they operate, and their attendant risks. However, Pakistani lawyers spoken to by assessors during the onsite visit indicated that these instruments are not common in Pakistan. To some extent it could be argued that their rarity mitigates any real risk. However, the assessment team could not form a final view on whether bearer instruments are uncommon given the low level of understanding of their form, nature and purpose.

465. In summary, there are very few mitigating measures in place to address the risks posed by all types of legal persons in Pakistan.

(b) Mitigating measures - legal arrangements

466. As noted above, trust deeds relating to immoveable property must be registered under the Registration Act 1908 in the provincial district where the land or real estate is located.

467. However, registry officials made it very clear to the assessors that the trust itself is not registered – only the trust deed. And further, registry officials do not examine the trust instrument or the content of the trust itself, and do not concern themselves with the beneficiary or beneficial owner(s) of any trusts whose deeds are presented for registration. Their only function is to verify the signatures on the instrument by notarial seal for the purpose of presenting to court should the occasion arise. Once that is completed, the deed is registered, although it is not assigned a registration number.

468. This process is not designed to provide any degree of assurance around the parties to the trust deed or the operation of the trust and therefore does not provide any mitigating effect to any degree.

469. Income generating trusts are required to electronically file annual tax returns. This obligation is monitored by a declaration system and tax officers responsible for the respective taxpayer. Record keeping obligations on tax-registered trusts are pursuant to the tax laws and not pursuant to any AML regulations or other laws. Trusts that do not generate income are not required to file tax returns.

470. Trustees, in any form of trust arrangement, whether moveable or immoveable, are not required by law to collect beneficial ownership information nor are they required to disclose their status to any DNFBP although they are required to disclose their status to SBP regulated entities (banks and DFIs).

471. There is no information on foreign trusts operating in Pakistan and no measures are in place, statutory or otherwise, to address ML and TF risks associated with foreign trusts that operate in Pakistan.

472. In summary, there are no measures in place to address the risks posed by trusts, including foreign trusts and *waqfs* in Pakistan.

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

473. The process for obtaining information held by SECP is fairly quick. More detailed information is available on request. For publicly listed companies, all basic information and directors' information are maintained at the Pakistan stock exchange.

474. SECP has also signed MOUs with a number of authorities for exchange of information. For instance, an MOU on Information Sharing and Coordination has been signed between SECP and FBR since 2012 which has enabled a framework for sharing information in areas of common regulatory and supervisory interest for furtherance of the objectives of SECP and FBR. SECP in collaboration with FBR has launched a one-window facility for company registration and NTN registration. Through the integrated system, the user gets the company registered through SECP online portal namely e-Services and based on the corporate data provided by SECP, FBR automatically issues NTN at the company email address.

475. SECP shares basic company information with LEAs and other authorities/agencies.

Table 7.3: Company information requests by LEAs/other agencies

Year	FBR tax	FIA	NAB	Sindh Revenue	ANF	Customs	EOBI	Punjab Revenue	Excise & Taxation	PTA	Other	Total
2013-14	72	8	34	-	-	14	3	-	2	3	2	138
2014-15	8,811	15	39	-	-	-	9	-	3	-	1	8,878
2015-16	8,314	46	105	-	-	2	5	4	1	-	292	8,769
2016-17	1,896	55	184	127	89	13	8	9	2	1	6	2,390
2017-18	1,567	230	450	-	-	-	1	13	1	1	419	4,682
Total	20,660	2,354	812	127	89	29	26	26	9	5	720	24,857

476. The quality and consistency of statistics varied at different stages of the assessment process. Overall, it was difficult to draw clear conclusions because of consistency issues in statistics.

477. Pakistan did not provide evidence of LEAs accessing beneficial ownership information maintained by FIs, and identification of beneficial owners during customer on-boarding is a challenge for all FIs (see IO.4).

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

478. Pakistan has a decentralized system of registration of immovable property trusts. For a LEA or the FMU to obtain access to a registered trust deed, a separate query has to be made to the various registrars in the provincial districts. Timeliness of obtaining information is impacted by the lack of registration numbering system for easy identification of trust instruments. Overall, while information for immovable property trusts is available the accuracy and timeliness of such information undermines effectiveness.

479. A potential gap in further identifying beneficial ownership lies in the provisions under Pakistan's Income Tax Ordinance 2001. Section 216 provides that all particulars contained in any statement made, return furnished, or accounts or documents produced under the provisions of that Ordinance shall be confidential and no public servant except as provided in the Ordinance may disclose any such particulars. While this secrecy provision may be put aside by court order, this is only in relation to a prosecution for an offence under the Ordinance. This hinders access of taxpayer

information which may be related to legal arrangements which may be pertinent during the inquiry or investigations stage.

480. LEAs in Pakistan generally note that trusts are a complicated area and there is a lack of awareness of how they are formed and operate. There is little focus on legal arrangements in investigations.

Effectiveness, proportionality and dissuasiveness of sanctions

481. There is no supervisory oversight of companies and trusts for AML/CFT.

482. Penalties under the Companies Act 2017 for other administrative matters are not dissuasive. Sanctions are rarely imposed by SECP, despite widespread non-compliance with filing obligations. Provincial registries registering trust deeds for immovable property trusts lack enforcement roles for legal arrangements.

483. During the year 2016-17, the adjudication process was completed in 802 cases for non-filing or late filing of annual returns notifying ownership/directorship position, and 1,456 cases for non-filing or late filing of annual audited accounts, with the offices of the registrar concerned. A total of 502 companies were dissolved under different provisions of company law.

Table 7.4: companies dissolved during

Action taken	2012-13	2013-14	2014-15	2015-16	2016-17
Dissolution	2290	2232	922	839	502

Table 7.5: Adjudication cases completed and penalties imposed

Default	2012-13	2013-14	2014-15	2015-16	2016-17
Late filing/non-filing of annual returns (No. of cases) containing ownership/directorship information	549	964	1436	773	802
Late filing/non-filing of annual audited accounts (No. of cases) containing shareholding details	488	176	448	525	1,456
Penalty imposed on account of different provisions including non-filing/late filing of returns and accounts, etc. (Rupees)	PKR2,063,500 (USD\$15,285)	PKR3,809,250 (USD\$28,216)	PKR1,793,600 (USD\$13,285)	PKR7,655,600 (USD\$56,708)	PKR20,337,100 (USD\$150,645)

Overall conclusion on Immediate Outcome 5

484. Pakistan authorities and the private sector (including reporting entities and DNFBPs) have a poor understanding of the ML and TF risks relating to legal persons and arrangements and have not

introduced any measures to address risks relating to bearer instruments, nominee shareholders and nominee directors. There are no legal obligations for companies or trustees to hold beneficial ownership information or for such information to be disclosed to, or registered with, the authorities including in relation to immovable property trust deeds registered under the Registration Act 1908. Pakistan's steps towards reforming laws to deal with beneficial ownership issues is a positive development and efforts are currently underway to improve legal shortcomings in the area.

485. These deficiencies require fundamental improvements.

486. **Pakistan has a low level of effectiveness for Immediate Outcome 5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key Findings

- 1) Pakistan does not have a stand-alone MLA Act. However, Pakistan in general adopts a flexible and cooperative approach while providing international assistance.
- 2) Although there is no clear domestic provision under the NAO requiring Pakistan to provide international judicial assistance in corruption offences, NAB uses MLA-related UNCAC articles effectively and executes MLA requests. In addition, despite lack of legal requirement for Pakistan to provide assistance in the ATA, Pakistan has carried out foreign MLA requests with regard to TF and terrorism.
- 3) Overall positive remarks received from some countries as to the willingness and timeliness of international cooperation by Pakistan, along with non-refusal of foreign MLA requests, indicate that Pakistan, to some extent, is cooperative through formal and informal means.
- 4) In order for a foreign ML-related request to be executed, AMLA requires a requesting state to be a treaty state. This may have a negative impact on international cooperation efforts in the long run as non-treaty countries cannot apparently seek information from Pakistan.
- 5) While the degree to which international assistance sought in predicate and TF crimes, to some extent, matches the risk profile, the low number of outgoing ML related international requests is not fully commensurate with the risk profile of the country and indicates inadequacy of efforts to tackle the transnational aspect of these crimes.
- 6) Instead of offence-wise, statistics were provided agency-wise which made it difficult for the evaluation team to thoroughly comprehend and assess the level of international cooperation since most of the agencies have jurisdiction in more than one offence. Some international assistance requests that were not mentioned in statistics were noticed in the information provided by third countries.
- 7) Pakistan cannot share beneficial ownership information in relation to legal arrangements and due to deficiencies note in R.24 with respect to legal persons.
- 8) LEAs are not using FMU to exchange financial intelligence from foreign FIUs in their ML and TF investigations.
- 9) Exchanging financial intelligence with or through the FMU is severely limited owing to non-membership in the Egmont Group.

Recommended Actions

- a) The potential international aspects of ML and TF investigations should be considered in all domestic proceedings; and international cooperation, whether formal or informal, should be resorted to by responsible agencies in line with Pakistan's ML and TF risk profile. Pakistan should ensure that the relevant agencies are adequately resourced, trained and appropriately mandated to enable them to prioritise the investigation of cross-border TF, ML and associated predicate offences.

- b) Pakistan should address the legal gaps under the ATA and NAO, along with removing restrictive legal provisions in the AMLA. Pakistan should consider enacting a standalone MLA law (or other measures) to achieve these aims, and to remove reliance on bi-/multi-lateral treaties for foreign ML-related MLA requests.
- c) LEAs should routinely use FMU to exchange financial intelligence from foreign FIUs in their ML and TF investigations.
- d) Pursue Egmont Group membership actively but, in the meantime, increase the number of bilateral MoUs with foreign jurisdictions to enhance financial intelligence sharing based on Pakistan's risk profile; pursue illegal proceeds transferred abroad; and take timely action accordingly.
- e) Maintain comprehensive and detailed statistics on international cooperation in order to identify where more steps could be taken and enhance international cooperation in line with the risks country face.
- f) Address the technical deficiencies in the TC Annex relating to collection of beneficial ownership information for legal arrangements and for legal persons to be able to exchange such information internationally where needed.

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

Immediate Outcome 2 (International Cooperation)

488. Pakistan does not have a stand-alone MLA law.⁵⁸ However, Pakistan can execute and make MLA requests under multilateral and bilateral treaties as well as under specific provisions in the AMLA, NAO, CNSA and CrPC, and on the basis of reciprocity. R.37 and R.38 have moderate and major shortcomings, respectively.

489. The legal framework for extradition in Pakistan is the Extradition Act 1972. Extraditable offences are listed in the Schedule to that Act. Pakistan has bilateral extradition agreements with a number of countries. R.39 has minor shortcomings.

Table 8.1: Pakistan's treaty arrangements

Treaties	Number	
MLATs on criminal matters	4	(14 in progress)
Transfer of offenders	8	
Extradition	30	(3 in progress) (5 on re-admission)

490. The Ministry of Narcotics Control (for drug offences) and the Ministry of Interior's 'Law Wing' (for all other predicate crimes) are the central authorities for incoming and outgoing MLA requests. MoFA's role is to transmit and receive requests. Incoming MLA requests are executed by different agencies (ANF, NAB, FIA, FBR-customs, FBR-IR, provincial police) having regard to their respective

⁵⁸ A draft MLA Bill was before Pakistan's parliament at the time of the on-site visit in late 2018.

areas of responsibility. The same agencies, as well as the courts where the matter is at prosecution stage, may make requests to countries when and where needed.

Providing constructive and timely MLA and extradition

a. General MLA requests

491. Pre-on-site information responses from countries on Pakistan's willingness to cooperate demonstrates that, in general, police-to-police cooperation is satisfactory. While some countries indicated that Pakistan's responses were time-consuming, opaque and slow, other countries indicated that Pakistan responds to requests within a reasonable period (30-60 days). In terms of formal MLA, statistics shared by those countries suggests that, although Pakistan granted and sought MLA with regard to ML, it was not well reflected by the information provided by Pakistan. This may be the result of poor collection and maintenance of statistics.

Table 8.2: Foreign MLA requests sent to Pakistan in the last 5 years (2013-2017)

Agency	Received	Responded	Pending	Refused
NAB (corruption-related offences)	18	14	4	0
FBR-customs	2	2	0	0
ANF (drug-related offences)	2	2	0	0
Total	22	18	4	0

492. The average time taken for Pakistan to respond to foreign requests depends on variables such as the nature of the request, whether the information is readily available, etc. However, provided the incoming request is complete, and the requested information is at the disposal of the relevant agency, foreign requests take between three-to-four weeks to complete, according to authorities. Most foreign requests relate to the provision of information and documents. In some cases, incoming requests have led to the initiation of investigations of foreign predicate offences in Pakistan and the seizure of illegal proceeds or property. Case examples include the following:

Case Example 8.1 – Investigation of a foreign predicate followed by seizure of proceeds

GB and five family members were arrested and convicted on drug charges in Norway. Norwegian authorities contacted Pakistan and asked for investigation of proceeds of crime, belonging to said convicts lying in Pakistan. The request was received by ANF on 17/3/2016. ANF obtained the original conviction documents from Norwegian authorities and started an investigation under s 40 of CNSA 1997. Later, properties in Pakistan, worth PKR 410,521,000 (USD \$3,040,896), were traced and seized in the name of accused persons and their relatives. ANF sought a court order for the forfeiture of aforesaid amount and the case is currently under trial.

Case Example 8.2 - Serious Fraud

The accused X obtained six properties worth GBP £ 6,885,625 during the period 2004-2006. The properties were then transferred between companies controlled by accused persons at prices inflated to between five and 16 times the original price. On the basis of the inflated prices, the accused persons managed to obtain mortgage advances totalling GBP £ 49,276,250 through dishonest property valuations.

During the period 2004-2006, 20 transactions were carried out transferring the fraudulently obtained money of GBP £ 28,883,098 to Pakistani banks. X was sentenced to 13 years of imprisonment by a UK court in 2011. Whereas accused Y managed to flee to Pakistan. Reportedly, he brought in excess of GBP £ 25 million of stolen assets with him to Pakistan.

UK authorities requested assistance to recover criminal assets held illegally by accused persons in Pakistan. Having started an inquiry, NAB gathered relevant financial information from various agencies and financial institutions and consequently 12 residences and an agricultural land had been cautioned under NAO (s 23) (*notice by NAB to void transfer of property*). The case is currently at inquiry stage.

493. While not frequent, repatriation of proceeds of crime to a foreign jurisdiction has occurred. One case is illustrated below:

Case Example 8.3 – Repatriation to a foreign jurisdiction

A complaint was made by HSBC Bank, London, whereby the accused persons were alleged to have fraudulently embezzled funds amounting to PKR 400 million (USD \$2.96 million) through 28 bogus/fake SWIFT messages and correspondence. Subsequently the funds were transferred from HSBC London to Pakistan and Japan. STRs were filed by various banks to FMU.

After the completion of an inquiry, PKR 146,687,000 (USD \$1.1 million) was recovered through use of voluntary returns and plea bargains. A portion of this amount was remitted back to HSBC. However, after HSBC's close of operations in Pakistan, repatriation of the rest (approx. PKR 95.3 million or USD \$706,178) was brought to the attention of the National Crime Agency of the UK, by letter dated 14 September 2018 by Pakistani local bank which took over operations of HSBC, Pakistan. The repatriation process is still ongoing.

494. Some of the technical deficiencies mentioned under R.37 (TC Annex) do not negatively impact Pakistan's ability to provide mutual legal assistance to foreign countries. In particular, although NAB does not have an explicit legal basis under NAO to provide MLA, it uses the Merida Convention (UNCAC) and bilateral MoUs effectively while seeking and providing international assistance. Non-existence of MLA provisions in the ATA does not prevent Pakistan from providing TF or terrorism-related assistance.

495. There have been no refusals of MLA requests based on information received from Pakistan. In total, 18 out of 22 formal MLA requests (81%) were granted by Pakistan. The remaining four were pending as at October 2018. Remarks received from the global network indicate that Pakistan has provided MLA in respect of TF in two instances despite the absence of explicit legal provisions in the ATA. What can also be inferred from this information is Pakistan's inability to collect comprehensive MLA statistics.

496. While Pakistan has received predicate crime-related MLA requests, Pakistan has not received ML-related MLA requests. The AMLA requires requesting states to be contracting (i.e., treaty) states in order for MLA requests to be granted. This hampers Pakistan's ability to provide assistance in ML cases in the long run as the legal provision does not allow for seeking and providing international assistance on the basis of reciprocity.

b. Extradition requests

497. There are no restrictions under the Extradition Act to extradite Pakistan nationals and in two instances Pakistani citizens were extradited to foreign States (case example below).

Case Example 8.4 – Extradition of Pakistani National⁵⁹

A request for the extradition of an accused Pakistani national wanted in a criminal matter in Dubai on charges of committing the financial crime of giving a cheque in bad faith, drawn on a UAE bank, was received from UAE authorities. The inquiring magistrate in Dubai conducted an inquiry and concluded that a *prima facie* case was established. After completion of the formalities the accused was extradited to the UAE (2017).

498. The Extradition Act requires dual criminality (act/omission underlying the request would have been an extraditable offence had it occurred in Pakistan). It is not a legal requirement for a country to be a treaty state to seek extradition from Pakistan.

Table 8.3: Incoming extradition requests from 2014 to 2018

2014-2018	Requests Received	Requests Denied	Requests Accepted	Under Process	Nationalities for the Accepted Requests	
					Pakistani	Foreigner
Treaty Countries	28	9	4	15	2	2
Non-Treaty Countries	13	1	5	7	0	5
Total	41	10	9	22	2	7

499. The completion of the extradition procedure usually takes more than a year. In one case, the time period between the receipt of the request and surrendering the fugitive offender was 11 months.

500. Of the 41 incoming extradition requests, 10 concerned terrorism. Authorities did not demonstrate whether all terrorism-related incoming requests were completed. The number of denials for extradition requests is larger than the requests accepted. The reasons behind denials are chiefly non-presence of the fugitive in Pakistan. A high number of pending requests is due to a number of factors including: ongoing correspondence for additional/missing information; delays in locating the accused; and lengthy court proceedings in the extradition process. Information received from the global network prior to the on-site visit indicated that one of the accepted incoming extradition requests relates to ML.

501. Pakistan has not declined any extradition requests due to the lack of dual criminality and it has met the extradition requests of a number of non-treaty countries on various occasions. On the other hand, Pakistan does not have simplified extradition procedures for TF, ML or major predicate offences.

*Seeking constructive and timely MLA and extradition**a. MLA requests*

502. Each competent investigating agency is able to make MLA requests from foreign jurisdictions through MoI or MoNC. Some of the agencies (such as ANF, NAB) have their own procedures setting out the necessary steps to be taken to request foreign assistance in order to facilitate and enhance international cooperation.

503. Regarding corruption-related offences, from 2014 to 2018 NAB forwarded 80 outgoing requests, the majority of which were to the UK, US and UAE and principally related to provision of

⁵⁹ Additional information was requested on this case example but not provided by Pakistan.

financial information and associated documents. Some of NAB's requests have related to high ranking government officials. The information gathered contributed to convictions.

Case Example 8.5 – MLA request concerning former Prime Minister

After the revelations of the *Panama Papers* the former Prime Minister of Pakistan, MNS, was alleged to have purchased property in London through gains purportedly obtained from corruption and corrupt practices. A Joint Investigation Team comprising domestic LEAs was set up by the direction of the Supreme Court and inquired into the matter.

Upon the report of the JIT, in July, 2017, the sitting Prime Minister was disqualified by the Supreme Court and thereafter the investigation was initiated by NAB.

NAB sought MLA from multiple countries including the UK, UAE and Kingdom of Saudi Arabia. Information gathered through such cooperation and evidence collected domestically led to the conviction of three people including the then Prime Minister of corruption and corrupt practices with imprisonment and fine. The case is currently before the High Court upon appeal.

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504. As for drug-related offences, ANF made 29 outgoing requests and received one response in return. The majority of these requests were sent to the UK, China, Norway and the UAE all of which are viewed in the NRA as primary foreign destinations of proceeds of crime. A substantial portion of the outgoing requests related to certified copies of judgments. ANF stated that although it has issued regular reminders to follow-up these requests, it has not received responses from most of them.

505. From 2014 to the date of on-site visit in October 2018, FBR-IR made 13 MLA requests, some of which included requests for beneficial ownership information concerning offshore companies owned by Pakistani nationals. None of these requests were responded to. In return, it has received 55 requests and executed 53 thereof.

506. FBR-customs sought assistance in four cases and received a response for one only. In that case, the information received led to an ML prosecution in Pakistan.

507. FIA made requests to foreign jurisdictions in two cases for terrorism and 15 cases for TF. The underlying acts in the TF-related MLAs were mainly concerning fundraising by banned organisations via social media. When it comes to ML, in one case FIA sought MLA from the UK with respect to bank records and statement-taking of individuals. However, information received from foreign jurisdictions prior to the on-site visit illustrates that Pakistan, in three cases, made ML-related MLA requests to the US, two of which were granted. This disparity demonstrates a lack of proper data collection for MLA matters.

508. The number of outgoing judicial assistance requests made is more than incoming requests received, due to varying factors. Most of the requests were in relation to the production of documents and information such as financial records and judicial documents. The majority of Pakistan's requests related to corruption, followed by drug offences and TF. This is to some extent in line with the risk profile in the NRA since these offences are considered high risk. The majority of outgoing requests are made to UK, US and UAE, all of which as stated in the NRA are among the most preferred foreign destinations for the proceeds of crime. International cooperation efforts were successful in some domestic judicial proceedings whereby significant seizures of illegally gained assets concerning drug offences (see Case Example 1) occurred; the conviction of high ranking officials in a corruption case (see Case Example 5); and the tracing of illegal proceeds and further initiation of ML investigations

(para 450) were achieved. In order to follow-up the execution of unanswered MLA requests, Pakistan stated that regular reminders to foreign authorities are issued by domestic agencies.

509. There are very few outgoing MLA requests concerning ML. The low number of ML-related MLAs as opposed to the relatively high number of domestic investigations (see IO.7) suggests that authorities are not giving sufficient emphasis on transnational aspects of ML cases contrary to the findings of the NRA. Pakistan sought foreign assistance in 15 cases in respect of TF. This figure to some extent, is in line with the risk profile of the country. When it comes to predicate offences, the volume of requests where Pakistan sought foreign assistance; the ratio of high risk predicate crimes; and some successful results achieved via information gathered through MLA and delivered to the domestic agencies; all demonstrate, to some extent, at least, the willingness of Pakistan to effectively use formal international cooperation channels.

b. Extradition requests

510. As for outgoing extradition requests, authorities were only able to demonstrate data for the last two years (2017-2018), according to which 76 extradition cases were registered. The vast majority of the requests are related to murder charges with four regarding terrorism in which one also pertains to TF. While the outcomes of all requests are not known, Pakistan indicated that the terrorism-related requests have not yet concluded. It is unclear what, if any, actions Pakistan authorities have undertaken to expedite these outgoing requests.

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

Table 8.4: Incoming and outgoing international assistance requests of/to the FMU

FMU-Outgoing Requests (2014-30/06/2018)				
Year	Voluntary Disclosures Received	Requests Made	Response Received	Pending / No Action Required
2014	1	0	0	0
2015	2	2	2	0
2016	0	0	0	0
2017	0	2	1	1
2018	0	1	0	1
Total	3	5	3	2

FMU-Incoming Requests (2014-30/06/2018)			
Year	Requests Received	Responded	Pending / No Action Required
2014	3	3	0
2015	3	3	0
2016	0	0	0
2017	8	6	2
2018	2	1	1
Total	16	13	3

511. Although it has not refused any foreign requests, the FMU cooperates on a limited basis with other FIUs outside the Egmont network. Pakistan is not yet a member of the Egmont Group although it has been seeking membership since 2012. It has four MoUs with its foreign counterparts. Authorities stated during the onsite visit that Pakistan has met all the conditions to be admitted as a member of the Egmont Group and would become a member soon. Pakistan further stressed, however, that countries are reluctant to sign bilateral MoUs for information sharing because Pakistan lacks membership. However, even the number of outgoing requests to non-treaty countries is not commensurate with the risk Pakistan faces in terms of terrorism, TF and ML. There are no restrictions on the FMU to share spontaneous information with foreign counterparts, but no such spontaneous sharing has yet occurred in practice. The average time for the execution of foreign assistance requests is one-to-two weeks.

512. The extent to which internationally-obtained information is used in domestic investigations is demonstrated in one case where, having obtained financial TF-related intelligence from a foreign FIU, the FMU forwarded this information to the FIA to commence an inquiry. The proceeding is currently underway. As mentioned earlier in this report, Pakistan has MOUs on information exchange with four foreign FIUs and the FMU actively responds to information requests. However, there is no evidence that LEAs use the FMU to exchange financial intelligence in their respective ML and TF investigations.

513. When it comes to law enforcement agencies, they are able to share information through bilateral MoUs, regional and international mechanisms (such as INTERPOL). In respect of INTERPOL, in 2017 only, 128 Interpol Notices were issued at the request of National Central Bureau of Pakistan in Islamabad. Data shows that eight red notices concerning terrorism were issued. The remarks from other countries received by the assessment team from the global network before the on-site visit indicates that Pakistan is willing to cooperate through this channel.

514. NAB has signed three MoUs/protocols with foreign organizations or departments. NAB mainly uses formal LORs in international cooperation and in a few instances shared information on tracing of assets through informal channels.

515. ANF has signed MoUs with 33 countries on counter-narcotics cooperation. Statistics from ANF show that informal intelligence-led operations with different countries occurred 114 times between 2014 and 2018. More than 50 tons of various types of narcotic substances were seized in that time period.

516. FBR-IR is the competent authority for issues relating to the OECD's Global Forum on Transparency and Exchange of Information on Request (EOIR) - the multilateral framework within which work on transparency and exchange of information for tax purposes has been carried out by OECD and non-OECD economies since 2000. From 2014 to the date of on-site visit in October 2018, FBR-IR received 59 assistance requests from foreign jurisdictions through this channel out of which it carried out 55, with four pending. As for outgoing requests for the same period, FBR-IR sent out 62 requests, 43 of which were pending at the time of the on-site visit.

517. FBR-customs is a party to a number of multilateral and bilateral agreements/MoUs regarding international cooperation. Some of these agreements include Regional Intelligence Liaison Office (RILO), SAARC Agreement on Mutual Administrative Assistance in Customs Matters, ECO Agreement for Establishment of Smuggling and Customs Offences Data Bank. FBR-customs also has 18 bilateral agreements with foreign countries enabling it to share information. Customs provided no evidence that it is using these mechanisms for seeking and providing other forms of international cooperation for AML/CFT purposes.

518. SECP is a member of the International Organization of Securities Commission (IOSCO) as well as a signatory to the IOSCO multilateral memorandum of understanding (MMoU) and shares information by these channels. Further, SECP has signed bilateral MoUs with 15 jurisdictions for information sharing. SECP has exchanged information in 75 cases with its foreign counterparts. It also shared spontaneous information including in some high profile cases. If the information requested is at the disposal of SECP, it may provide it within two to three days and may use rapid means of communication such as e-mail while transmitting the information.

519. SECP has also issued Guidelines for Cooperation and Assistance to Foreign Regulatory Authorities. It is available on the SECP website and provides a framework for international cooperation and stipulate formal mechanisms for sharing information and assistance.

520. SBP can, and does, provide supervisory cooperation in banking matters and has so far signed 20 MoUs/Agreements with regulatory authorities of different countries. During the last two years, there were 33 cases where information on foreign nationals was sought and received from foreign central banks/regulators.

521. Pakistan's approach to the use of informal cooperation is constructive. LEAs, SECP and SBP are signatories to several regional mechanisms and bilateral arrangements. Though some LEAs (e.g. NAB) prefer formal cooperation in exchanging assistance others, including ANF and FBR-IR, obtain efficient outcomes from informal cooperation. However, the limited ability of FMU to share financial intelligence hampers its efforts to seek and provide international cooperation to address transnational crimes.

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

522. Pakistan has some experience with exchanging basic information on legal persons through SECP, however, Pakistan's is unable to share beneficial ownership information due to the limitations in relation to the collection of such information as outlined in the TC Annex and to the non-enforceability of the SECP regulations requiring legal persons to collect that information. SECP had cases requesting beneficial ownership information from foreign jurisdictions, whereas no incoming requests have occurred to date. As highlighted in IO.4, the low understanding of the concept of beneficial ownership by relevant reporting agencies impedes Pakistan's ability to collect that information internally. This has an adverse impact in international cooperation relating to beneficial ownership information-exchange.

523. With respect to sharing information in relation to legal arrangements, Pakistan is not able to share beneficial ownership in relation to trusts and *waqfs* and has had no requests from other countries nor has it made any such requests for this information.

Overall conclusion on Immediate Outcome 2

524. Pakistan does not have standalone MLA legislation but remains cooperative in responding to international assistance requests in formal cooperation. In some instances, internationally obtained information resulted in domestic judicial proceedings. In respect of informal cooperation, with the exception of the FMU, LEAs and supervisory authorities enter into a constructive exchange of information with their foreign counterparts mainly in a timely manner. However, the low number of outgoing MLA requests regarding ML and the relatively low figures for TF in both MLA and extradition does not fully reflect Pakistan's risk profile and requires major improvements to tackle the transnational aspect of these crimes. Finally, though there are no restrictions, Pakistan's ability to share

beneficial ownership information in relation to legal persons and arrangements (trusts as well as *waqfs*) is severely limited because of the limitations in relation to the collection of that information (see IO. 5, R.24 and R.25).

525. These deficiencies require major improvements.

526. **Pakistan has achieved a moderate level of effectiveness for IO.2.**

TECHNICAL COMPLIANCE ANNEX

1. This Annex provides a detailed analysis of Pakistan's level of compliance with the FATF 40 recommendations as at the date of the on-site visit in October 2018 and is limited to the analysis of technical criteria for each recommendation. Matters relating to Pakistan's ML and TF risks and context are contained in the main body of this report. Ratings for some recommendations contained in this Annex are weighted against identified ML and/or TF risks as required by the 2014 assessment methodology.

2. Pakistan's previous detailed assessment report was adopted by the APG in 2009 and is available at www.apgml.org. References to that report occur in this Annex at relevant sections of the analysis for comparative purposes.

Recommendation 1 - Assessing Risks and applying a Risk-Based Approach-

3. The requirements of this recommendation were added to the FATF standards in 2012 and were therefore not assessed in the 2009 detailed assessment report of Pakistan. Pakistan completed a national risk assessment in 2017.

OBLIGATIONS AND DECISIONS FOR COUNTRIES

Risk assessment

4. Criterion 1.1 – Pakistan published a *National Risk Assessment on Money Laundering and Terrorism Financing 2017* (NRA) using the World Bank's NRA tool. The FMU acted as national coordinator of a team comprising 60 representatives from various government departments and agencies. The report analyses the following:

- National ML threats and vulnerabilities;
- Sectoral ML vulnerabilities; and
- TF risks and vulnerabilities.

5. The following national ratings are assigned in the NRA:

National ML and TF Threats and Vulnerabilities	
• National ML threat	medium
• National ML vulnerability	medium
• TF threats	medium
• TF vulnerabilities	medium

Unregulated Sector – 'high risk'

6. The NRA assigns only one sector/activity as 'high risk': the alternative remittance sector also known as hawala/hundi. The NRA states that 'it is likely that hawala/hundi operators use legitimate funds to settle illegitimate transactions (e.g. smuggling, under invoicing, proceeds of corruption, etc.). The report states that 'a part of foreign exchange collected abroad may include funds for terrorist financing and the rupee counterpart disbursed in Pakistan may help terrorist financing.'

Regulated Sectors – varying risk levels

7. The NRA also assigns the following sector ratings:

Sector ML Vulnerabilities			
Financial institutions		DNFBPs	
• Banking	medium	• Real estate dealers	medium-high
• Securities market	medium	• Dealers in PM&S	medium-high
• Insurance sector	medium	• Accountants	low
• Non-bank FIs	low	• Lawyers/notaries	medium-low
• Modarabas	low	• Financial inclusion	low
• Asset management	medium		
• DFIs	low		
• CD Nat'l Savings	medium-low		
• Pakistan Post	low		

8. The NRA was completed in February 2017 and the report was approved by the Chairman NEC (Minister of Finance). The principal ML predicate offences identified are: corruption; smuggling (all types); drug trafficking; cheating and fraud; kidnapping for ransom; extortion; and illegal arms sales. The NRA identifies the primary sources of TF as follows: foreign funding; drug trafficking; kidnapping for ransom; extortion; robbery and vehicle snatching.

9. While the primary purpose of the NRA was to identify and understand the ML and TF risks in the country and implement a risk-based approach to mitigate the identified risks on the basis of the ratings assigned:

- there is little information in the NRA which explains how the sources of ML predicate crimes were identified. Separately Pakistan officials indicated that the analysis was based on investigation and prosecution data;
- the analysis of TF risks is perfunctory only and does not outline separate TF risks in the various formal sectors including DNFBPs nor in the informal hawala/hundi sector which is the only sector identified as high risk;
- it is not clear in the report or other documents how the vulnerability/risk ratings were assigned to the various sectors. There is no clear methodology or analysis for assigning the various ratings of low, medium, medium-high and high;
- there are no definitions of the rating categories to assist in understanding what the ratings categories actually mean.

10. Not included in the NRA is a risk assessment of the NPO sector. However in 2018, SECP issued 'AML/CFT Guidelines for NPOs' which contains a general TF risk assessment of the sector. Section 3 outlines the TF risk factors and vulnerabilities in the sector and states that 'while not all NPOs are inherently high risk organisations it is desirable to identify those that are' and includes an Annex in the guidelines which does that.

11. Criterion 1.2 – The Director-General of the FMU was designated the national coordinator for the risk assessment exercise by the Finance Secretary in 2015. .

12. Criterion 1.3 – Pakistan maintains that the same working group has been tasked to review and update the NRA based on new developments. However, no information has been provided on timescales, or which particular stakeholders are responsible to conduct spontaneous reviews in light of changes in risks within the country or within a region, or what mechanisms are in place under legislation or policy to implement a new or updated assessment.

13. Criterion 1.4 – Pakistan has a mechanism to share the NRA with government agencies (through the NEC and FMU). Subsequent to the completion of NRA, the FMU developed an action plan and shared the results with all relevant government stakeholders LEAs further disseminated the results of NRA to their Zonal Offices. The action plan contains a number of identified

deficiencies in the AML/CFT system for priority response. However, there are no mechanisms in place to share the document or its results with SRBs, financial institutions and DNFBPs. The action plan also has no identified time lines for implementation of the actions identified.

Risk mitigation

14. Criterion 1.5 – While some authorities have provided examples of the application of the risk-based approach in response the NRA, Pakistan is aware of the need to review its allocation of resources in light of identified risks (the NRA itself makes some recommendations to this effect for higher risk areas), and the NCC has been charged with ensuring that the design of AML/CFT policies and allocation of resources are risk-based. The RBA for policy development and implementation is not consistent across all sectors and agencies primarily because the national action plan (both the previous 2012 version and the current version issued in October 2018) does not address priority identified risks (see R.2).

15. Criterion 1.6 – There are no sector or FI exemptions provided in the AML/CFT Act and regulations. While there are different licencing regimes by the SECP in relation to different types of money exchanges (A and B) these do not amount to exemptions for the purpose of the criterion.

16. Criterion 1.7 – One sector is rated as ‘high risk’ (hawala/hundi – an unregulated and illegal sector in Pakistan) and three sectors are identified in the NRA as ‘medium-high’ vulnerability of ML, namely real estate, precious metal and gems, and lawyers. However:

- Pakistan’s AML/CFT regime does not specially address these sector-issues through requiring FIs and DNFBPs to take enhanced measures to mitigate their vulnerabilities;
- Pakistan’s AML/CFT regime does not require FIs and DNFBPs to ensure that this higher risk sector information is incorporated in their own risk assessments.

17. With respect to sectors identified as ‘medium vulnerability’:

- Banks: Guidelines require banks/DFIs to conduct their internal money laundering and financing of terrorism risk assessments (in their relationships and services keeping in view the factors like customers, products and services, transactions channels and geographic areas) in order to develop their own policies and procedures to identify, assess, manage and mitigate related risks on an ongoing basis. SBP issued Circular No. 2 of 2012 on the risk-based approach however it does not require banks to consider NRA information when developing their own risk assessments;
- Securities: SECP does not appear to meet this standard on the information provided in that the risk based approach is being followed only in case of KYC of a customer where high risk customers are subject to enhanced due diligence and greater scrutiny and have been made part of SECP’s AML/CFT Regulations, 2018;
- Insurance: There do not appear to be any regulations or guidance to the insurance sector on higher/medium risk identified in the NRA;
- Asset management companies: There do not appear to be any regulations or guidance to this sector on higher/medium risk identified in the NRA.

18. Criterion 1.8 – The SECP permits simplified due diligence in relation to the FIs it regulates however it is not clear in the regulation that the range of simplified CDD is consistent with Pakistan’s NRA. Other sectors are not permitted to apply simplified measures.

19. Criterion 1.9 – SBP and SECP supervise their reporting institutions subject to AML/ CFT obligations however it is not clear that the supervision is required to be conducted on a risk-sensitive basis which includes assessment for those classified as high risk of their policies,

practices, systems and controls in place to address their ML/TF risks. Moreover, there is no evidence that real estate agents, dealers in precious metals and stones, and lawyers (assessed in the NRA as the highest risk sectors) are supervised for compliance with AML/CFT obligations on a risk-sensitive basis.

Obligations and Decisions for Financial Institutions and DNFBPs

Risk assessment

20. Criterion 1.10 – While the SBP and SECP require their reporting institutions to identify, assess, understand and document their ML/TF risks, not all reporting entities are required to do so. There are no requirements for certain sectors (real estate agents, lawyers and precious metal/gem dealers) to undertake such assessments and document their results. Some SRBs (e.g. ICAP) have issued guidance notes to their sectors but these guidance notes are not enforceable. For instance, the Federation of Realtors of Pakistan issued unsigned ‘AML and CFT Guidelines 2018’ during the on-site visit however real estate agents in Pakistan are not required to join the Federation and even if they were the guidance is not enforceable (as required by the criterion). The All Pakistan Gems Merchants and Jewellers Association also issued AML/CFT guidance during the on-site visit in October 2018 and it suffers from the same defects.

Risk mitigation

21. Criterion 1.11 – No specific policy or legislation has been issued to underpin the requirements of this criterion. Pakistan provided information referring back to c.1.7 but this criterion in itself is flawed due to lack of clarity and breadth of scope (BDRP 02 of 2012).

22. Criterion 1.12 – Due to the shortcomings identified in c.1.9, c.1.11 and particularly c.1.7 this criterion is not met. Insufficient information has been provided.

Weighting and Conclusion

23. The NRA identifies areas of higher risk and higher risk sectors however some gaps in the process of developing and identifying threats/vulnerabilities/risks remain. In addition, the NRA has not yet been widely circulated to private sector stakeholders. Some sectors have received briefing on the results of the NRA but none have seen the full document and some have not been briefed at all. The sectors assessed as higher risk or higher vulnerability in Pakistan are not yet subject to comprehensive AML/CFT measures.

24. **Recommendation 1 is rated partially compliant.**

Recommendation 2 – National Co-operation and Co-ordination

25. Pakistan was rated partially compliant with R.31 in its 2009 report which noted, among other things, that mechanisms established to coordinate AML policies were not yet fully implemented and adequately supported by all relevant stakeholders in the Pakistan government. In addition, no mechanism was established to support CFT coordination at policy and operational levels.

26. Recommendation 2 contains new requirements that were not assessed under the 2004 methodology.

27. Criterion 2.1 – In 2018 Pakistan approved the *National Strategy for Anti-Money Laundering and Combatting the Financing of Terrorism* issued in October of that year (replacing a previous plan issued in 2012). The stated objectives of the 2018 strategy are to:

- review and strengthen the legal framework concerning AML/CFT;
- make regulatory/supervisory regime more effective with increased level of implementation and enforcement;
- strengthen disclosure and declaration regime to check cross-border transportation of currencies and bearer negotiable instruments;
- develop an effective reporting regime and build systems and processes for reporting by non-financial businesses and professions;
- build capacities and skills of all stakeholders engaged in AML/CFT law, policy and implementation, including investigators, prosecutors and judges;
- enhance national coordination and build international cooperation framework; and
- build AML/CFT awareness in general public and carry out advocacy campaigns.

28. The strategy contains seven areas of focus set out in a timetable of activities, relating to the following: general areas, legal (including legislation), law enforcement, financial sector implementation, governance, and international cooperation. However, although the national strategy for AML/CFT exists in Pakistan none of the strategies in the tables align with the risks identified in the NRA issued in 2017 nor is the NRA actually referenced in the strategy as the basis upon which the actions have been approved. For instance, hawala/hundi is rated as 'high' risk in the NRA yet the national strategy contains no targeted framework to deal with this risk. The same applies to other high risk sectors such as real estate agents. On that point, the NRA prioritises the real estate sector as *priority number 1* for recommended actions; however the national strategy makes no mention of this sector as a priority. Likewise with exchange companies-B which are listed as *priority number 2* in the NRA. No measures are targeted in the strategy to respond to the risks associated with these reporting entities.

29. All of the identified strategies are general in nature. Significantly TF is not separated from general AML/CFT plans as a separate category of risk requiring addressing by unique TF strategies.

30. Nor is there any indication in the strategy that the plan is to be regularly reviewed. There is no commencement date of the plan and there is no mechanism stated in the plan by which actions taken to comply with the strategies are reviewed by an identified and responsible agency.

31. Subsequent to the NRA, but prior to the end of the ME on-site visit in October 2018, Pakistan issued a number of AML/CFT measures (laws, regulations and administrative measures all of which are discussed at the relevant recommendations in this annex) that partly address the risks identified in the NRA.

32. Criterion 2.2 – Under s 5 of AMLA the National Executive Committee (NEC) was established and designated the responsible authority to review and oversee the implementation of policies against ML and TF. The NEC is chaired by the Minister for Finance and includes relevant Ministers. The NEC is assisted by the General Committee (GC) consisting of the Secretaries of the relevant departments/ministries note above (s 5(4) AMLA). The GC may be assigned or delegated the functions of the NEC (s 5 (3B)).

33. The National Counter Terrorism Authority (NACTA) is established under s 3 of the National Counter Terrorism Authority Act 2009 to coordinate national counter-terrorism efforts. NACTA is chaired by the Prime Minister and consists of other relevant Ministers.

34. Criterion 2.3 – Section 5(3) of the AMLA outlines the duties of the NEC to develop, review and oversee the implementation of the national strategy to fight ML and TF, provide guidance and sanctions in framing rules and regulations under this Act, frame national policy to combat money

laundering and financing of terrorism. Under s 4 of the NACTA Act, NACTA is required to coordinate and prepare comprehensive national counter terrorism and counter extremism strategies, develop action plans against terrorism and extremism and report the federal government about implementation of these plans on periodical basis, carry out liaison with international entities for facilitating cooperation in areas relating to terrorism and extremism and review relevant laws and suggest amendments to the federal government.

35. Section 5(4) of the AMLA establishes another committee known as General Committee to coordinate AML and CFT related matters at the operational level and to assist NEC. The General Committee includes representatives of the FMU, relevant ministries, designated law enforcement agencies and regulators. In addition, NACTA has established a task force on CFT comprising stakeholders from federal and provincial departments, FMU, LEAs, intelligence agencies and regulators of financial institutions. NACTA recently constituted a TF sub-committee for federal and provincial law enforcement agencies to share experience and information, and to act in collaboration on TF investigations.

36. Criterion 2.4 – Under the Export Control Act 2004 the Ministry of Foreign Affairs is responsible for issues related to proliferation. The Ministry's Strategic Export Control Division (SECDiv) has issued guidelines (*Policy Guidelines on Strategic Export Controls 2016*) on export control to deal specifically with these issues. An independent oversight board, chaired by the Secretary Foreign Affairs, was established in July 2007 (SRO 693 (I)/2007) to monitor the implementation of Export Control Act 2004 including the formation and functioning of SECDiv, SECDiv was created in 2007 (SRO 499 (I)/2009). The Division acts as the licensing authority and also coordinates enforcement of the act with the relevant implementing agencies.

37. The *Outreach and Capacity Building Plan-2014* was implemented by SECDiv mandating stakeholder engagement including with research and academic institutes. SECDiv promotes self-regulation and compliance with the Act and undertakes outreach and awareness raising activities. Commodity Identification Trainings (CIT) is held for capacity building of relevant enforcement agencies. Seminars and workshops, on various aspects of export controls, are also organized.

Weighting and Conclusion

38. While Pakistan's national strategy for AML/CFT was issued in 2018 subsequent to the NRA in 2017 the measures outlined in the strategy are not based on the risks identified but general in nature lacking an operational risk-based focus. TF is not dealt with separately from general AML/CFT matters with unique strategies to address the separate financing risk - both illicit and non-criminal source funding risks. National policies prioritising key risk areas such as hawala/hundi and real estate agents (for example) are lacking.

39. **Recommendation 2 is rated largely compliant.**

Recommendation 3 - Money laundering offence

40. Pakistan was rated partially compliant on R.1 in 2009. Some of the deficiencies noted in the report included the following: elements of the ML offence were missing; not all designated predicate offences were included; and the ML offence lacked a sufficient range of ancillary offences.

41. Criterion 3.1 – ML is criminalised as a general offence under the AMLA on the basis of the Vienna and the Palermo Conventions. In addition, a specific offence of laundering the proceeds of narcotic offences under s 12 of the CNSA and a specific offence of laundering terrorist property under s 11K of the ATA are in force. AMLA mostly meets the requirements of Vienna and Palermo

Conventions. However, the CNSA restricts the acts of “concealment” or “disguise” to making false declarations.

42. Criterion 3.2 – Most of the designated categories of offences are designated as predicates to the ML. All offences under the ATA including TF, insider trading, environmental crime, market manipulation, kidnapping and abducting for extorting property (s 365A of PPC) are designated as predicate offences under AMLA since the previous MER.

43. Two offences are not, however, included as predicate crimes to the ML offence, namely, grievous bodily injury (ss 33-337A-Z of the PPC) and marine piracy, the latter of which is not yet a criminal offence.

44. Criterion 3.3 – Pakistan does not use a threshold approach or a combined approach. Rather, it applies a list-based approach to cover relevant predicate offences to ML, however as noted above, some offences are not yet included.

45. Criterion 3.4 – The definitions of ‘proceeds of crime’ and ‘property involved in money laundering’ under s 2(q) and 2(ra) enable the ML offence to extend to any type of property regardless of its value that directly or indirectly represents the proceeds of crime.

46. Criterion 3.5 – Explanation II in s 3 of AMLA explicitly provides that for the purpose of proving an ML offence an accused is not required to be convicted of a predicate offence.

47. Criterion 3.6 –Section 3 of the AMLA provides that a person is guilty of ML if they acquire, convert, possess, use or transfer property, knowing or having reason to believe that such property is proceeds of crime. The definition of “proceeds of crime” and “property” link back to the definition of “foreign serious offence” (ss 2(i), 2(q) and 2(ra) of the AMLA). A “foreign serious offence” is an offence “against the law of a foreign State stated in a certificate issued by, or on behalf of, the government of that foreign State and which, had it occurred in Pakistan, would have constituted a predicate offence.

48. Criterion 3.7 –Section 3(a) (b) (c) and (d) of AMLA is structured to permit the ML offence to apply to persons who commit predicate offences.

49. Criterion 3.8 –Explanation-I of s 3 in the AMLA provides that “the knowledge, intent or purpose required as an element of an [ML] offence set forth in this section may be inferred from factual circumstances in accordance with the Qanun-e-Shahadat Order, 1984”.

50. Criterion 3.9 – Section 4 of AMLA sets out the punishment for ML offences. Imprisonment shall not be less than one year but may extend to ten years. Offenders are also liable to a fine which may extend to one million rupees (approximately USD\$8,651) and liable to forfeiture of property involved in ML or property of corresponding value. Provided that the aforesaid fine may extend to five million rupees (approximately USD\$43,000) in case of a company director, officer or employee found guilty under this section.

51. Under s 11K of ATA the offence of laundering terrorist property is punishable by imprisonment of five to ten years and a fine to be determined by the Court having regard to the circumstances (s 2(h)).

52. Laundering narcotics-related property is punishable under s 13 of CNSA by imprisonment of 5-14 years and a compulsory fine of not less than the prevailing value of the assets together with assets forfeited. The criminal sanctions are dissuasive and proportionate for natural persons.

53. Criterion 3.10 – “Person” is defined in s 2 of the AMLA to include “a firm, an entity, an association or a body of individuals, whether incorporated or not, a company and every other juridical person.” Under s 4 of the AMLA, legal persons may be found guilty of ML offences and if found guilty are liable to be punished with a fine that may extend to five million rupees. In addition, the property involved in money laundering or property of corresponding value shall also be liable to forfeiture. Sanctions for legal persons are not dissuasive or proportionate, as the uppermost fine is only 5 million rupees (approximately USD 35,952). In terms of alternative sanctions, there are a number of alternative civil/administrative sanctions laid down in several legal arrangements for respective domain of different legal persons.

54. Criterion 3.11 – Section 3(d) of AMLA criminalises the participation in, association with, conspiracy, attempt, aiding, abetting, facilitating, and counselling the commission of a ML act. Section 21-I of ATA sets out punishment for aiding or abetting any offence under this Act. Under s 14 of CNSA, participation, association, conspiracy, attempt, aiding, abetting, facilitating, inciting, inducing and counselling are punishable.

Weighting and Conclusion

55. Pakistan’s ML offence is generally compliant with the standards except for deficiencies in the scope of predicate offences in the AMLA. Sanctions are inadequate for ML: fines not more than PKR 1 million (USD\$8,651) for general ML offences are not proportionate and dissuasive, especially if the proceeds generated involve large amount of funds or high value properties. Moreover sanctions for legal person are also not dissuasive or proportionate. There is a minor deficiency in the ML offence set out under CNSA.

56. **Recommendation 3 is rated largely compliant.**

Recommendation 4 - Confiscation and provisional measures

57. Pakistan received a partially compliant rating for R.3 in its 2009 MER. The report noted that statutory forfeiture provisions did not clearly enable forfeiture of proceeds of crime. Only the NAO permitted forfeiture of property of corresponding value. There was no capacity to provisionally freeze under the ATA.

58. Criterion 4.1 – Application of legal provisions in terms of confiscation depends on whether an ML offence is present and prosecuted together with a predicate offence. In other words, if the predicate is prosecuted along with ML, confiscation is based on S 4 of the AMLA, which meets the requirements of c 4.1(a,b,d) both for ML and predicate offences. However, if the predicate prosecution is pursued alone, AMLA rules will not be applicable and other relevant legislation will be used.

59. 4.1 (a) – s 4 of the AMLA provides that *persons convicted of ML* shall also be liable to forfeiture of property involved in money laundering. The term “*property involved in the money laundering*” refers to proceeds of crime as well as property laundered. The definition of ‘property’ in the AMLA is very wide and is in keeping with the standards. The AMLA does not explicitly cover confiscation of property held by 3rd parties.

60. Section 13 of the CNSA provides for forfeiture of all assets following the conviction for money laundering offence set forth under s 12. The definition of assets (s 2/b) covers property even if they are in the name of accused’s spouse/relative/associates and thus include confiscation of property held by 3rd parties.

61. With regard to laundering terrorist property, the property laundered can be confiscated under s 11Q/5 of ATA and confiscation of the property held by 3rd parties is covered under S 11R/2.

62. 4.1 (b) – For the general ML offence, s 4 of AMLA provides for confiscation of “*property involved in the money laundering*” which is defined to include proceeds of crime including income or other benefits derived from such proceeds, as well as property used or intended to be used in the commission of the offence of ML and predicate offences. This provision, as explained above, may be applied for predicate offences if the prosecution is along with ML offence.

63. In respect of drug trafficking and connected money laundering; proceeds (ss 19, 13, 39 of CNSA) of or instrumentalities used or intended for use in (s 32) can be confiscated. Section 19 of the CNSA reverses the burden of proof and enables forfeiture of assets ‘*derivable from trafficking in narcotic substances*’ where a person convicted of an offence under CNSA with more than three years of imprisonment.

64. As for laundering terrorist property, proceeds thereof (s 11Q(5) and (6) of ATA) or instrumentalities used or intended for use in (S 11Q and 11R) can be confiscated upon conviction.

65. When it comes to predicate offences, as explained in preceding paragraphs, provided a predicate offence is not prosecuted along with ML, s 4 of AMLA would not be applicable and thus confiscation can be made according to relevant provisions of different laws.

66. To start with corrupt practices, s 10 of the NAO provides for confiscation of unexplained wealth following conviction for an offence under the NAO (corruption, fraud and other financial crimes). Assets found to be disproportionate to an offender’s known sources of income, or acquired by money obtained through NAO offences, whether in the offender’s name or any their dependants or informal or formal nominees (‘benamis’) forfeited. Hence, confiscation can occur even if the property is in the name of a 3rd party.

67. Confiscation of proceeds and instrumentalities are also laid down under Customs Act (ss 17, 156, 157); and CrPC (ss 516 A, 517). Said provisions also enable confiscation of property held by 3rd parties. However, CrPC provisions do not extend to intended instrumentalities.

68. 4.1 (c) - The Anti-Terrorism Court is able to make confiscation orders by virtue of s 11Q. If a person is convicted of offences from ss 11H to 11K, the property that is the proceeds, or used in or intended or allocated for use in the financing of terrorism, terrorist acts and terrorist organisations can be confiscated. The terms of “*terrorism, act of terrorism, terrorist property, terrorist*” are all defined under ss 2 and 6 of the ATA. Additionally, under para 2 of s 11V, the assets of those who direct terrorist organisations or terrorist activities shall be confiscated upon conviction. All in all, any property used, or intended or allocated for use in terrorist organisations is able to be confiscated. (s 11H, 11J). Properties held by 3rd parties can also be forfeited (s 11R).

69. 4.1 (d) - Confiscation of property of corresponding value is explicit under AMLA s 4. It is also possible under NAO (s 10) since the property found to be disproportionate to the accused’s known sources of income, derivative and thereby corresponding value of assets might be forfeited. However, in other legislations, no such provision is available.

70. Criterion 4.2 –

71. 4.2 (a) - AMLA: Based on AMLA, if an investigating officer has reasons to believe that an ML offence has been committed, he may, with a court order, survey any place (s 13) within the area assigned to it; enter and search any building, vehicle, vessel etc. (s 14); search of any person

(s 15). Dissemination of STRs and CTRs by FMU to LEAs is another means to identify property that may be subject to confiscation.

72. *CNSA*: Tracing and identification of assets of which there is reasonable suspicion or credible information is possible. Power of entry, search, seizure and arrest without warrant (s 21); power to seizure and arrest in public places (s 22); power to stop and search conveyance (s 23); undercover and controlled delivery operations (s 24); power to call for information (s 31); tracing and identification of assets earned by narcotics (s 38) are the means to identify, trace and evaluate the property that may be subject to confiscation. ANF Act is another means to provide Anti Narcotic Force to trace and freeze the assets (s 5/b); require any financial institution, including banks, to furnish information (s 6/4); direct the owner of property for which there is likelihood to be removed or transferred (s 6/5).

73. *NAO*: s 19 of NAO enables NAB to call for information from any person, require anybody to produce or deliver any document or thing, require any bank or financial institution (without court order) to provide any record of information or document relevant to the inquiry. Surveillance of suspected persons, controlled delivery and accessing computer systems are also available under the same section.

74. Other LEAs can also use such investigation tools as specified under R.31 to identify and trace property that is subject to confiscation.

75. 4.2 (b) – *AMLA*: s 8 of AMLA allows for provisional attachment of property that is reasonably believed to be involved in money laundering (which also includes property derived from commission of a predicate offence linked to ML). After serving a notice to a relevant person to indicate the sources of his income, earning or assets, if the investigation officer is not satisfied as to the legality of source of income, he must make an application to the Court to confirm the attachment. Search and seizure of any place or vehicle (s 14), attachment of property (s 8), search of persons (s 15) is also available.

76. *CNSA*: s 37 of CNSA enables provisional freezing of assets of an “accused” where there are reasonable grounds for believing such a person has committed an offence against that Act. For the first seven days, freezing comes into effect by the order of the Director General. Further continuation of it can be decided by the Court.

77. *NAO*: s 12 of the NAO also empowers the NAB to order the freezing of property of any person suspected of having committed an offence under the NAO. This freeze can extend to assets of any relatives or associates of the suspect. Following 15 days of freezing, a court order is required.

78. For terrorism related cases, the property belonging to the proscribed persons (s 11EE) or proscribed organisations (s 11B) can be seized or frozen under s 11O. Besides, terrorist property can be seized under s 11P. Similar provisions are also applicable under other Customs Acts (s 158-171) and Income Tax Ordinance (s 174-176).

79. Such freezing and seizure mechanisms are implemented without prior notice.

80. In respect of provincial police, if the subject of the offence is not in the scope of aforesaid laws, the measures to be applied under CrPC are as follows: the Court may seize any property that is subject to confiscation (s 516-A&550 of CrPC) and subsequently, as the case may be, issue confiscation order (s 517 of CrPC).

81. 4.2 (c) - Power to prevent or void actions has been set out in a number of legislations. Firstly, under s 10 (para 2) of AMLA, the Court may declare void any encumbrance on the property

or leasehold interest that has been created with a view to “defeat” the provisions of this Act. Moreover, s 41 of CNSA prohibits any alienation or transfers of any asset frozen under s 37 or s 40, and till the conclusion of proceedings and if such asset is forfeited to the federal government, any such alienation or transfer of assets shall be deemed to be of no effect. Those who act otherwise are punished. Lastly, under s 23 of NAO, transfer of any right, title or interest or creation of a charge on property owned by those upon whom the Chairman of NAB has been initiated an inquiry or investigation shall be void. Such act is also rendered offence. Lastly, ATA (s 11EEEE) gives the right to the law enforcement officer to direct the owner or that who is in possession thereof not to remove, transfer or otherwise dispose of the property which is the subject matter of the inquiry. However, for the offences falling outside the scope of those statutes, (e.g., tax evasion, types of smuggling etc.) and especially under CrPC, no arrangement has been observed.

82. 4.2 (d) - In addition to regular investigative techniques, some investigating authorities have a bunch of investigative measures to apply. To exemplify, investigating officers have the power of survey, (s 13 of AMLA) in simple terms, to enter any place within the limits of area assigned to them; NAO allows for surveillance of persons (ss 19/e); CNSA (s 24) allows for undercover operations and controlled delivery.

83. Criterion 4.3 – According to s 9(3A) of the AMLA, subsequent to a freeze or seizure order, having heard the aggrieved person or any others claiming the ownership of property (s 9(2)), the Court, may order the release of property.

84. With regard to ATA, para 4 of s 11(O) provides the opportunity for those who are affected by the seizure or freeze made for the proscribed persons or organisations to apply in order for that affected property to be released. Against the forfeiture order made under s 11Q, “a person other than accused”, within a period of 15 days of freezing of account or of taking into possession or control of such property, can file his claim before the Court. Appeal may be made before High Court against the confiscation order (s 11S).

85. In respect of CNSA, s 39(2) provides for opportunity for the third parties to be heard before the court prior to confiscation order.

86. As regards NAO, third parties have the right to object to provisional orders concerning freezing of property within 14 days. The right to appeal against final orders for forfeiture is introduced by S 13 (c).

87. Criterion 4.4 – Management of forfeited property is conducted through *trustees* and *receivers* under s 11 of the AMLA. Provided that the seized property is perishable in nature or subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, an administrator may sell it at once after reasonable notice to the federal government (s 12). Management provisions are contained in the AMLA Rules 2008 at ss 5(1)-(5).

88. The Frozen or Forfeited Drug Assets (Administration, Management, Maintenance and Disposal) Rules 2010 contain similar provisions and address the storage and maintenance of assets, disposal of perishables, livestock’s, valuables, currency and so on which are seized or frozen due to the commission of crimes under CNSA.

89. Under the NAO s 12 (d), the responsibility and discretion for management and disposal of property lies with the Chairman NAB or the Court. Depending of the types of seized property managing way thereof may be varied including appointment of receiver or immediate sale.

90. Individual arrangements for the management of property are also available in the Customs Act (ss 169 and 201), Sales Tax Act (ss 49 and 49A), Income Tax Rules (ss 160-168 and 179-180).

Weighting and Conclusion

91. Pakistan has legislative measures to enable their authorities to freeze, seize and prevent dealing with property subject to confiscation. However, confiscation of property of corresponding value is not available aside from AMLA and NAO. In addition, CrPC does not extend the application of confiscation to instrumentalities. Not all the relevant legislation provide for void actions.

92. **Recommendation 4 is rated largely compliant.**

Recommendation 5 - Terrorist financing offence

93. Pakistan was rated partially compliant with SR.II in the 2009 report. The rating was, in part, based on the following deficiencies. The law did not criminalize the financing of individual terrorists or the financing of terrorist organizations unless proscribed by the federal government. In addition, there was no definition of 'property' leaving the scope of the financing offence ambiguous. It was also noted that there was ambiguity as to whether the offence would extend to the financing of terrorism committed against foreign government or populations.

94. Criterion 5.1 – Section 11 of the ATA defines and criminalises TF on the basis of Terrorist Financing Convention. S 11H makes raising or provision of funds “for the purpose of terrorism or by a terrorist or organization concerned in terrorism” a criminal offence, specifically for a person to invite, receive, or provide “money or other property.” S11I makes it a criminal offence if a person “uses money or other property for the purposes of terrorism,” and s 11J makes it a criminal offence to enter into funding arrangements “as a result of which money or other property is made available or is to be made available to another” for the purposes of terrorism. Further, all categories of TF offences established in s 11H, s 11I, and s 11J are defined to cover an act where a person “intends” or “has reasonable cause to suspect” that funds will be used for the purposes of terrorism. Whereas none of the sections above specify that the provision of funds could be indirect, s 11J(2) does explicitly state that “Any person in Pakistan, or a Pakistani national outside Pakistan, shall commit an offence under this act, if he knowingly or wilfully makes money or other property or services available, directly or indirectly, wholly or jointly, for the benefit of a proscribed organization or proscribed person.”

95. It should also be noted that the ATA includes TF in its definition of a terrorist, defined as “an individual who has committed an offence of terrorism under this Act, and is or has been concerned in the commission, preparation, facilitation, funding or instigation of acts of terrorism” (S 6(7)(a)).

96. Criterion 5.2 – The ATA ensures that all TF offences extend to the provision or collection of funds or other assets by any means to support a terrorist act, as well as to the funding of “a terrorist or organization concerned in terrorism” even in the absence of a link to a specific terrorist act. As stated in 5.1, the ATA criminalises the collection, provision, and use of funds based upon the intent that it should be used or reasonable cause to suspect that it may be used for the purposes of terrorism, though indirect funding is only criminalised if for the benefit of a proscribed person or organisation.

97. Criterion 5.2bis – While s 11J(2) of the ATA makes it an offence if one “knowingly or wilfully makes money or other property or services available, directly or indirectly, wholly or jointly, for the benefit of a proscribed organization or proscribed person,” it does not specifically criminalise the financing of travel for any individuals to a State other than their States of residence

or nationality for the purposes of terrorism. While “for the benefit of” could be read under a broad interpretation to cover the financing of travel, notwithstanding limited to a proscribed person it does not expressly cover the financing of travel of individuals for terrorism.

98. Criterion 5.3 – Section 2(aa)(oa) and (pa) of the ATA sets out that terrorism offences extend to any funds or other assets whether from a legitimate or illegitimate source.

99. Criterion 5.4 – An act would be considered as a TF offence even if the money or property were not actually used to carry out or attempt a terrorist act, or be linked to a specific terrorist act. This is explicitly provided for in s 11 of the ATA (See 5.2). Additionally, the Third Schedule of the ATA criminalises “Any attempt to commit, or any aid or abetment of, or any conspiracy to commit, any of the aforesaid offences.”

100. Criterion 5.5 – The intent and the knowledge required to prove the TF offence can be inferred from objective factual circumstances. Chapter III of the Qanun-e-Shahadat Order, 1984 (the “Evidence Act”) provides for the relevance of objective facts for inferring the intent, knowledge, or the purpose of committing a crime.

101. Criterion 5.6 – Persons convicted of TF offences under s 11H, s 11I, and s 11J may be sentenced to prison for a term not less than five years and not exceeding ten years as well as fined (s 11N). However, persons convicted of TF offences under s 11F may be sentenced to prison for a term not less than one year and not exceeding five years as well as fined. There is no defined minimum or maximum limit for fines. Discretion to determine the amount of a fine is the responsibility of the judge in accordance with the particular circumstances of the case.

102. Additionally, s 11Q of the ATA provides the court by or before which a person is convicted of a TF offence the authority to order the forfeiture of “any money and other property: which, at the time of the offence, he had in his possession or under his control; and which, at that time, he intended should be used, or had reasonable cause to suspect might be used, for the purposes of terrorism.”

103. Criterion 5.7 – The ATA does not define the term “person” under the Act. Organization is defined as “any group, combination or body of persons” (s 2(p)). However, s 2(cc) provides that “all other terms and expressions used but not defined in this Act, shall have the meanings as are assigned to them in the Pakistan Penal Code 1860, or the Code of Criminal Procedure 1898.” The term person is defined in the PPC as including both legal and natural persons, and includes “any Company or Association, or body of persons, whether incorporated or not” (Chapter II, para. 11).

104. Criterion 5.8 – As discussed in 5.1 and 5.4, it is an offence to attempt to commit a TF offence. The ATA also criminalises aiding or abetting (s 21I) and harbouring any person who has committed any offence (s 21J) under the Act. S 11V makes it an offence to direct the activities “concerned with the preparation, instigation, or commission of acts of terrorism” whether for organizations or individuals, and the Third Schedule of offences includes “any conspiracy to commit any of the aforesaid offences.”

105. Criterion 5.9 – TF offences are designated as ML predicate offences, as all offences under the ATA are included on the schedule of predicate offences attached to the Anti-Money Laundering Act, 2010.

106. Criterion 5.10 – The ATA defines terrorism to include the use or threat of action directed against “a foreign government or population or an international organization” (s 6(b)). Additionally, s 11V specifically criminalises directing terrorist activities “whilst resident in Pakistan or abroad.”

Weighting and Conclusion

107. Pakistan has criminalised TF in accordance with the FATF standards with the exception of the quantum of available monetary penalties for the TF offence and that several sections of the ATA also rely upon an individual or organisation being “proscribed” for TF offences to apply.

108. **Recommendation 5 is rated largely compliant.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

109. Pakistan was rated partially compliant for former SRIII. The main deficiencies identified included the fact that while SROs relating to those listed by the 1267 Committee applied to all persons in Pakistan, only the freezing actions of entities monitored by the SBP were monitored, that the freezing requirements did not extend to all types of assets, non-compliance with freezing obligations was not enforceable, and that no guidance had been provided to entities expected to undertake freezing actions.

110. Criterion 6.1 – TFS pursuant to UNSCRs 1267/1989 and 1988 are implemented through the United Nations (Security Council) Act 1948. Section 2 provides that the Government may give effect to any decision of the UNSC by way of order published in the official Gazette. Targeted financial sanctions are implemented through Statutory Regulatory Orders (SROs).

111. Criterion 6.1(a) – The Ministry of Foreign Affairs is the competent authority responsible for proposing persons and entities to the UNSCRs 1267/1989/2253 committee and for proposing persons and entities to UNSCR 1988 based upon recommendations from a committee composed of representatives from the MFA, MoI, IB, ISI, and NACTA (SRO. 1014(I)/2018 dated 24 August 2018).

112. Criterion 6.1(b) – The committee identified in c.6.1(a) is responsible for identifying targets for designation based on the designation criteria set out in relevant UNSCR resolutions (SRO. 1014(I)/2018 dated 24 August 2018).

113. Criterion 6.1(c) – According to SRO No. 1014(I)/2018 dated 24 August 2018, designation proposals follow the evidentiary standard of proof of “reasonable grounds” or “reasonable basis,” though it is not specified that such proposals are not conditional upon the existence of a criminal proceeding.

114. Criterion 6.1(d) and (e) – SRO No. 1014(I)/2018 dated 24 August 2018 directs the committee responsible for proposing designations to provide as much detailed information as possible on the basis for the listing using the standard forms and procedures adopted by the relevant UN committee.

115. Criterion 6.2 – Pakistan implements targeted financial sanctions pursuant to UNSCR 1373 through the ATA. Pakistan can proscribe any individuals or organisation if it has reason to believe that they are connected to terrorism.

116. Criterion 6.2(a) – The Ministry of Interior is the competent authority for proscribing persons or entities, under Sections 11B (organisations) and 11EE (individuals) of the ATA, pursuant to UNSCR 1373. This authority is established pursuant to Rule 18 (1) of Rules of Business 1973, which delegates all internal security “matters relating to public security arising out of dealings and agreements with other countries and international organizations” to the MoI. In 2014, the MOI further delegated the authority to proscribe individuals to provincial Home

Departments and authorities in Islamabad Capital Territory (SRO No. (1)/2014 dated 29 October 2014).

117. The ATA states that proscription “may be formed on the basis of information received from any credible source, whether domestic or foreign including governmental and regulatory authorities, law enforcement agencies, financial intelligence units, banks and non-banking companies, and international institutions,” for organisations and individuals under s 11B and 11EE, respectively. This explanation does not prejudice any proscription determinations based upon whether the source of the designation request originates from Pakistan or upon the request from another country.

118. Criterion 6.2(b) – Pakistan has a mechanism in place to identify targets for proscription that is done in coordination between the Ministry of Interior, provincial Home Secretaries, and Chief Commissioner of ICT, with respective law enforcement and intelligence agencies (NACTA UNSCR 1373 Guidelines dated 17 October 2018). To give effect to foreign requests pursuant to UNSCR 1373, the guidelines state that the MOI will take freezing actions following the receipt of a formal request through the MFA’s formal diplomatic channels.

119. Criterion 6.2(c) and (d) – Proscription decisions are made on the basis of “reasonable grounds” from information received from any credible source for organisations and individuals under s 11B and 11EE of the ATA, respectively. Proposals for proscription are not conditional upon the existence of a criminal proceeding.

120. Criterion 6.2(e) – Pakistan indicates that when requesting another country to give effect to the actions initiated under the freezing mechanisms of ATA 1997, the Ministry of Interior would provide as much identifying information, and specific information supporting the designation, as possible to Ministry of Foreign Affairs, who would share it with the concerned foreign government through proper diplomatic channels (NACTA UNSCR 1373 Guidelines, para. 13).

121. Criterion 6.3 – Section 21EE of the ATA authorizes the Superintendent of Police or an equivalent officer of the security forces to call for a wide range of information in the course of investigations pursuant to the ATA. Sections 11B and 11EE provide the federal government the authority to list organisations and individuals as proscribed on an ex parte basis.

122. Criterion 6.4 – There are two separate processes by which Pakistan implements TFS pursuant to UNSCR 1267/1989/1988 and 1373. For individuals and entities listed under UNSCR 1267/1989 or 1988 and its successor resolutions, the federal government gives domestic effect to United Nations listing, delisting and amendments (updates to listing) by domestic destination through the issuance of SROs pursuant to s 2 of the United Nations (Security Council) Act, 1948. For each update of the 1267/1989 and 1988 lists, the MFA first receives information from the relevant UN Committees, then issues an individual SRO, which provides the legal grounds to implement sanctions. Updates to listings are enforceable upon issuance of the SRO (registration of SRO number and signing by the relevant Foreign Affairs minister). For the full period under review, there are numerous instances where SROs were issued with delays of several days.

123. In addition, SROs issued following updates to the consolidated UNSCR 1267 List require “all concerned” to take actions “as appropriate for the implementation of sanctions” pursuant to UNSCRs. However, the SRO does not define who or what entities are covered by the term ‘all concerned’. There are additional requirements for Banks, DFI, MFBs, EC, regulated persons and companies as discussed in detail at c.6.5(a).

124. The SROs are also published in The Gazette of Pakistan and on the MFA’s website (<http://www.mofa.gov.pk/contentsro.php>), and circulated to the relevant national competent

authorities and to FIs by SBP and SECP. While SROs are enforceable upon issuance, the “Guidelines on Compliance of UNSCR Resolutions” issued by SBP on 18 October 2018 note that SBP “circulates the subject SROs/Notifications to its regulated entities for taking necessary action,” which appears to communicate that reporting entities are obligated to take action upon receiving the SRO/Notification from SBP.

125. The proscription of individuals and entities pursuant to UNSCR 1373 is implemented by the Ministry of Interior pursuant to the ATA. Proscription by the MOI results in an automatic freeze obligation at the point of proscription (s 110 of the ATA). Proscriptions are communicated by Notifications, and proscribed entities are published on NACTA’s website (<https://nacta.gov.pk/>). Proscribed individuals only began to be published on NACTA’s website in September 2018, and lack critical identifying information for implementation. Once proscribed, the SBP circulates the Notification to banks/DFIs/MFBs and TFS are applicable per s 110.

126. Similarly, upon receiving information from NACTA about proscription under ATA-1997, SBP immediately circulates the same to all its regulated entities. E.g. NACTA Letter F. No. 4/94/2014(Ops)-8205 dated August 24, 2018.

NACTA Letter dated	August 24, 2018
NACTA Letter received at SBP	August 28, 2018
NACTA Letter circulated by SBP to its regulated entities	August 28, 2018

127. Criterion 6.5 – As above, there are separate legal frameworks to give effect to TFS related to UNSCR 1267/1989/1988 and 1373, as follows.

128. Criterion 6.5(a) – As above, Pakistan issues an individual SRO for all updates to listings and relevant UNSCRs with the latest SRO applicable to all proceeding listings and SROs. As discussed in 6.4, relevant SROs for listings under UNSCR 1267/1989 and 1988 mirror the text of operative paragraphs and require “all concerned” to “take actions as appropriate” pursuant to UNSCRs. However, the text of the SROs does not contain a legal obligation on all natural and legal persons or include a definition of ‘all concerned’.

129. Pakistan has issued additional requirements to the financial sector including:

- Under para 27 of the AML/CFT Regulations for SBP 2018, Banks and DFIs are required to “monitor their relationships on a continuous basis to ensure they have no relationships [with proscribed and designated entities and persons]... If any such relationship is found, immediate action shall be taken as per law”. However, “immediate action” is not defined and it is unclear what requirements this imposes upon banks/DFIs and if it would be applicable to all transactions.
- Under Regulation M-6 of Prudential Regulations for MFBs 2018, MFBs are required to comply with freezing actions of SROs pursuant to UNSCR 1267/1989 and 1988 and Notifications under the ATA.
- Under Chapter 6, s 14 of Exchange Companies Manual 2017 (requirements are also under Circular No. 09 dated October 18, 2018), ECs are required to comply with SROs and actions required under the ATA for those listed on the Fourth Schedule (proscribed individuals under s 11EE); however, this requirement does not extend to organisations listed on the First Schedule (proscribed organisation under s 11B).
- Under s 13 (7) of AML/CFT Regulation 2018 of SECP regulated persons are required to take immediate actions as per the law including freezing of funds and assets of individuals and entities listed on SROs (for UNSCR 1267/1989 and 1988) and Notifications (for UNSCR 1373).

130. Furthermore, SECP issued SRO 31(I)/2018, which prohibit officer of a company from providing assistance and funds to listed/proscribed person and entities. However, it does not cover limited liability partnerships or cooperatives.

131. There are no enforceable requirements for Pakistan Post, CDNS, cooperatives or DNFBPs. As a consequence it is unclear these FIs, DNFBPs and all natural and all legal persons in Pakistan are required to take freezing action pursuant to SROs issued in accordance with UNSCR 1267.

132. Additionally, SROs and the above obligations in AML/CFT regulations do not obligate to freeze without prior notice.

133. For UNSCR 1373, proscription on the national list results in an automatic freezing obligation (s 110 of the ATA) with both natural and legal persons subject to fines not exceeding 10 million rupees for any violations. The above additional requirements are applicable.

134. Criterion 6.5(b) – As above, relevant SROs for listings under UNSCR 1267/1989 and 1988 mirror the text of the relevant UNSCR. It is unclear if, in the context of Pakistan, the freeze would cover funds or other assets jointly owned or controlled.

135. For UNSCR 1373, the obligation to freeze under the s 110 of the ATA extends to “money or other property owned or controlled, wholly or partly, directly or indirectly, by a proscribed organisation or proscribed person.” The definition of money or other property is discussed in c.5.3 with the ATA not differentiating between legitimate and illegitimate funds.

136. Criterion 6.5(c) – As above, relevant SROs for listings under UNSCR 1267/1989 and 1988 mirror the text of the relevant UNSCR including “and to ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly for such persons’ benefit, by their nationals or by persons within their territory”. It is unclear if, in the context of Pakistan, the prohibition would cover funds or other assets and economic resources jointly owned or controlled. Furthermore, the definitional gap related to “all concerned” is applicable.

137. As discussed in c.6.5(a), Pakistan has issued additional requirements to the financial sector including:

- The prohibition on financial services for Banks and DFIs is under para 27 of the AML/CFT Regulations for SBP 2018, which states that “Banks/DFIs shall not provide any banking services to proscribed and designated entities and persons or to those who are known for their association with such entities and persons”.
- For MFBs, EC (requirements are also under Circular No. 09 dated October 18, 2018), regulated persons and companies, see above at c.6.5(a)
- There are no enforceable requirements for Pakistan Post, CDNS, cooperatives or DNFBPs. As a consequence it is unclear if the prohibition on funds applies to these FIs, DNFBPs and all natural and all legal persons in Pakistan.

138. For UNSCR 1373, the prohibition for all natural and legal persons is in the form of an offence under s 11J(2) as follows: “any person in Pakistan, or a Pakistani national outside Pakistan, shall commit an offence under this act, if he knowingly or wilfully makes money or other property or services available, directly or indirectly, wholly or jointly, for the benefit of a proscribed organization or proscribed person.”

139. Criterion 6.5(d) – For UNSCR1267/1989 and 1988, the SRO issued by the MFA is sent to the regulators, including SBP and SECP. The SBP and SECP circulate the SROs containing the lists of designations to reporting entities. Simultaneously the SRO is sent for publication in the Official Gazette, and most are published on the MFA’s website. It is unclear how SROs are communicated to DNFBPs, or if Pakistan has a mechanism for providing guidance to all FI, DNFBPs and other persons or entities that may be holding targeted funds or other assets.

140. For UNSCR 1373 a similar process is followed with listings of national designations circulated in Notifications by the MOI to the authorities at federal and provincial level including supervisory authorities. Similarly, it is unclear how Notifications are communicated to DNFBPs, or if Pakistan has a mechanism for providing guidance to all FI, DNFBPs and other persons or entities that may be holding targeted funds or other assets.

141. Criterion 6.5(e) – For UNSCR UNSCR1267/1989 and 1988, Banks and DFI are required to report the identification of a relationship with a designated/proscribed person or entity and any action undertaken to the FIU (para 27 of the AML/CFT Regulations for SBP).

142. Regulated persons are required to report actions taken to SECP (s 13 (7) of AML/CFT Regulation 2018 of SECP)

143. There are no requirements to give effect to this criterion for other FIs or DNFBPs.

144. For UNSCR 1373, under s 110(b) of the ATA, freeze actions regarding proscribed persons and entities must be reported to the federal government within 48 hours. The MOI is the competent authority to receive this information. However it is unclear if the obligation to report only applies to freezing or seizing actions and not action taken in regards to the prohibition on funds.

145. Criterion 6.5(f) – For UNSCR UNSCR1267/1989 and 1988, Pakistan has not adopted measures to protect the rights of bona fide third parties.

146. For UNSCR 1373, the ATA protects the GOP or any other person “complying or purporting to comply” with the asset freezing and seizure obligations outlined in s 110 if “done in good faith to effect freeze or seizure” (s 110(5)).

147. Criterion 6.6 –

148. Criterion 6.6(a) – For UNSCR 1267/1989, relevant SROs provide for the full implementation of relevant UNSCRs, including de-listing requirements with the MFA publishing procedures for de-listing on its website. (Procedures are listed at the following site: http://www.mofa.gov.pk/documents/sro/Delisting_Procedure_Alqaida.pdf). For UNSCR 1988, relevant SROs provide for the full implementation of the relevant UNSCR including de-listing requirements; however, it is unclear if there are publicity know procedures for de-listing.

149. Additionally, the SBP has issued guidance instructing its regulated entities to educate their customers on the proper procedures to apply for delisting in the “case of any wrongful or inadvertent freezing” (SBP UNSC Guidelines para. 13). Furthermore, the MFA communicates de-listings to competent authorities through the issuance of SROs.

150. Criterion 6.6(b) and (c) – For UNSCR 1373, According to s 110(5) of the ATA, any affected person can submit an application to the federal government requesting an inquiry to determine whether or not any money or property has been inadvertently frozen or seized. Section 11U(3) provides that on cancellation of proscription, the money or other property frozen or

seized shall be released in a timely manner and establishes a legal authority to unfreeze assets where original criterion for designation no longer apply.

151. Sections 11C and 11EE(3) of the ATA allow any proscribed organisation or individual to appeal their proscription before the federal government. If the review application is refused, aggrieved organizations or persons may then appeal to the High Court within 30 days.

152. Criterion 6.6(d) – As above, for UNSCR 1988, relevant SROs provide for the full implementation of relevant UNSCR; however, Pakistan has not made available any public procedures to facilitate review by the 1989 committee.

153. Criterion 6.6(e) – While relevant SROs provide for the full implementation of relevant UNSCR including in SRO. 886, which including the text of OP 59 of UNSCR 2368, it is unclear if Pakistan has procedures for informing designated persons and entities of the UN office of the Ombudsperson.

154. Criterion 6.6(f) – The SBP has issued guidance instructing its regulated entities to educate their customers on the proper procedures to apply for delisting in the “case of any wrongful or inadvertent freezing” pursuant to the 1267 sanctions list (SBP UNSC Guidelines para. 13). For those funds or assets frozen pursuant to UNSCR 1373, s 110(5) of the ATA allows any affected person to submit an application to the federal government requesting an inquiry to determine whether or not any money or property has been inadvertently frozen or seized. However, these procedures are not publicly available.

155. Criterion 6.6(g) – For UNSCR1267/1989 and 1988 de-listings are communicated by SRO, but it is unclear how SROs are communicated to DNFBPs, or if Pakistan has a mechanism for providing guidance to all FI, DNFBPs and other persons or entities that may be holding targeted funds or other assets.

156. For UNSCR 1373 de-listing are communicated by Notifications, but it is unclear how Notifications are communicated to DNFBPs, or if Pakistan has a mechanism for providing guidance to all FI, DNFBPs and other persons or entities that may be holding targeted funds or other assets.

157. Criterion 6.7 – For UNSCR1267/1989 and 1988, relevant SROs provide for the fully implementation of relevant UNSCR including in SRO.886, which instructs listed individuals or entities to submit exemption requests through the Focal Point mechanism, in accordance with UNSCR 1452. Pakistan has issued procedures for the exemption of the travel band but not for access to funds.

158. For UNSCR 1373, s 1100 of the ATA permits the federal government to “make available to a proscribed organisation or proscribed person such services, money or other property as may be prescribed, including such money as may be required for meeting necessary medical and educational expenses and for subsistence allowance.” However, this provision does not explicitly provide legal cover to permit access to funds for the other basic expenses detailed by UNSCR 1452, such as taxes, insurance premiums, and the payment of legal fees for the routine holding or maintenance of frozen funds, nor does this provision appear to permit those proscribed to apply for access to funds for any extraordinary expenses.

Weighting and Conclusion

159. Pakistan can give domestic effect to UNSCRs 1267 and UNSCR 1373 through SROs pursuant to s 2 of the United Nations (Security Council) Act 1948 and the ATA, respectively, though for the majority of the reporting period this was not without delay for UNSCR 1267.

Pakistan's legal framework for TFS includes some other required measures, such as procedures to authorise access to frozen funds and providing the competent authorities with the legal authority to collect information in support of designations, but lacks enforceable requirements for all natural and legal persons.

160. **Recommendation 6 is partially compliant.**

Recommendation 7 – Targeted financial sanctions related to proliferation

161. Recommendation 7 was added as a new requirement in the 2012 FATF recommendations.

162. Criterion 7.1 – Pakistan's Strategic Export Control Division (SECDiv) of the Ministry of Foreign Affairs issues SROs under to s 2 of the United Nations (Security Council) Act 1948 to give effect to Pakistan's UN obligations related to proliferation.

163. On 10 October 2018 Pakistan issued SRO 1260(I)/2018 providing that *“all concerned should take necessary measures for the immediate and effective implementation of the UNSCR resolutions without delay.”* The SRO states that all concerned must regularly access links containing the list of designated entities and individuals and the list of prohibited items, for any modifications/updates, which obligates all legal and natural persons to automatically implement TFS upon changes to designations at the UN. However, the SRO does not define who or what entities are covered by the term 'all concerned'. There are additional requirements for banks, DFI, MFBs, EC and regulated persons as discussed in c.7.2(a). As a consequence, it is unclear in the SRO whether other FIs, DNFBPs and legal and natural persons are required to take freezing actions - this issue is discussed in detail under c.7.2(a).

164. Criterion 7.2 – SECDiv, established pursuant to the Export Control Act 2004 under SRO 1078(1)2005, issues SROs pursuant to UNSCR 1718, 1737 and 2231 including successor resolutions with the Committee for Coordination, Review and Monitoring of UNSCR Resolutions on Counter-Proliferation (CRCM), established under SRO 1067(I)/2018 responsible for minoring and enforcement of TFS for PF. SECDiv chairs the CRCM.

165. Criterion 7.2(a) – As above, since 10 October 2018, the legal obligation to freeze funds and other assets of Iran- and DPRK-designated persons/entities is implemented through SRO 1260(I)/2018, which Pakistan informed the assessment team obligates all legal and natural persons to automatically implement TFS upon changes to designations at the UN. As above, due to the recent issuing of SRO 1260(I)/2018, implementation was unable to be established. However, is unclear as to whom SRO 1260(I)/2018 applies with previously issued SROs also not defining the term *‘all concerned’*

- For Iranian designated persons/entities, SRO 172(i)/2016 required *“all concerned offices autonomous and semi-autonomous bodies to implement the provisions of the UNSCR 2231”*. This SRO does not include a definition of *‘all concerned offices autonomous and semi-autonomous bodies’*.
- For DPRK designated persons/entities, s 3(d) of SRO 1063(I)/2006 closely mirrors the text of OP 8(d) of UNSCR 1718 with the *“the Federal Government is please to decide...freeze immediately the funds, other financial assets and economic resources... [remaining text of OP 8(d) of UNSCR 1718]”*. However, the text of the SRO does not contain a legal obligation on all natural and legal persons or include a definition of 'all concerned'. While some other SRO issued pursuant to UNSCR 1718 contain a legal obligation for *‘all concerned’* to freeze funds (e.g., SRO 219(I)/2013 and SRO 403(I)/2016) they do not include a definition.

166. Pakistan has issued additional requirements to the financial sector including:
- Under para 27 of the AML/CFT Regulations for SBP 2018, Banks and DFIs are required to “monitor their relationships on a continuous basis to ensure they have no relationships [with proscribed and designated entities and persons]... If any such relationship is found, immediately actions shall be taken as per the law”.
 - Under Regulation M-6 of Prudential Regulations for MFBs 2018, MFBs are required to comply with SROs including the freezing actions and the prohibition on banking services.
 - Under Chapter 6, s 14 of Exchange Companies Manual 2017, ECs are required to comply with SROs.
 - Under s 13 (7) of AML/CFT Regulation 2018 of SECP regulated persons are required to take immediate actions as per the law including freezing of funds and assets of individuals and entities listed on SROs (for UNSCR 1267/1989 and 1988) and Notifications (for UNSCR 1373).
167. Furthermore, SECP issued SRO 31(I)/2018, which prohibit officer of a company from providing assistance and funds to listed/proscribed person and entities. However, it does not cover limited liability partnerships or cooperatives.
168. Pakistan informed the assessment team that the scope of the term ‘all concerned’ is intended to have a wide interpretation; however, without a legal definition, Pakistan did not demonstrate that it is enforcing TFS requirements on these FIs, DNFBPs and all natural and all legal persons in Pakistan. As a consequence, it is unclear whom is required to take freezing action pursuant to SRO 1260(I)/2018.
169. Criterion 7.2(b) – SRO 1260(I)/2018 provides that sanctions extend to ‘any funds, financial assets and economic resources indirectly owned by the designated individuals, and to individuals or entities acting on their behalf or on their direction.’ In addition to this SRO:
- For Iranian designated persons/entities, the freeze obligation under SRO 172(i)/2016 mirrors the text of OP 6(c) of Annex B. However, Pakistan did not demonstrate that in its context, the freeze would cover funds or other assets jointly owned or controlled.
 - For DPRK designated persons/entities, SRO 219(I)/2013 mirrors the text of UNSCR 2094 and applies to the freezing obligation, under SRO 1063(I)/2006, to all elements of c.7.2(b).
170. Criterion 7.2(c) – While SRO 1260(I)/2018 acknowledges that individual and entities designated under UNSCR 1718 and 1737 and successor resolutions are ‘subject to sanctions including... ban on provision of any funds, financial assets or economic recourses’, the legal obligation to implement the sanction is on ‘all concerned’ and is not defined. As discussed above at c.7.2(a) Pakistan has issued additional requirements to the financial sector.
171. Criterion 7.2(d) – SROs are notified to the public through The Gazette of Pakistan, available on SECDiv’s website (<http://www.secdiv.gov.pk/>), and communicated, via electronic mail, regular mail and fax, from SECDiv to relevant competent authorities and then to FIs through the relevant supervisor. At the time of the ME onsite visit, there was no specific mechanism for communication of SROs to DNFBPs. And, there was not mechanism for SECDiv to provide guidance to FI and DNFBPs that may be holding funds or other assets of designated persons/entities.
172. Criterion 7.2(e) – Banks and DFI are required to report the identification of a relationship with a designated/proscribed person or entity and any action undertaken to the FMU (para 27 of the AML/CFT Regulations for SBP). Regulated persons are required to report actions

taken to SECP (s 13 (7) of AML/CFT Regulation 2018 of SECP). There are no requirements to give effect to this criterion for other FIs or DNFBPs. Additionally, there are no requirements to report attempted transactions and there is no evidence of any financial sector reporting in this regard.

173. Criterion 7.2(f) – Pakistan has no specific requirements to give effect to this criterion.

174. Criterion 7.3 – Under SRO 1067(I)/2018 the CRCM, chaired by the Director General of the SECDiv with SBP and SECP as members, has the mandate to; (i) coordinate, review and monitor the implementation and enforcement of TFS for PF; (ii) issue guidelines and conduct awareness raising, and (iii) exchange information. Under SRO 331(I)2012 Pakistan has administrative sanctions for non-compliance with any SROs issued pursuant to the United Nations (Security Council) Act 1948. However, Pakistan has not adopted measures for monitoring and ensuring compliance by financial institutions and DNFBPs as required by c.7.3.

175. Pakistan may impose administrative sanctions for non-compliance with any SROs issued pursuant to the United Nations (Security Council) Act 1948. Under s 2(1), upon wilful non-compliance or contravention by natural or legal persons, the Secretary of Foreign Affairs or delegate may impose a maximum fine of max PKR 1 million (USD \$7,407) with an addition fine of PKR 10,000 (USD \$74) per day for continued non-compliance. Under s 2(2), directors and other officers of a company wilfully involved in non-compliance or contravention of the rectification order are liable for a fine of PKR 500 (USD \$3.70). Pakistan increased the maximum fine under s 2(1) of SRO 331(I)2012 to PKR 10 million (USD \$74,074).

176. However, while there is an instrument outlining a monitoring function for R.7 obligations and there are sanctions for non-compliance, it is unclear if entities outside of those regulated by SBP and SECP are required to comply with SROs.

177. Criterion 7.4 – Pakistan has basic delisting procedures published on the SECDiv's website www.secdiv.gov.pk/page/sro-unscr-sanctions. There is no evidence that Pakistan has compliance with c.7.4(b) (de-conflicting false positives), or the second part of 7.4(d) (providing guidance on obligations related to delisting).

178. c.7.4(c): While SRO 1260(I)/2018 does not provide for the requirements of this criterion, for access to funds related to DPRK designated persons/entities, s 4 of SRO 1063(I)/2006 closely mirrors the text of OP 9(a)-(b) of UNSCR 1718; however, there are no publicly known procedures to request access to funds in accordance with SRO 1063(I)/2006 or any other SROs.

179. For access to funds related to Iran designated persons/entities, the SRO related to UNSCR 1737 was repealed under SRO 172(i)/2016; therefore, it is unclear if there is a legal basis or publicly known procedures to request access to fund.

180. De-listings are communicated to FI and DNFBPs via the Gazette of Pakistan, which is public. As above, SROs are also available on SECDiv's website (<http://www.secdiv.gov.pk/>), and SROs are communicated from SECDiv, via electronic mail, regular mail and fax, to relevant competent authorities and then to FIs through the relevant supervisor. At the time of the ME onsite visit, there was no specific mechanism for communication of SROs to DNFBPs.

181. Criterion 7.5 – While SRO 1260(I)/2018 does not provide for the requirements of this criterion, for Iranian designated persons/entities, SRO 172(i)/2016 requires "all concerned offices autonomous and semi- autonomous bodies to implement the provisions of the UNSCR 2231" including operative paragraph (OP) 6(d) of Annex B of UNSCR 2231, which covers the requirements of c.7.5(a) and (b). However, it is unclear if this is applicable to freezing actions that may be undertaken by all natural and legal persons in Pakistan (see above discussion at c7.2(a)).

182. Regarding, contracts and agreements or obligations that arose prior to the date of account freezing of DPRK designated persons/entities, s 4 of SRO 1063(I)/2006 closely mirrors the text of OP 9(c) of UNSCR 1718.

Weighting and Conclusion

183. Pakistan can give domestic effect to UNSCRs through SROs pursuant to s 2 of the United Nations (Security Council) Act 1948. However, there are major shortcomings in it lacks enforceable requirements to freeze for all natural and legal persons. Other shortcomings include protection for *bona fide* third parties; measures for monitoring and ensuring compliance; de-conflicting false positives and providing guidance on obligations related to delisting; and obligation that arose prior to date of TFS.

184. **Recommendation 7 is rated partially compliant.**

Recommendation 8 – Non-profit organisations

185. SR.VIII was rated partially compliant in the 2009 report which noted that no sector risk assessment was conducted, there was no effective monitoring or supervision of significant NPOs, the powers to sanction was very limited and information sharing among competent authorities was hampered by the fragmentation of the registration system.

Taking a risk-based approach

186. Criterion 8.1 – Pakistan's NPO sector comprises of entities that choose to be licenced at the federal level as an association under s 42 of the Companies Act 2017 ('Companies Act') or registered at the provincial level, and also international NPO (INPOs). There are approximately 650 licenced NPOs and approximately 63,000 registered NPOs and an unknown number of INPOs. Each sub-criterion is dealt with as follows:

187. Criterion 8.1(a and b) – Pakistan has not identified a subset of registered and international organisations that fall within the definition of NPO (in the FATF methodology) or those likely to be at risk of terrorist financing.⁶⁰ For licenced NPOs, in 2018 SECP issued 'AML/CFT Guidelines for NPOs' which contains a general TF risk assessment of the sector. Section 3 outlines the TF risk factors and vulnerabilities in the sector and states that 'while not all NPOs are inherently high risk organisations it is desirable to identify those that are' and includes an Annex in the guidelines which does that. Based on risk factors included in the NPO Guidance, SECP has identified 47 out of approximately 900 NPOs as high-risk.

188. Criterion 8.1(c) – Pakistan has undertaken some boarder reviews of its legal frameworks for NPOs including as part of NATCA's draft model law. However, it has not reviewed the adequacy of measures, including laws and regulations that relate to the subset of the NPO sector that may be abused for terrorist financing.⁶¹ For licenced NPOs, SECP has reviewed the adequacy of its supervisory regime in accordance with the AML/CFT Guidelines for NPOs (see c.8.3).

189. Criterion 8.1(d) – At the time of the ME onsite, Pakistan was in the process of assessing the TF risks in the NPO sector as part of a broader update to its TF risk assessment.

⁶⁰ At the time of the ME onsite, as part of the update to its national TF risk assessment, Pakistan was in the process of identifying a subset of registered and international organisations that fall within the definition of NPO (in the FATF methodology) and assessing NPOs likely to be at risk of terrorist financing.

⁶¹ At the time of the ME onsite, Pakistan was in the process of identifying at-risk registered and international NPOs.

The National TF risk assessment has been completed post onsite. The NPO sector has been thoroughly reviewed in the light of updated information and potential vulnerabilities have been identified and highlighted, this cannot however be taken into consideration for the purposes of the MER.

Sustained outreach concerning terrorist financing issues

190. Criterion 8.2 –

191. Criterion 8.2(a) – Under the Associations with Charitable and Not for Profit Objects Regulations 2018, Pakistan has policies to promote accountability, integrity and public confidence in the administration and management of NPO that are association licenced by the SECP under s 42 of the Companies Act’.

192. INPO are required to be registered with the Ministry of Interior (MOI) by signing of a MoU. In accordance with Notification No.6/34/2015-PE-III there are some requirements that promote accountability, integrity and public confidence in the administration and management of INPOs with the MOI publishing on its website a list of registered INPOs (<https://ingo.interior.gov.pk/>).

193. At the provincial level, organisations register with the provincial government as an NGO under The Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961, Societies Act of 1860, or Co-operative Societies act 1925. The Social Welfare Department government of The Punjab, in accordance with Notification No.SO(SW)5-1/2014(PB)P-V conducts some scrutiny of NGOs registering under The Voluntary Social Welfare Agencies (Registration and Control) Ordinance 1961, Societies Act of 1860 (see <https://swd.punjab.gov.pk/>). Actions taken to promote public confidence in the administration and management of NGOs formed under other Acts in Punjab and in all other provinces in Pakistan are unclear.

194. In addition, Pakistan has established a Safe Charities voluntary certification process in cooperation with Pakistan Centre for Philanthropy (PCP). To some extent this certification process promotes accountability, integrity and public confidence in the administration and management of NPOs that choose to be certified.

195. According to SRO No. 1116(1)/2003, PCP acts as a Certification Agency for NPOs (both licensed and registered) to gain tax-exemption status under S 211 to 220B of the Income Tax Rules 2002. Under the Tax Ordinance 2001 and Income Tax Rules 2002 there are some requirements that promote accountability, integrity and public confidence in the administration and management of NPOs that choose to obtain tax-exemption status.

196. Criterion 8.2(b) and (c) – As highlighted above, in September 2018 SECP issued AML/CFT Guidelines for NPOs’ and since July 2018 jointly with NACTA and PCP, it has conducted seven outreach sessions to NPOs on CFT issues with a total of 261 licenced NPOs attending the sessions.

197. NACTA has also undertaken a number of other activities to raise awareness of potentials vulnerabilities of NPOs to TF abuse including:

- Guidelines to all provinces to highlight the risk of TF through the sale of hides.
- National media campaign of aimed at raising awareness of the risks associated with the abuse of NPOs for terrorism and TF (see <http://www.haqdaar.gov.pk>)

- A two day National Youth Conference in July, 2018; attended by students from more than 50 universities across the country to discuss the aspects of safer charity and NPO's misuse for terrorist financing.

198. Criterion 8.2(d) – Under s 7(xxiii) of the Associations with Charitable and Not for Profit Objects Regulations 2018, licenced NPOs must receive donations above PKR 20,000 (USD \$148) (and the start-up donation) through banking channels. For I NPOs, clause 4.9 of the standard MOU requires making donations above PKR 20,000 through banking channels. At the time of the ME onsite visit, Pakistan had not undertaken other actions to encourage NPOs to conduct transactions via regulated financial channels.

Targeted risk-based supervision or monitoring

199. Criteria 8.3 and 8.4 – As discussed above, based on risk factors included in the AML/CFT Guidelines for NPOs, SECP has identified 47 out of approximately 900 NPOs as high-risk. At the time of the ME onsite, SECP has undertaken supervision activities to 15 of these NPOs, in accordance with its internal SOP, covering issues associate with the NPO's; (i) area of operation, (ii) funding sources, (iii) links to proscribed organisations, verification of activities with projects plans and licensing documentation, (iv) verification of transactions through banking channels, (v) KYK and good practices, (vi) donations from undeclared sources (vi) examination of books and accounts for red flag indicators included in the AML/CFT Guidelines for NPOs.

200. Pakistan has not adopted a risk-based approach or undertaken steps to promote effective supervision or monitoring of the registered and international NPO sectors.⁶²

Effective information gathering and investigation

201. Criterion 8.5 – As discussed in R2, NACTA coordinates national counter-terrorism efforts and is chaired by the Prime Minister and consists of other relevant Ministers. Pakistan indicated it has setup a three-tier federal and provincial coordination mechanism for TF, which includes the recently established NPO working group consisting of NACTA, SECP, PCP, FBR, and provincial social welfare departments and industries departments. However, Pakistan has not shown any framework to support the effective gathering of information or subsequent investigation

202. Criterion 8.6 – MOI is the contact point for INPOs (see <https://ingo.interior.gov.pk/>) and SECP is the contact point for licensed NPOs. While Pakistan advised the assessment team that provincial Home Departments serve as the primary contact points for registered NPOs in each province, the legal basis for them to respond to international requests is unclear.

Weighting and Conclusion

203. Pakistan's NPO sector comprises entities that may choose to be licenced at the federal level, as an association under s 42 of the Companies Act, or registered at the provincial level, and also international NPOs. Pakistan has identified some NPO risks and has undertaken some steps on a targeted basis to higher risk licenced NPOs. Pakistan has undertaken very limited action in compliance with R.8 for registered and international NPOs.

204. **Recommendation 8 is rated partially compliant.**

⁶² At the time of the ME onsite, as part of the update to its national TF risk assessment, Pakistan was in the process of identifying a subset of registered and international organisations that fall within the definition of NPO (in the FATF methodology) and assessing NPOs likely to be at risk of terrorist financing.

Recommendation 9 – Financial institution secrecy laws

205. Pakistan was rated compliant with former R.4 in the 2009 report.

206. Criterion 9.1 – FI secrecy laws do not inhibit implementation of the FATF recommendations. AMLA provides the FMU and law enforcement agencies with powers to gain access to relative information and provides a framework to share information between competent authorities, either domestically or internationally.

207. Section 7 of the AMLA requires that every reporting entity shall file STRs and CTRs to the FMU and that any government agency, autonomous body, regulatory authority, domestic or foreign, may share intelligence or report their suspicions or CTRs to FMU in the normal course of their business. Reporting protection is provided under s 12. The provisions of AMLA have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by any other law or written document. Moreover, s 25 of AMLA requires that “notwithstanding the provisions of any other law, the officers of the federal government, provincial government, local authorities and financial institutions shall provide requisite assistance to the investigating officers, FMU and other authorities in the enforcement of this Act”.

208. Section 26 of the AMLA stipulates that the federal government may enter into an agreement on reciprocal basis with the government of any country outside Pakistan.

209. Section 33A of the Banking Companies Ordinance permits disclosure of information among financial institutions if it is in accordance with law, practice customary among bankers, necessary or appropriate. C.13.1 and c.13.2 are mostly met. R-3 (para 3) of AML/CFT Regulations requires that wire transfer-related information should be included in the message or payment instruction which should accompany or remain with the wire transfer throughout the payment chain. c.17.1 for SECP regulated entities is rated met.

Weighting and Conclusion

210. **Recommendation 9 is rated compliant.**

Recommendation 10 – Customer due diligence

211. Pakistan was rated partially compliant with R.5 in 2009. The 2009 report noted a lack of coverage of some financial institutions; a narrow scope of identification requirements for legal persons and arrangements; an absence of obligations to conduct CDD on occasional customers; and lack of enhanced due diligence measures for high-risk customers.

212. Criterion 10.1 – Banks, DFIs MFBs, securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas are prohibited from opening or maintaining anonymous accounts or accounts in the name of fictitious persons or numbered accounts under Para 20 of SBP AML/CFT Regulations 2018, Para 11 of Revised AML/CFT Regulations for MFBs 2018 and Section 6(1) of SECP AML/CFT Regulations 2018.

213. Pakistan Post and CDNS are reporting entities under the AMLA, however Pakistan has not issued enforceable AML/CFT requirements to give effect to this criterion.

When CDD is required

214. Criterion 10.2 – All reporting entities are required to conduct CDD in accordance with s 7(7) of AMLA and applicable regulations. Except for Pakistan Post and CDNS, CDD is required in the circumstances of c 10.2(a)-(e) for all financial institutions except as follows:

- For MFBs, regarding customers, there is a specific requirement to undertake EDD when there is a suspicion of ML or TF, or when there are doubts about the veracity or adequacy of previously obtained customer identification data. However, there is no specific definition of EDD measures. With regard to walk-in customers or occasional customers, there are requirements to undertake appropriate CDD measures if MFBs have a suspicion of ML or TF (Para 14 and 16 of Revised AML/CFT Regulations for MFBs 2018).
- For ECs there is no specific requirement to undertake CDD when there is a suspicion of ML and TF.

215. Regulation 11 (3) of SECP AML/CFT Regulations 2018 provides that SECP regulated entities cannot conduct simplified CDD where there is a suspicion of ML and/or TF or “higher risk scenarios” which defaults those regulated entities to the general requirement to conduct full CDD.

Required CDD measures for all customers

216. Criterion 10.3 – Banks and DFIs must identify and verify a customer’s identity on the basis of documents, data or information obtained from the customer or through reliable and independent sources (Regulation 1 of SBP AML/CFT Regulations 2018). A “customer” is defined as “a person having relationship with the bank which includes but not limited to holding of deposit/deposit certificate/ or any instrument representing deposit/placing of money with a bank/DFI, availing other financial services, locker facility, safe deposit facility, or custodial services from the bank/DFI/.” For occasional/walk-in customers there is a requirement to obtain a copy of CNIC or conduct biometric verification when providing occasional cash transaction or remittance (para 13 of R-1 of AML/CFT Regulations of SBP 2018). However, those measures do not require banks and DFIs verify the identity of those occasional/walk-in customers using reliable, independent source information.

217. For MFBs, CDD includes identifying natural and legal persons and verifying information before opening accounts (paras 2 to 4 of AML/CFT Regulations for MFBs 2018) and obtaining copies of CNICs (regardless of threshold) for online deposit/fund transfer, and cash transaction above 0.5 million (0.5M) rupees by walk-in customers (Para 16 of AML/CFT Regulations for MFBs 2018). But there are no measures required to identify occasional customers or verify their identity using reliable, independent source information.

218. There are no regulatory requirements to give effect to c 10.3 for CDNS and Pakistan Post.

219. For ECs, CDD includes identifying and verifying a customer’s/beneficial owner’s identity on the basis of documents, data or information obtained from the customer or from reliable independent sources (Exchange Companies Manual 2017) including obtaining name, address and ID/passport number in the case of foreign exchange transactions equivalent to, or above, USD \$500 and remittances transaction regardless of the amount. ECs are required to verify individual customer’s identity by sighting original identification documents. But ECs are not explicitly required to identify and verify the identity of legal persons using reliable, independent source documents, data, or information.

220. For SECP regulated persons, CDD includes identification and verification of a customer’s/beneficial owner’s identity from reliable and independent sources (s 6 (3)(a) SECP AML/CFT Regulations 2018).

221. Criterion 10.4 – While banks, DFIs, MFBs, and SECP regulated persons are required to identify and verify the person authorised to act on behalf of a customer there are no requirements to give effect to c 10.4 for CDNS, Pakistan Post and ECs.

222. Criterion 10.5 – Banks and DFIs are required to take reasonable measures to obtain information to identify and verify the identities of the beneficial owner(s) in relation to a customer, using the relevant information or data obtained from a reliable source (Para 7 Regulation 1 of AML/CFT Regulations of SBP 2018).

223. For MFBs, the Revised AML/CFT Regulations for Microfinance Banks (Para 8 of M-1) requires that MFBs identify and verify the customer and beneficial owner (natural person) in relation to a customer. If however, a MFB is not satisfied after considering relevant information or data obtained from reliable source it should not open the account or provide any service.

224. There are no requirements to give effect to c 10.5 for CDNS and Pakistan Post.

225. ECs are required to determine whether there exists any beneficial owners and if so take reasonable measures for verify their identity (s 5, Chapter 6 of Exchange Companies Manual 2017). However, there is no requirement to use relevant information or data obtained from a reliable source. The definition of 'beneficial owner' applies to transactions only and not to customers and does not cover ownership.

226. For securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas, where a customer is a legal person/arrangement, the regulated persons is required to identify and verify the identity of the beneficial owner by acquiring and using requisite information and data obtained from a reliable source (s 7(1) and (2) of SECP AML/CFT Regulations 2018).

227. Criterion 10.6 – Under their applicable regulations banks, DFIs, MFBs, securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas are all required to understand and obtain information on the purpose and intended nature of business relationships. For ECs, the authorities indicate that unlike banks, exchange companies do not have business relationship with customers and they mostly deal with walk in customers. Exchange companies are required to obtain the purpose and intended nature of the transaction as per para 7 of Chapter 6 of Exchange Companies Manual – 2017.

228. There are no requirements to give effect to c 10.6 for CDNS and Pakistan Post.

229. Criterion 10.7 – There are regulatory requirements for financial institutions to undertake ongoing monitoring, including scrutiny of transactions to ensure they are consistent with the FI's knowledge of the customer, its business and risk profile (and where appropriate the source of funds), and to ensure that documents, data, and information are kept up-to-date particularly for higher risk categories of customers.

230. There are no requirements to give effect to c 10.7 for CDNS and Pakistan Post.

Specific CDD measures required for legal persons and legal arrangements

231. Criterion 10.8 – Banks and DFIs are required to take reasonable measures to understand the nature of the customer's business and its ownership and control structure of customers that are not natural person (Para 8 of Regulation-1 of the AML/CFT Regulations of SBP). MFB's are required to understand nature of business, the ownership and control structure of the person, trust or arrangement (Definition Part-2-I and 2(f) of the Revised AML/CFT Regulations for MFBs). SECP regulated persons are required to understand the nature of the customer's (both legal persons and arrangements) business and its ownership and control structure (ss 7(a) and 8(a) of SECP AML/CFT Regulations 2018).

232. There are no specific requirements to give effect to c 10.8 for MFBs, CDNS, Pakistan Post and ECs.

233. Criterion 10.9 – Where the customer is a legal person or legal arrangement, all financial institutions (except CDNS and Pakistan Post, noted below) are required in addition to identifying the customer, identify the legal form, constitution and powers that regulate and bind the legal person or arrangement. In addition, financial institutions are required to identify the connected parties of the customer, by obtaining at least the following information of each connected party: registration/incorporation number or business registration number; full name as per identity document; registered business address or principal place of business. SBP AML/CFT Regulations Annex I provide a comprehensive list of documents and information required to be obtained from various types of customers including legal persons, trusts, clubs, societies, associations, NGOs/NPOs/charities etc. For MFBs the required documentation is included in Annex H to the relevant AML/CFT Regulations.

234. There are no requirements to give effect to c 10.9 for CDNS and Pakistan Post.

235. Criterion 10.10 – Banks and DFIs are required to take reasonable measures to understand the ownership and control structure of customers that are legal persons and determine the natural persons who ultimately own or control the customer (Para 8 of Regulation-1 of the AML/CFT Regulations of SBP 2018). Para 9 of Regulation-1 of the AML/CFT Regulations of SBP 2018 closely mirrors c.10.11 (b) and (c), respectively. For MFBs, Para 8 of M-1 of the Revised AML/CFT Regulations for Microfinance Banks mirrors c.10.10 (a), (b) and (c), respectively. For SECP regulated person, ss 7 (1) of SECP AML/CFT Regulations 2018 mirrors c.10.10 (a), (b) and (c).

236. ECs are required to identify beneficial owners as discussed in c 10.5, but there are no specific requirements to give effect to c 10.10.

237. There are no specific requirements to give effect to c 10.10 for CDNS and Pakistan Post.

238. Criterion 10.11 – For banks and DFIs, as discussed in c 10.9, under the SBP AML/CFT Regulations, banks and DFIs are required to obtain photocopy of identity document of settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries (Annexure-I of the AML/CFT Regulations of SBP 2018). However, there is no requirement for banks and DFIs to identify and take reasonable measures to verify the identity of beneficial owners through the following information: (i) for trusts, the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership), and (ii) for other types of legal arrangements, the identity of persons in equivalent or similar positions.

239. For MFBs, the Revised AML/CFT Regulations for Microfinance Banks (MFBs)(Para 8 of M-1) mirrors c.10.11(a) and (b) respectively. Securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas are required to identify and verify beneficial owners of legal arrangements. Regulation 7(2a) and (2b) of SECP AML/CFT Regulations 2018 closely mirroring c 11(a) and (b) respectively.

240. There are no specific requirements to give effect to c 10.11 for CDNS, Pakistan Post and ECs.

241. Criterion 10.12 – Insurers and takaful operators are required to undertake CDD measures for the beneficiaries of life insurance, takaful and other related policies as soon as those beneficiaries are identified or designated (ss 8(1a), (1b) and (1c) SECP AML/CFT Regulations mirroring c 10.12(a),(b) and (c), respectively).

242. There are no specific requirements to give effect to c 10.12 for CDNS and Pakistan Post.

243. Criterion 10.13 – Under s 8(3) of SECP AML/CFT Regulations, insurers and takaful operators are required to include the beneficiary as a relevant risk factor in determining whether EDD measures are applicable.

244. There are no specific requirements to give effect to c 10.12 for CDNS and Pakistan Post.

Timing of verification

245. Criterion 10.14 – Banks, DFIs, securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas are required to verify the identity of the customers and beneficial owners before business relations are established. Section 11 of the SBP AML/CFT Regulations contains a minor exception for banks and DFIs for initial deposits. Securities brokers, commodities broker, insurers, Takaful operators, non-bank financial companies, and modarabas may complete verification after the establishment of the business relationship, provided that this occurs as soon as reasonably practicable; does not interrupt the normal conduct of business; and the ML/TF risks are effectively managed (s 6(5) of SECP AML/CFT Regulations 2018). MFBs are allowed to provisionally open accounts (restricting debits) during the verification process of CNIC subject to; (i) completion of verification within five working days from the date of application of account opening, and (ii) Management of related risks effectively during the period.

246. ECs are not explicitly required to verify identity before or during the course of conducting transactions for occasional customers. There are no specific requirements to give effect to c 10.12 for CDNS and Pakistan Post.

247. Criterion 10.15 – Securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas are required to adopt risk management procedure concerning the conditions under which a customer may utilize the business relationship prior to verification (Regulation 6(6) of AML/CFT Regulations 2018 of SECP). While no similar provision exists in the SBP AML/CFT Regulations for banks and DFIs s 11 of those regulations contains risk-based measures for those institutions commensurate with risks of operating accounts prior to verification. The regulations provide that Banks/DFIs may accept initial deposit at the time of submission of necessary documents by their prospective customers (individual natural persons only) subject to the following; that the initial deposit will be credited to customer's designated account only and no transaction in the account, issuance of cheque book/ATM card or any other instrument is allowed until completion of verification of identity of the customer.

248. As above, MFBs are allowed to provisionally open accounts (restricting debits) during the verification process. If there arise any doubt on the identity of the micro-saving account holder or a suspicion of money laundering and/or terrorist financing, MFB shall verify identity document of such account holders from NADRA (para 5 of Regulation M-1 for MFBs).

249. ECs do not operate accounts. There are no specific requirements to give effect to c 10.15 for a CDNS and Pakistan Post.

250. Criterion 10.16 – Banks, DFIs, securities brokers, commodities brokers, insurers, takaful operators, non-bank financial companies, and modarabas are required to perform CDD measures as appropriate to existing customers having regard to its own assessment of materiality and risk but without compromise on identity and verification requirements. Both the SBP and SECP regulations require institutions to periodically review the adequacy of CDD information including for beneficial owners and ensure that information is up to date, particularly for higher risk categories of customers.

251. For MFBs, Regulation M-1 (1) requires that MFBs must take all reasonable measures to perform due diligence of existing customers. However there is no requirement to apply CDD to existing customers on the basis of materiality and risk, and to conduct due diligence on existing relationships at appropriate times.

252. ECs do not operate accounts. There are no specific requirements to give effect to c 10.16 for CDNS and Pakistan Post.

253. Criterion 10.17 – Securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas are required to perform EDD with customers identified as high risk by the financial institution or as notified by the SECP (Regulation 9(3) of SECP AML/CFT Regulations 2018). Banks and DFIs are also required to perform EDD in relation to PEPs, NGOs/NPOs, charities and new correspondent banking. However, this requirement does not cover all higher risk scenarios including those identified in AML/CFT Guidelines on Risk Based Approach for Banks and DFIs 2015.

254. MFBs, are required to define high risk factors of customers, products, transaction channels and geographic elements in their KYC/CDD policy and are also required to conduct EDD in certain high risk situations including when forming a suspicion of ML and TF; where customers belong to high risk countries; cash based businesses; those who deal in high-value items; and where customers have high net worth with no clearly identifiable source of income, etc. Moreover, in case of PEPs and correspondent banking, MFBs are required to obtain senior management approval for establishing or continuing business relationship (Para 14, M-1 of the revised Prudential Regulations on AML/CFT for MFBs).

255. ECs are required to consider risk factors like customer's background, country of origin, public or high profile position, and other risk indicators (para 6 of the Chapter 6 of Exchange Companies Manual 2017). EDD must be applied especially when ECs have reason to believe that a customer has been refused a transaction by other ECs and conducting transactions for and on behalf of PEPs. However, this requirement does not cover all higher risk scenarios.

256. There are no specific requirements to give effect to c 10.17 for CDNS and Pakistan Post.

257. Criterion 10.18 – Banks and DFIs may permit simplified CDD in circumstances where the ML/TF risk may be low and provided there has been an adequate analysis of the risk. However simplified CDD measures are not permitted when there is a suspicion of ML and TF; there are no exceptions in reporting suspicion to FMU within the provisions of AMLA. (ss 7 and 9 of AML/CFT Guidelines for Risk Based Approach). Securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas may apply simplified or reduced CDD/KYC measures, where low risk is identified through adequate analysis of risk or where adequate checks and controls exist. And provided that simplified CDD measures are not acceptable whenever there is a suspicion of ML or TF or where specific higher-risk scenarios apply (s 11(1) and (3) of AML/CFT Regulations 2018 of SECP). MFBs may open micro-saving accounts with simplified CDD measures when there is no doubt as to identity of the account holder on the basis that these accounts are low risk/low balance accounts. This criterion is not applicable to ECs. ECs are not allowed to apply simplified CDD measures.

258. There are no specific requirements to give effect to c 10.18 for CDNS and Pakistan Post.

259. Criterion 10.19 – Where banks/DFIs, MFBs securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas are not able to satisfactorily complete the required CDD measures, accounts shall not be opened nor any service provided. Consideration shall be given if the circumstances are suspicious so as to warrant the filing of an STR. If CDD of an existing customer is found unsatisfactory, the relationship must be

treated as high risk and reporting of an STR be considered. However, except for SECP regulated persons, there is no explicit requirement of terminating the business relationship.

260. For ECs, para 8 of chapter 6 of Exchange Companies Manual 2017, requires ECs not to conduct the transaction and to consider filing STR with FMU if it is not able to satisfactorily complete required CDD measures.

261. There are no specific requirements to give effect to c 10.8 for CDNS and Pakistan Post.

262. Criterion 10.20 – For Banks, DFI, MFBs, securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas, SBP and SECP AML/CFT Regulations require that where financial institutions form a suspicion of ML or TF and it reasonably believes that performing the CDD process will tip-off the customer, it may not pursue the CDD process, and instead should file an STR”.

263. However for CDNS, Pakistan Post and ECs, there are no requirements to give effect to this criterion.

Weighting and Conclusion

264. CDNS and Pakistan Post are not subject to AML/CFT requirements. There is also a lack of requirements for MFBs and ECs to undertake CDD measures when there are suspicions of ML/TF or doubts about the veracity or adequacy of previously obtained customer identification data. There are shortcomings in CDD requirements for banks and DFIs to identify and verify occasional customers; shortcomings in CDD requirements for banks, DFIs and ECs to perform EDD where the ML/TF risks are higher and a lack of requirements for banks, DFIs, MFBs to terminate the business relationships where they are unable to comply with relevant CDD measures.

265. **Recommendation 10 is rated partially compliant.**

Recommendation 11 – Record-keeping

266. In 2009 the record-keeping obligation under the previously numbered R.10 was rated partially compliant as record keeping obligations were not clearly stipulated in law for exchange companies and non-bank financial institutions.

267. Criterion 11.1 – There is an overarching requirement in s 7(7) of the AMLA requiring every reporting entity to keep transaction records “...in accordance with the regulations issued by relevant regulatory authority of that reporting entity... maintain record of transactions, account files and documents obtained through [CDD]” No time is required in the Act however separate regulations provide as follows:

- Banks and DFIs, para 5(1) of the AML-CFT Regulations 2017, closely mirrors the requirements of c.11.1 and includes 10 years as a length of time.
- MFB are required to maintain all necessary records, both domestics and international for 10 years (M – 2 of the Prudential Regulation 2017).
- Exchange Companies are required to maintain all necessary records of transactions including those related to remittance transactions (both Inward and Outward) for 10 years (Chapter 3 s (12) and Chapter 6 s (9) of the Exchange Companies Manual 2017 of SBP).
- Regulated persons (securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas) are required to maintain all necessary

records of transactions both domestic and international for 5 years (Regulation 15(1) of SECP AML/CFT Regulation 2018).

268. While Regulation 2 para 28 of the AML/CFT Compliance Rules 2018 of Pakistan Post require Pakistan Post to maintain all necessary records of transactions both domestic and international for a minimum period of ten years from completion of the transaction the regulation is not enforceable as it does not contain any penalties or sanction for non-compliance. Neither the regulation itself nor the Pakistan Postal Services Management Board Ordinance 2002, under which the regulation is issued, provides any sanctions/penalties for non-compliances.

269. CDNS as a part of government is bound by s 7 of National Archive Act 1993 which provides that public records cannot be destroyed or disposed of without the authority of the Director General of Archive Department. Therefore, the record of CDNS is permanent in nature. However, this requirement is for a general purpose of any archives of public/government administration and does not give effect to this criterion.

270. Criterion 11.2 – There is an overarching requirement in s 7(7) of the AMLA which requires every reporting entity to maintain records of transactions, account files and documents obtained through CDD.

271. Banks and DFIs are required to maintain identification data obtain through CDD including account files and business correspondence for 10 years after the termination of the business relationship (Regulation 5(3) of the SBP AML/CFT Regulations 2018). The obligation to maintain the results of analysis undertaken is covered under the general record keeping requirement under Regulation 5(1) of those regulations.

272. MFBs are required to maintain identification data obtain through CDD including account files and business correspondence for 10 years after the termination of the business relationship (M – 3 of the revised Prudential Regulation 2018); including maintaining the results of any analysis undertaken, if any.

273. For EC, Chapter 6, s 9 of the Exchange Companies Manual requires maintaining all necessary records of transactions including records obtained through CDD (Chapter 6, s 4 of the Exchange Companies Manual), but there is no explicit requirement to maintain records of any analysis undertaken.

274. SECP regulated persons are required to maintain identification data obtain through CDD for 5 years including account files and business correspondence (Regulation 15(3) of SECP AML/CFT Regulation 2018). In addition, the amended version of the SECP AML/CFT Regulations 2018 of September 2018 extended this requirement to include “maintaining the results of any analysis undertaken” to give effect to this criterion.

275. Pakistan Post is not required to maintain all necessary records of transactions both domestic and international, including the results of any scrutiny or analysis (Regulation - 2 para 28 - AML CFT Compliance Rules 2018 of Pakistan Post is not enforceable for the reasons stated above). Section 7 of National Archive Act 1993 with respect to CDNS is problematic for the reasons stated above.

276. Criterion 11.3 – Banks, DFIs, MFBs, ECs and regulated persons are required to maintain records to allow for the reconstruction of individual transactions in sufficient detail as to provide evidence for prosecution of criminal activity (para 5(3) of the AML-CFT Regulations 2017; M – 3 of the revised Prudential Regulation 2018; s 9(i) of the Exchange Companies Manual; s 15(2) of AML/CFT Regulation 2018 of SECP).

277. Pakistan Post is not required to maintain records to allow for the reconstruction of individual transactions in sufficient detail as to provide evidence for prosecution of criminal activity (Regulation-2 para 29 - AML CFT Compliance Rules 2018 of Pakistan Post is not enforceable). Section 7 of National Archive Act, 1993 with respect to CDNS is problematic for the reasons stated above.

278. Criterion 11.4 – Under s 25 of the AMLA, FIs are required to provide requested assistance to LEAs and the FMU in the enforcement of the AML Act. There are additional obligations for banks, DFI, MFBs, regulated persons and ECs to provide, on a timely basis, information and records upon request from LEAs and the FMU ((Regulation 5(5) of the AML/CFT Regulations 2018 of SBP; Regulation M – 3 the revised AML/CFT Regulations 2018 for MFBs; Section 15(4) of AML/CFT Regulation 2018 of SECP; and Chapter 3 para 12 (iv) EC Manual 2017 of SBP)).

279. The obligations on Pakistan Post are not enforceable means (reasons above) and the Archives Act with respect to CDNS is problematic.

Weighting and Conclusion

280. There are a few inconsistencies in record-keeping obligations within various reporting sectors. In addition, the obligations on Pakistan Post are not enforceable means (reasons above) and the Archives Act with respect to CDNS is problematic.

281. **Recommendation 11 is rated largely compliant.**

Recommendation 12 – Politically exposed persons

282. Pakistan was rated partially compliant for R.6 in 2009. The Pakistan MER stated that there was no requirement on PEPs for financial institutions regulated by the SECP. These were including no definition of PEPs, no coverage of family members or associates, as well as no requirement for enhanced on-going due diligence on PEPs for financial institutions regulated by the SBP.

283.

284. Criterion 12.1 – For Banks and DFIs, PEPs are defined in the SBP AML/CFT Regulations 2018 as individuals who are entrusted with prominent public functions either domestically or by a foreign country, or in an international organization, for example heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations/departments/autonomous bodies. Regulation 1, s 32 of those regulations requires banks and DFIs in relation to all PEPs to:

- (a) implement appropriate internal policies, procedures and controls to determine if a customer or beneficial owner is a PEP;
- (b) obtain approval from the bank's senior management to establish or continue business relations where the customer or a beneficial owner is a PEP or subsequently becomes a PEP;
- (c) establish, by appropriate means, the sources of wealth or beneficial ownership of funds, as appropriate; including bank/DFI's own assessment to this effect; and
- (d) conduct during the course of business relations, enhanced monitoring of business relations with the customer.

285. For MFBs, the definition of PEPs under Part-2 of the Prudential Regulation 2018 closely mirrors that of the SBP's AML/CFT Regulations 2017. MFBs are required to apply measures which mirror the requirements of c.12.1 (para 14 M – 2 of the revised Prudential Regulation 2018).

286. For ECs, para 6, Chapter 6 of Exchange Companies Manual 2017 requires ECs to consider risk factors which include PEPs (defined as “individual who are, or have been, entrusted with prominent public functions either domestically or by a foreign country and their associates /family members) and to conduct EDD for such customers. This definition does not cover the complete requirements of the FATF definition and ECs are not required to implement the other measures required under this criterion.

287. While Pakistan Post and CDNS are reporting entities under the AMLA, there are no enforceable means to give effect to this criterion.

288. For regulated persons (securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas) the definition of PEPs under s 2(t) of SECP AML/CFT Regulations 2018 closely mirrors the FATF standards. Under s 10 of those regulations, regulated persons are required to implement appropriate risk management systems, policies, procedures and controls to determine if a customer or a beneficial owner of a customer is a domestic or foreign PEP (s 10(1) of SECP AML/CFT Regulation 2018) with EDD required for foreign PEPs (s 10(2)) including on their family members and close associates during EDD. As part of EDD, source of wealth or funds of the customer or beneficial owner is required to be established (s 4(b) of SECP AML/CFT Regulation 2018) and senior management approval is required to establish or continue the business relationship (s 4(a)).

289. Criterion 12.2 – See above for banks, DFIs, MFBs, ECs and Regulated Persons. The regulatory requirements for domestic PEPs and persons entrusted with prominent functions by an international organisation are deficient for ECs. There are no enforceable means Pakistan Post and CDNS.

290. Criterion 12.3 – The above requirements for banks, DFIs, MFBs, ECs and regulated persons are applicable to the family members and close associates of PEPs; however, the above deficiencies for ECs are also applicable to family members and close associates of PEPs. There are no enforceable means Pakistan Post and CDNS.

291. Criterion 12.4 – Life insurance companies are regulated by the SECP. Section 8(2) of SECP AML/CFT Regulations 2018 closely mirrors the requirement of this criterion.

Weighting and Conclusion

292. The full range of measures relating to PEPs does not apply to ECs. There are no enforceable means for Pakistan Post and CDNS. Given the ML and TF risks attached to ECs as well as Pakistan Post and CDNS risks' weighting, these are moderate deficiencies.

293. **Recommendation 12 is partially compliant.**

Recommendation 13 – Correspondent banking

294. Pakistan received a largely compliant rating for R.7 in its last report. The report noted that banks are not required to establish a clear understanding as to which institution will perform the required measures.

295. Criterion 13.1 – Banks and DFIs are required, when providing correspondent banking services, to assess the suitability of the respondent bank by gathering adequate information about

the respondent bank to understand fully the nature of the respondent bank's business (including KYC policy, ML prevention and detection measures, condition of the bank regulation and supervision in the respondent's country), determining the reputation and quality of supervision over the respondent bank, as well as assessing the respondent bank in the context of sanctions/embargoes and advisories about risks; and clearly understand and document the respective AML/CFT responsibilities of each bank; and obtain approval of senior management, before establishing new correspondent banking relationship (Regulation 2(1) of SBP AML/ CFT Regulation 2018).

296. All inward remittance transactions and outward transactions of ECs must be routed through foreign currency accounts of the Exchange Companies maintained with banks in Pakistan (Scope of businesses of chapter 3 of Exchange Companies Manual-2017). Similar requirements are in place for MFBs, which must route inwards remittance with through foreign currency accounts maintained with banks in Pakistan (s 6(2a) of Microfinance Ordinance 2001).

297. Pakistan Post has business arrangements with international money transfer operators, but there are no specific requirements to give effect to c.13.1 for Pakistan Post. While Pakistan informed the assessment team that CDNS and Post Savings Bank are not authorised to form correspondent banking relations, the legal basis is unclear.

298. Criterion 13.2 – The correspondent bank must satisfy itself that, where the cross-border banking services involve a payable-through account, the respondent bank has performed appropriate CDD measures at least equivalent to those specified under Regulation-1 of AML/CFT Regulations on the third party having direct access to the payable-through account; and the respondent bank is able to perform ongoing monitoring of its business relations with that third party and is willing and able to provide customer identification information to the correspondent bank upon request (para 2 of SBP's AML/ CFT Regulation-2 of AML/CFT Regulations).

299. While Pakistan informed the assessment team that CDNS and Pakistan Post are not authorised to form correspondent banking relations, the legal basis is unclear.

300. Criterion 13.3 – Banks/DFIs are prohibited to enter into or continue correspondent banking relations with a shell bank. Moreover, banks/DFIs are required to take appropriate measures when establishing correspondent banking relations, to satisfy them that their respondent banks do not permit their accounts to be used by shell bank (para 4 of SBP's AML/ CFT Regulation-2 of AML/CFT Regulations 2018).

301. While Pakistan informed the assessment team that CDNS and Pakistan Post are not authorised to form correspondent banking relations, the legal basis is unclear.

Weighting and Conclusion

302. There are no specific requirements to give effect to c. 13.1 for CDNS and Pakistan Post.

303. **Recommendation 13 is rated largely compliant.**

Recommendation 14 – Money or value transfer services

304. Pakistan was rated partially compliant with SR.VI in 2009. The report noted, among other things, the narrow scope of preventive measures imposed on exchange companies, non-effective proportionate and dissuasive sanctions and an absence of identifying unlicensed operation of remittance service providers.

305. Criterion 14.1 – Under the Foreign Exchange Regulation (FERA) Act 1947, SBP is authorized to issue licenses only to legal persons that deal in foreign currency notes, coins, postal notes, money orders, bank drafts, travellers' cheques and transfers. ECs must obtain a license following an approval process by the SBP (para 2, Chapter 2, Exchange Companies Manual – 2017). Pakistan Post is an attached department of the Ministry of Postal Service and is not required to be licensed or registered.

306. Criterion 14.2 – SBP regulates and supervises authorized MVTs while the FIA is responsible for dealing with illegal MVTs. Under s 4(1) of FER Act 1947, no person can deal in the foreign exchange without prior approval of SBP. Violations are punishable with imprisonment for a term which may extend to two years or fine, or both (s 23 FERA 1947). However, these sanctions do not seem sufficiently dissuasive as the fine is not defined explicitly. Pakistan is taking some enforcement actions against hawala/hundi under the FERA.

FIA Enforcement Action Under FERA Against Illegal MVTs Operators (Hawala/hundi dealers) since 2015							
Zones	Cases reg'd	Seized amount; case property	Arrested	Cases under investigation	Cases at trial	Convictions	Acquittals
KPK	582	PKR 704.118 M (USD \$5.26M)	638	68	269	200	45
Punjab	519	PKR 1,386.54 M (USD \$ 10.27M)	737	89	276	86	68
Islamabad	54	PKR 100.86 M (USD \$747.1K)	69	7	9	32	6
Baluchistan	116	PKR 78.744 M (USD \$583.29K)	184	29	7	59	21
Sindh	76	PKR 386.31 M USD \$2.86M	150	32	37	1	6
Totals	1347	PKR 2.656 B (USD \$19.67M)	1778	225	598	378	146

307. Criterion 14.3 – Licensed ECs are monitored for compliance with AML/CFT obligations by SBP (para 2, Chapter 2 of Exchange Companies Manual – 2017). Pakistan Post is not subject to monitoring for AML/CFT compliance.

308. Criterion 14.4 – It seems that ECs conduct MVTs business through branches, franchises, payment booths, company owned currency exchange booths and temporary currency exchange booths and as agents. New branches, company owned payment booths and currency exchange booths are required to be approved by SBP. Franchises operate with prior approval of SBP and their data is available with SBP and MVTs provider. However, it is unclear payment booths are required to be licensed or registered by SBP and it is not clear whether SBP maintains a list of payment booths.

309. The above provisions are not required in case of Pakistan Post as it does not have agents to disburse the payment in Pakistan.

310. Criterion 14.5 – ECs are required to be responsible for implementing the AML/CFT guidelines throughout their network, including branches, franchises, payment booths (para 1. Chapter 6 of Exchange Companies Manual 2017). However, ECs are not explicitly required to monitor their agents for compliance with these programmes.

311. The above provisions are not required in case of Pakistan Post as it does not have agents to disburse the payment in Pakistan.

Weighting and Conclusion

312. Significant deficiencies include the following: (i) the sanctions for illegal MVTS are not proportionate and dissuasive; (ii) lack of requirement to be licensed and registered for Pakistan Post and payment booths; (iii) lack of requirement to monitor agents for compliance with these programmes; and (iv) Pakistan Post is not supervised for AML/CFT purposes.

313. **Recommendation 14 is rated partially compliant.**

Recommendation 15 – New technologies⁶³

314. In the 2009 report R.8 was rated largely compliant as banks were not required to have policies and procedures in place to address risks associated with non-face-to-face transactions.

315. Criterion 15.1 – Pakistan included an assessment of certain ML and TF risk associated with financial inclusion products in the NRA including branchless banking, micro-finance and ‘Asaan’ accounts⁶⁴ which Pakistan has rated ‘low risk’. FMU did a strategic analysis on virtual currency risks and SBP issued a caution letter regarding those risks for general public awareness.

316. Banks and DFIs are required to identify and assess the ML/TF risks that may arise in relation to the development of new products, services and business practices including delivery mechanisms and the use of new or developing technologies for both new and pre-existing products (Regulation 1(22) of the SBP AML/CFT Regulations 2018).

317. For MFBs, para 19 of M-1 of the Revised AML/CFT Regulations for Microfinance Banks 2018 requires that MFBs shall pay special attention to any threat that may arise from development of new products and new business practices, including new delivery mechanisms, and new or developing technologies, for both new and pre-existing products, that might favour anonymity and take measures, if required, to prevent their use in money laundering and/or terrorist financing schemes. Proper assessment of risks should be undertaken prior to the launch or use of such products, practices and technologies.

318. There are no specific requirements to give effect to c.15.1 for CDNS, Pakistan Post and ECs.

319. For regulated persons, Regulation 5(a) of the SECP AML/CFT Regulations 2018 requires that regulated persons shall identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products.

320. Criterion 15.2 – Under SBP AML/CFT Regulations 2018 at Regulation 1(22), banks and DFIs are required to establish criteria to identify and assess ML/FT risks that may arise in relation to new products, services, business practices and delivery mechanisms including the review of existing products and services on on-going basis.

⁶³ The FATF revised R.15 in October 2018 and its interpretive note in June 2019 to require countries to apply preventive and other measures to virtual asset service providers and virtual asset activity. This evaluation does not assess Pakistan’s compliance with revised R.15 because, at the time of the on-site visit, the FATF had not yet revised its assessment Methodology accordingly. Pakistan will be assessed for technical compliance with revised R.15 in due course, in the context of its mutual evaluation follow-up process.

⁶⁴ ‘Asaan’ accounts are accounts by low risk customers to receive home remittances through proper accounts instead of resorting to traditional cash over-the-counter transactions.

321. MFBs must pay special attention to any ML threat that may arise from new technologies that might favour anonymity and take measures, if required, to prevent their use in ML schemes (para 1 of PR-M1 of MFBs 2018).

322. Under s 5 of the SECP AML/CFT Regulations 2018, regulated persons (securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas) are required to identify and assess ML and TF risks in relation to development of new products, new business practices and new delivery mechanisms prior to their launch.

323. However, other financial institutions outside the regulatory scope of the SBP and SECP are not required to undertake assessments as required by c. 15.2

Weighting and Conclusion

324. Not all FIs are required to comply with the requirements of c.15.1 and c.15.2.

325. **Recommendation 15 is rated partially compliant.**

Recommendation 16 – Wire transfers

326. Pakistan received a largely compliant rating for Recommendation SR.VII in its last report. The report noted however the absence of clear obligations for EC to verify the identity of originators and no obligation on banks to obtain originator information or documentation from exchange companies conducting wire transfers on behalf of third parties.

327. SBP issued AML/CFT Regulation 2018 applicable to Banks and DFIs Regulation 3 is relevant to wire and fund transfers. However, SBP officials indicated that DFIs do not involve in wire or fund transfers business at all. Therefore, Regulation 3 is applicable to banks only even though the regulation stated for both bank and DFIs.

328. Criterion 16.1 – Regulation 3 of SBP's AML/CFT Regulations 2018 requires banks and DFIs, as ordering institutions (whether domestic or cross border wire transfer and regardless of threshold), to identify and verify the originator information and its beneficial owner of the funds (para 2(a) of Regulation 3 of SBP AML/CFT Regulations 2018), and to record adequate detail as to permit reconstruction of the transfer, including information about the purpose and details of the wire transfer beneficiary and the beneficiary institution, and relationship between originator and beneficiary (Para 2(b) of Regulation 3 of AML/CFT Regulation 2018).

329. Under Regulation 3(3) of SBP AML/CFT Regulations 2018 there is a requirement for originator's name, account number (or unique identifier) and address or passport number to accompany the transfer, name of the beneficiary and the beneficiary's address or CNIC/passport number to accompany the transfer.

330. ECs authorized to conduct inward home remittance and outward remittances that should be routed through foreign currency accounts of the ECs maintained with banks in Pakistan (Chapter 3 Section 9 - EC Manual 2017 of SBP). ECs required to mention names, addresses and other particulars of both the originator and beneficiary on the receipts regardless of the amount. However, the requirement to record and copy originator's identity number is only applied to outward transactions exceeding USD \$2,500 or equivalent, higher than the threshold of USD/EUR 1,000 specified in this criterion.

331. MFBs based on MFI Ordinance 2001 at s 6(2a) restricts MFBs from undertaking business in foreign exchange transactions and only facilitate inward foreign remittances payable in Pak

Rupees through commercial banks. Hence, MFBs do not conduct cross-border wire transfers, especially in acting as ordering financial institution.

332. CDNS, as a national saving bureau and a part of the government, is not engaged in any form of wire transfer other than issuing saving certificates and prize bonds.

333. Pakistan Post only conducts incoming international money transfers as an agent of an international remittance company, not acting as ordering financial institution.

334. Criterion 16.2 – There is no requirement for batch files to contain information required under c.16.2. However, Pakistan indicates that cross-border requirements are applicable to each individual wire transfers and therefore, in processing batch wire transfers Banks/DFIs are required to identify, verify, and record adequate details of originator information in every single wire transfer transaction.

335. Criterion 16.3 - Pakistan requirements on banks and ECs do not apply threshold to the requirements of c.16.1.

336. Criterion 16.4 – There is no regulatory threshold as stated above.

337. Criterion 16.5 – Requirements outlined in c.16.1 for banks, DFIs and ECs are applicable to domestic wire transfers. Requirements for MFBs that undertake domestic wire transfers are included in PR M-2 of the revised AML/CFT Regulation for MFBs. CDNS and Pakistan Post do not involve in domestic wire transfers as their products do not require such arrangement.

338. Criterion 16.6 – There is a requirement for electronic funds transfers by banks and MFBs to be made available to SBP and other competent authorities within three business days when required (para 6(5) of Electronic Funds Transfer Regulations 2018; Regulation M-2 - Revised AML/CFT Regulation for MFBs). CDNS and Pakistan Post do not undertake domestic wire transfers.

339. Criterion 16.7 – Regulation 3 - SBP AML/CFT Regulation 2018 requires banks and DFIs to record adequate details of wire transfer transactions with Regulation 5 - AML/CFT Regulation requiring all necessary records of transaction, both domestic and international, to be maintained for 10 years. In addition, under para 15 (1) of the Electronic Funds Transfer Regulations 2018, electronic types of transfer, the originator and beneficiary information should be retained in electronic form for at least five years.

340. EC Manual 2017 of SBP requires ECs to maintain all record of their business transactions including those related to remittances transactions (both inward and outward) for 10 years.

341. Regulation M-2 Wire Transfers/ Electronic Fund Transfer and Regulation M-3 Record Retention of revised AML/CFT Regulation for MFBs requires MFBs to maintain all record of their business transactions, both domestic and international, for 10 years.

342. CDNS and Pakistan Post are not authorized for domestic and international wire transfers as their products do not require such arrangement.

343. Criterion 16.8 – The AML/CFT Regulation 2018 of SBP required that all wire transfers both domestic and international transfer regardless any threshold are accompanied by detail information of regulatory requirements. However, there is no explicit requirement in the regulation that prohibit wire transaction to be executed by ordering financial institutions when the information provided are not sufficient in accordance with regulation.

344. In relation to electronic funds transfers, there is an explicit requirement that prohibit banks and MFBs to pursue electronic funds transfer transactions when the information provided are not comply with regulation (Section 6 (6) of the Electronic Funds Transfer Regulations 2018 by SBP).

345. Criterion 16.9 – Bank, DFIs and MFBs acting as intermediary institution are required to maintain all originator and beneficiary information with the wire transfer (Regulation 3(7) of SBP AML/CFT Regulations 2018 for Banks and DFIs; and Regulation M-2 Para 3, Revised AML/CFT Regulations for MFBs).

346. ECs, CDNS and Pakistan Post could not act as an intermediary FIs.

347. Criterion 16.10 – Banks, DFIs and MFBs acting as intermediary institutions are required to keep records of all information received from ordering financial institutions or other intermediary financial institutions as per requirements of para 7 of Regulation 3 in the Revised SBP AML/CFT Regulations 2018 for minimum of 10 years from completion of the transaction. Regulation M-2, Para 3, of the Revised AML/CFT Regulations for MFBs requires holding for minimum of 10 years following completion of the transaction.

348. ECs, CDNS and Pakistan Post could not act as an intermediary FIs.

349. Criterion 16.11 – Banks, DFIs and MFBs acting as intermediary institutions are required to take reasonable measures consistent with straight-through processing, to identify cross-border wire transfers that lack required originator information or beneficiary information (para 7 of Regulation 3 of the Revised SBP AML/CFT Regulations 2018 for Banks and DFIs; Regulation M-2 Para 3 Revised AML/CFT Regulations for MFBs).

350. ECs, CDNS and Pakistan Post could not act as an intermediary FIs.

351. Criterion 16.12 – Bank, DFIs and MFBs acting as intermediary institution are required to have risk-based policies and procedures for determining: (1) when to execute, reject, or suspend a wire transfer lacking required originator or beneficiary information; and (2) the appropriate follow-up action (Para 7 of Regulation-3 Revised SBP AML/CFT Regulations 2018 for Banks and DFIs; Regulation M-2 Para 3 Revised AML/CFT Regulations for MFBs).

352. ECs, CDNS and Pakistan Post could not act as intermediary FIs.

353. Criterion 16.13 – As beneficiary financial institutions; MFBs should take reasonable measures to identify incoming cross-border wire transfers that lack required originator information or required beneficiary information, including post-event monitoring or real-time monitoring if feasible (Regulation M-2 Para 3 Revised AML/CFT Regulations for MFBs). Banks/DFIs should adopt risk-based internal policies, procedures and controls for identifying and handling incoming wire transfers that are not accompanied by complete originator or beneficiary information (Para 7 of Regulation-3 Revised SBP AML/CFT Regulations 2018 for Banks and DFIs). However, for Pakistan Post, there are no explicit requirements that could give effect to this criterion.

354. CDNS could not perform wire transfers/fund transfers.

355. Criterion 16.14 – Banks, DFIs, MFBs and ECs should verify the identity of the beneficiary, if the identity has not been previously verified, and record this information regardless of any threshold (Para 4 of Regulation-3 Revised SBP AML/CFT Regulations 2018 for Banks and DFIs; Regulation M-2 Para 2 Revised AML/CFT Regulations for MFBs).

356. For Pakistan Post, there are no requirements on beneficiary financial institutions to verify the identity of the beneficiary.

357. CDNS cannot perform wire or funds transfers.

358. Criterion 16.15 – There is a provision that required Banks, DFIs and MFBs as beneficiary financial institutions to adopt risk-based policies, procedures, and controls for any incoming wire transfers that are not accompanied by complete information (Para 4 of Regulation-3 Revised SBP AML/CFT Regulations 2018 for Banks and DFIs; Regulation M-2 Para 2 Revised AML/CFT Regulations for MFBs).

359. For ECs and Pakistan Post, there are no requirements as beneficiary financial institutions to adopt risk-based policies, procedures and controls.

360. CDNS could not perform wire transfers/fund transfers

361. Criteria 16.16 and 16.17 – Banks and MFBs that provide MVT services are required to comply with the above requirements. Non-bank MVTs including agents in Pakistan are ECs (inward and outward remittances) and Pakistan Post (as an agent of Western Union for inward international remittances), which do not have specific requirements for cover wire transfer transfers as required by R.16 and have not requirements to give effect to c.16.17.

362. CDNS could not undertake wire transfers or provide MVTS.

363. Criterion 16.18 – While FI must apply TFS in the context of wire transfers, there are deficiencies highlighted in R.6.

Weighting and Conclusion

364. Minor deficiencies includes the following: (i) no requirements for batch files to contain information required, and (ii) for ECs and Pakistan Post, there are no requirements as beneficiary financial institutions to adopt risk-based policies, procedures and controls.

365. **Recommendation 16 is rated largely compliant.**

Recommendation 17 – Reliance on third parties

366. In the 2009 report Pakistan was rated largely compliant with former R.9. However, the report noted a number of deficiencies with respect to lack of obligations on entities regulated by SECP.

367. Criterion 17.1 – Under the SBP's 'Framework for Risk Management and Outsourcing Arrangements' issued in 2017, financial institutions as defined (commercial banks, Islamic banks, MFBs, and DFIs) must have a risk management policy for third party outsourcing to be approved by the board, take the ultimate responsibility for compliance and ensure that outsourcing activity does not violate any AML and record keeping requirements. However, there are no other requirements in relation to using third parties relevant to this criterion for those institutions.

368. SECP regulated persons (securities brokers, commodities broker, insurers, takaful operators, non-bank financial companies, and modarabas) may rely on third parties to conduct CDD with Regulations 12(1a)-(1c) of SECP AML/CFT Regulations 2018 mirroring the requirements of c 17.1.

369. There are no specific requirements to give effect to c 17.1 for CDNS, Pakistan Post and ECs.

370. Criterion 17.2 – Third party reliance is permitted but Pakistan has no regard to information available on the level of country risk.

371. Criterion 17.3 – Section 12 of the SECP AML/CFT Regulations 2018 requires that “for regulated person that rely on a third party that is part of the same financial group: (a) the group should apply CDD and record-keeping requirements and programmes against ML and TF, in accordance with these regulations; and (b) any higher country risk should be adequately mitigated by the group’s AML/CFT policies; and (c) the implementation of those CDD and record-keeping requirements and AML/CFT programmes shall be supervised at a group level by a competent authority.” There are no specific requirements to give effect to c 17.3 for CDNS, Pakistan Post and SBP financial institutions.

Weighting and Conclusion

372. Pakistan has no regard to information available on the level of country risk. SBP financial institutions are not covered by strict third party reliance rules. CDNS and Pakistan Post are not covered by the requirements of this recommendation.

373. **Recommendation 17 is rated partially compliant.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

374. Pakistan was rated as partially compliant with former R.15 in its 2009 report. Major deficiencies noted were that NBFIs were not required to establish training programs and not required to implement screening standards for employees; brokers were not required to designate compliance officers; and exchange companies were not required to appoint compliance officers, nor develop internal controls to prevent ML/TF. Independent audit functions were also not required for exchange companies.

375. Criterion 18.1 – Banks and DFIs are required to:

- “develop appropriate AML/CFT compliance programs, including at least, the appointment of a management level officer as the compliance office”;
- “maintain an independent audit function”;
- “include but not limited to verification of antecedents and screening procedures to verify that person being inducted/ hired has a clean history”; and
- “chalk out and implement suitable training programs for relevant employees on annual basis” (paras 7, 11, 12 and 13 of Regulation-6 of AML/CFT Regulations for Banks and DFIs).

376. However, there is no explicit requirement to implement programmes against ML/TF, on the basis of ML/TF risk and the size of the business. Moreover, the employee on-boarding screening procedures focus on criminal record checks only and not wider integrity checks.

377. For MFBs, paras 1, 3, 4, 5 and 6 of the Regulation M – 7 of the Revised AML/CFT Regulations for Microfinance Banks 2018 requires that;

- Have in place an appropriate setup to ensure AML/CFT compliance, including at least, the appointment of a ‘Key Executive’ officer as the compliance officer.
- Develop and implement a comprehensive employee due diligence policy and procedure to verify that persons hired have a clean criminal history.
- Maintain an independent internal audit function to assess the effectiveness of internal policies, procedures and controls

- Chalk out and implement suitable training programs for all relevant employees on an annual basis.

378. However, there is no explicit requirement to implement programmes against ML/TF, which have regard to the ML/TF risks and the size of the business.

379. There are no enforceable AML/CFT requirements to give effect to this criterion for CDNS and Pakistan Post.

380. ECs are required to “develop and implement appropriate screening procedures to ensure high standards and integrity at the time of hiring all employees, whether contractual or permanent”, “design and implement suitable training program for all relevant staff” and “appoint/designate/nominate a suitably qualified and experienced person as Company Compliance Officer (CCO)” (paras 11, 12 and 13 of the Chapter 6 of Exchange Companies Manual – 2017). Moreover, under para 7 of the Chapter 3 of Exchange Companies Manual – 2017, ECs are required to develop/follow the standard policies related to Internal Controls, Audit, Human Resources, Information Technology, AML and KYC etc. However there is no explicit requirement to implement programmes against ML/TF, which have regard to the ML/TF risks and the size of the business.

381. For Regulated persons, in the SECP AML/CFT Regulations 2018 (namely, securities brokers, commodities brokers, Insurers, takaful operators, NBFIs and modarabas), Clause 4, 18, 20 of AML/CFT Regulations 2018 SECP closely mirror c.18.1.

382. Criterion 18.2 – There are no requirements to give effect to this criterion for all FIs except regulated persons. Regulated persons that are financial groups are required to comply with s 19 of the SECP AML/CFT Regulation 2018, which mirrors c.18.2.

383. Criterion 18.3 – As per paras 4, 5 and 6 of Regulation-6 of AML/CFT Regulations 2018, banks/ DFIs have been required to apply their AML/ CFT policies to all of their branches and subsidiaries outside Pakistan to the extent that laws and regulations of the host country permit. Where the AML/CFT requirements in the host country or jurisdiction differ from those in Pakistan, bank/ DFI shall require their overseas branches or subsidiaries to apply the higher of the two standards, to the extent that the law of the host country or jurisdiction so permits. Moreover, in case the law of the host country conflicts with the AML/ CFT requirements of Pakistan so that the overseas branch or subsidiary is unable to fully observe the higher standards, the bank/ DFI through its head office shall report this to the SBP and comply with such further directions as may be issued.

384. The above provisions are not required in case of CDNS, Pakistan Post, MFBs and ECs as they do not have international branches or subsidiaries.

385. Regulated person is required to apply their AML/CFT policies to all of their branches and subsidiaries outside Pakistan to the extent that laws and regulations of the host country permit. Where the AML/CFT requirements in the host country or jurisdiction differ from those in Pakistan, regulated person shall require their overseas branched or subsidiaries to apply the higher of the two standards, to the extent that the law of the host country or jurisdiction so permits. Where the law of the host country conflicts with the AML/CFT requirements of Pakistan so that the overseas branch or subsidiary is unable to fully observe the higher standards, the regulated person shall report this to the Commission and comply with such further directions as may be issued (Regulation 16 of the SECP AML/CFT Regulation 2018).

Weighting and Conclusion

386. The main deficiencies are in relation to the following: (i) except for regulated persons, no explicit requirement for all FIs to implement programmes against ML/TF, which have regard to the ML/TF risks and the size of the business; and (ii) the lack of requirements to give effect to c.18.2 for all FIs except for regulated persons.

387. **Recommendations 18 is rated is rated partially compliant.**

Recommendation 19 – Higher-risk countries

388. In Pakistan's 2009 assessment, R.21 was rated partially compliant. The report noted that there were no rules or regulations for all types of financial institutions in Pakistan and that Pakistan was not in a position to implement counter-measures for non-bank financial institutions. Since 2009 Pakistan had made some changes including issuance of revised AML/CFT Regulations in 2016.

389. Criterion 19.1 – Regulation 1(39) of the SBP's AML/CFT Regulations 2018 provides banks and DFIs apply enhanced due diligence proportionate to the risks to business relationships and transactions with natural and legal persons (including financial institutions) from jurisdictions called for by the FATF.

390. MFBs are required to apply enhanced due diligence on customers from jurisdictions which have been called for by FATF (Regulation M-1 (Para-14) of Revised AML/CFT Regulations for MFBs). Para 14 only requires MFBs to apply EDD to the customers. It may not cover the transactions from high risk jurisdictions. And there is no requirement to apply EDD proportionate to the risks.

391. ECs are required to give special attention to the screening of remittances received from or transfer made to 'high-risk' jurisdictions, as identified by Financial Action Task Force (FATF) (Para 2(e) of FE Circular No. 09 (Compliance of Government of Pakistan's Statutory Regulatory Orders (SROs)/Notifications)). However, there are no explicit requirements to give effect to c.19.1 for ECs.

392. Regulated person is required to undertake enhanced due diligence for customers/ policy holders belonging to countries which are non-compliant with anti-money laundering regulations according to FATF (s 9(2)(a) of the SECP AML/CFT Regulation 2018). However, there is no requirement to apply EDD proportionate to the risks.

393. There are no requirements to give effect to c.19.1 for CDNS and Pakistan Post.

394. Criterion 19.2 – As mentioned above, Banks and DFIs are required to apply enhanced due diligence, proportionate to the risks, to business relationships and transactions with natural and legal persons (including financial institutions) from jurisdictions for which this is called for by the FATF. MFBs are required to enhanced due diligence on customer from jurisdictions which have been called for by FATF. However there is no specific definition of "enhanced due diligence" and no explicit requirement for SBP to direct the Banks, DFIs, MFBs or ECs to adopt counter measures.

395. Regulation 14A of the SECP AML and CFT Regulations 2018 requires that "(i) Regulated persons shall adopt counter measures, including but not limited to, enhance due diligence proportionate to the risk, to the business relationship and transactions with their customer belonging to such countries for which this is called upon by FATF and/or as notified by the federal government and (ii) The Commission, on the advice of the federal government regarding

weakness in the AML/CFT systems of other countries, shall direct the regulated person to adopt counter measures in accordance with these regulations with the customers belonging to such countries.”

396. There are no specific requirements to give effect to c.19.2 for other FIs.

397. Criterion 19.3 – The FMU has placed specific guidance note in respect of high risk jurisdictions on its website. FMU publishes the ‘FATF Public Statement and Compliance Document’ on its website including the FATF’s ‘Public Statement and the Improving Global AML/CFT Compliance: On-going Process’ statement or cover information from other sources.

Weighting and Conclusion

398. The main deficiencies relate to (i) the lack of requirements to give effect to c.19.1 for MFBs, CDNS, Pakistan Post and ECs; and (ii) the lack of requirements for Pakistan authorities except for SECP to apply countermeasures proportionate to the risk.

399. **Recommendation 19 is rated partially compliant.**

Recommendation 20 – Reporting of suspicious transactions

400. Pakistan was rated partially compliant with former R.13 and non-compliant with SR.IV in 2009. The report noted that not all predicate crimes were covered and there was no obligation to file an STR when there are reasonable grounds to suspect that funds are linked to, related to, or are to be used for terrorism, terrorist acts or terrorist organizations.

401. Criterion 20.1 – Section 7 of the AMLA requires that every reporting entity shall file STRs with the FMU if it knows, suspects or has reason to suspect that the transaction or a pattern of transactions of which the transaction is a part (a) involves funds derived from illegal activities or is intended or conducted in order to hide or disguise proceeds of crime; (b) is designed to evade any requirements of this section; (c) has no apparent lawful purpose after examining the available facts, including the background and possible purpose of the transaction; or (d) involves financing of terrorism, including fund collected, provided, used or meant for, or otherwise linked or related to, terrorism, terrorist acts or organizations and individuals concerned with terrorism.

402. However, the act states that STRs must be filed “immediately...but not later than seven working days after forming that suspicion.” Reporting “not later than seven days after forming the suspicion” does not meet the standard of reporting “promptly.”

403. Criterion 20.2 – Section 7(1) of the AMLA requires the reporting of attempted transactions and all transactions regardless of the amounts involved. There is no threshold for reporting suspicious transactions.

Weighting and Conclusion

404. While all reporting entities are required to report STRs, including of attempted transactions, regardless of the amount, they are not required to be reported promptly.

405. **Recommendation 20 is rated partially compliant.**

Recommendation 21 – Tipping-off and confidentiality

406. In the 2009 report Pakistan was rated compliant with former R.14.

407. Criterion 21.1 – Section 12 of the AMLA provides that banks, FIs, DNFBPs and their officers shall not be liable for any civil, criminal or disciplinary proceedings against them for furnishing information to FMU as required under the AMLA. Section 2(45) of the Companies Act defines the term ‘officers’ of a company to include directors, chief financial officers, company secretaries and other ‘authorised officers.’ However, there is no provision in the AMLA or elsewhere that states that the ‘employees’ of banks, FIs and DNFBPs are also given the same protection for reporting suspicious transactions.

408. Criterion 21.2 – Section 34(1) of AMLA provides that directors, officers, employees and agents of any reporting entity, FI, DNFBP or intermediary who report suspicious transactions or CTR pursuant to the AMLA or any other authority, are prohibited from disclosing any person directly or indirectly involved in the transaction that has been reported. A violation of the section is a criminal offence and is punishable by a maximum term of three years imprisonment or a fine which may extend to PKR 500,000 (USD \$3,700.00) or both. In addition, as per s 34(3) of AMLA, the confidentiality requirement also extends to the FMU, investigation agency or any officer in the possession of confidential information furnished under this Act.

Weighting and Conclusion

409. While the AMLA provides protections for FIs and their officers, it is unclear this protection extends to directors, the employees or agents of those reporting entities.

410. **Recommendation 21 is rated partially compliant.**

Recommendation 22 – DNFBPs: Customer due diligence

411. Pakistan was rated non-compliant with R.12 in its 2009 report. The report noted that CDD and record keeping requirements are not applied to DNFBPs.

412. Criterion 22.1 – Casinos are prohibited in Pakistan. The AMLA includes DNFBPs as reporting entities and as discussed in R.10 there is an overarching requirement for all reporting entities to conduct CDD (s 7(7) of the AMLA). However, there are no requirements relating to CDD in the AMLA (which leaves the requirements to be spelled out in regulations issued by regulatory/supervisory authorities). While industry guidelines for accountants, real estate agents, gem merchants and jewellers, provide CDD principles (AML/CFT Guidelines for Accountant 2018 issued by ICAP; AML/CFT Guidelines for Real Estate Agents 2018, and AML and CFT Guidelines 2018 issued by the ‘All Pakistan Gems Merchants and Jewellers Association’) those guidelines contain no sanctions and are not enforceable.

413. Criterion 22.2 – The AMLA includes DNFBPs as reporting entities and as discussed in R.11 there is an overarching requirement for all reporting entities to keep records (s 7(7) AMLA). However, there is no timeframe in the AMLA and no specific enforceable requirements for DNFBPs.

414. Criterion 22.3 – Pakistan has no enforceable requirements to give effect to c.22.3 (see above discussion of industry guidelines).

415. Criterion 22.4 – Pakistan has no enforceable requirements to give effect to c.22.4 (see above discussion of industry guidelines).

416. Criterion 22.5 – DNFBPs are not prohibited from relying on third-parties and Pakistan has no enforceable requirements to give effect to c.22.5.

Weighting and Conclusion

417. While DNFBPs are reporting entities under the AMLA, the AMLA does not contain a definition of CDD, and there are no other enforceable requirements to give effect to this recommendation.

418. **Recommendation 22 is rated non-compliant.**

Recommendation 23 – DNFBPs: Other measures

419. Pakistan was rated non-compliant with R.16 in its 2009 report. The report noted that STR requirements are not applied to DNFBPs.

420. Criterion 23.1 – The AMLA includes DNFBPs as reporting entities and as discussed in R.20 there is a requirement for all reporting entities to file STRs with no specific qualifications or threshold (s 7 of the AMLA). However, AMLA does not require STRs to be filed promptly as noted in R 20.

421. Criterion 23.2 – Pakistan has no enforceable requirements to give effect to c.23.2 (see discussion of industry guidelines in c.22.1).

422. Criterion 23.3 – Pakistan has no enforceable requirements to give effect to c.23.3 (ss 12 and 34 (1) of the AMLA). See discussion of industry guidelines in c.22.1.

423. Criterion 23.4 – Requirements of R.21 are applicable to DNFBPs in situations of c.23.1. However, there are deficiencies highlighted in R.21.

Weighting and Conclusion

424. While DNFBPs are reporting entities under the AMLA and required to submit STRs, there are deficiencies with regard to promptly reporting STRs (R.20). There are no other enforceable requirements to give effect to this recommendation.

425. **Recommendation 23 is rated partially compliant.**

Recommendation 24 – Transparency and Beneficial Ownership of Legal persons

426. Pakistan was rated partially compliant for R.33 in their 2009 MER in which it was noted that Pakistan's laws and regulations do not require adequate transparency concerning the beneficial ownership and control of legal persons. Since the 2009 MER, a new Companies Act 2017 and relevant regulations have been enacted.

427. Criterion 24.1 – The Companies Act 2017 ('Companies Act') outlines the various forms of companies that can be established in Pakistan. The term "body corporate" and "corporation" is defined in s 2(9) of the Companies Act to include companies formed under that Act or companies formed outside Pakistan (foreign registered companies) or statutory bodies defined under their respective legislation as bodies corporate. The Companies Act excludes cooperatives at s 2(9) within the definition of "body corporate". However, this does not exclude cooperatives from the definition of "legal person" for the purposes of this recommendation.

428. The different types of legal persons that can be formed in Pakistan are as follows:

- a) **Companies** formed under the Companies Act, namely:
 - Private companies.

- Public companies (also referred to as listed companies).
 - Public interest companies.
 - Public sector companies.
 - Companies limited by guarantee (s 2 (19)).
 - Foreign companies (registered under Part 12 of the Companies Act).
 - Associations (formed as charities and not-for-profit companies) under s 42.
- b) **Limited liability partnerships (LLPs)** formed under the Limited Liability Partnership Act 2017 and defined under that Act as having separate legal personality (Part 2, s 3), namely:
- Domestic limited liability partnerships.
 - Foreign limited liability partnerships (registered under s 2(m) and Part 10).
- c) **Cooperatives** formed under the Cooperative Societies 1925. These entities have independent legal status as legal persons upon registration (s 23).

429. The methods and modes of forming these legal persons are contained in the referenced statutes all of which are publicly available. The total number of registered legal persons as at 25 October 2018 was:

- | | |
|------------------|-------------------------|
| a) Companies: | 91,862 |
| b) LLPs: | 75 |
| c) Cooperatives: | statistics not provided |

430. Criterion 24.2 – Pakistan has not assessed the ML and TF risk associated with all types of legal persons created in Pakistan.

Basic Information

431. Criterion 24.3 – With respect to legal persons formed under the Companies Act, those entities must be registered with the Registrar appointed by the SECP under the Act – ‘register of companies’ (s 2 (56) and s 2 (57)). The “register of companies” is specified in Regulation 15(1) of the Companies (Registration Offices) Regulations 2018. With respect to LLPs, they must be registered under Part 3 of the Limited Liability Partnership Act 2017 (LLP Act) with the Registrar appointed by the SECP. As for cooperatives formed under the Cooperatives Societies Act 1925 they must be registered with a Registrar of Cooperative Societies appointed by a provincial government under the Act – s 10. Information disclosed in the registration process meets the fundamentals of this criterion.

432. Under s 462(5) of the Companies Act 2017 and Regulations 19 and 20 of the Companies (Registration Offices) Regulations 2018, company information is publicly available at the office of the registrar from where it can either be inspected or certified true copies of the statutory returns be obtained (<https://www.secp.gov.pk/document/cro-regulations-2018/?wpdmdl=30455>), on payment of a nominal fee specified under the Seventh Schedule to the Act. LEAs can obtain this information without payment of any fee. Basic information including name, registration number, registered office address, date of last annual general meeting, etc. is available through the website free of cost at: <https://www.secp.gov.pk/company-namesearch>.

433. Section 21 of the LLP Act requires that the information filed with the registrar including incorporation documents, names of partners and any changes thereof shall be available for inspection by anyone on payment of a fee.

434. Under the Cooperative Societies Rules 1927 (Rule 16) the information maintained by the relevant Registrars at the provincial level are open for public inspection upon payment of a nominal fee (PKR 1, or USD \$.007).

435. Criterion 24.4 – The Companies Act requires that companies keep certain information at their registered offices including a list of directors and minutes of meetings. Regulation 43 of the Companies (General Provisions and Forms) Regulations 2018 requires that companies must maintain and permanently preserve at their registered offices, copies of original and altered memoranda and articles of association since incorporation. Section 20 of the LLP Act requires them to ‘maintain proper books of account as required by the registrar’, but there is no express requirement that they ‘maintain’ the additional information required by this criterion.

436. In addition, with respect to each of the three entities:

437. Companies: the Companies Act appears to use the words ‘members’ and ‘shareholders’ interchangeably without defining one as the other when it refers to the holders of shares in a company. While the term ‘member’ is meant to include a shareholder not every shareholder is a member of a company. The two terms have been used in the relevant context under different provisions of the Act. With respect to companies without share capital (associations) it refers to the participants as members.

438. Under s 119 of the Companies Act, companies are required to keep a register and index of its members. Under the Companies (General Provisions and Forms) Regulations 2018, Regulation 9(c) requires that each member’s shareholding in a company be specified in the register and/or index.

439. Limited liability partnerships: the LLP Regulations 2018 (Regulation 27(2)) requires that a register of partners be kept at the registered office with a statement of their ownership percentages in the relevant LLP and their associated voting rights. Changes to that information are required to be notified to the registrar of LLPs in Form VIII under the LLP Regulations 2018. However, as noted above, there is no express requirement to maintain additional information required by this criterion (e.g. basic regulating powers).

440. Cooperatives: these legal persons may issue shares. Rule 14 of the Cooperative Societies Rules 1927 requires cooperatives to keep a register of members, including a register of shares and debentures; a share-transfer register and other detailed information but not information on basic regulating powers.

441. Criterion 24.5 – Section 465(4) of the Companies Act 2017 and Regulations 4 and 14 of the Companies (General Provisions and Forms) Regulations 2018 (form 3A) require companies to inform the registrar of any changes, but only changes of more than twenty five percent, of their shareholding, membership or voting rights within 15 days of those changes. A company is also required to file annual returns in form A or B under s 130 of the said Act read with regulation 4 of the Companies Regulations 2018 with the office of the registrar concerned, within 30 days from the date of annual general meeting, in case of any change in particulars from the last annual return. The annual return also contain list of members as on the date of the form. Similar requirements apply to LLPs under the LP Act and its Regulations.

442. There are no such requirements for cooperatives under the Cooperative Societies Act 1925.

Beneficial Ownership Information

443. The SECP issued a Circular entitled *Maintenance of Register of Ultimate Beneficial Ownership Information by the Companies* on 29 August 2018 requiring all companies (including financial institutions) to take reasonable measures to obtain up-to-date information relating to their ultimate beneficial owners. The term 'ultimate beneficial owners' is defined as natural persons or individuals who ultimately own or control a company irrespective of the number of levels or ownership involved. The information is to be held in a register maintained by each company. Details of the minimum information required are provided in para 4 of the circular.

444. Paragraph 5 of the said Circular provides that companies have a period of 90 days from the date the Circular was issued (expiring on 27 November 2018) to have this information available. The SECP confirmed during the on-site visit that the Circular is not enforceable until after 27 November 2018 and therefore SECP will not commence supervision and enforcement of the Circular until after that date. Consequently, at the time of the on-site visit the measures contained in that instrument were not enforceable. After 27 November 2018 the Circular will be enforceable under s 510 of the Companies Act 2017.

445. Criterion 24.6 – Pakistan has measures in place that attempt to, or partly, address each of the three sub-criteria to this recommendation and therefore each is dealt with separately. The overall rating assigned for this criterion is the highest rating to the three alternatives:

- a) c.24.6 (a) – Section 102 of the Securities Act requires *listed* companies (one of only 10 of the types of legal person named at the beginning of this recommendation) to maintain a register of beneficial ownership of directors, officers and substantial shareholders (holding 10% or more shares). The annual return notifying the shareholding/ownership position as at the date of annual general meeting is required to be filed with the registrar within thirty days of the annual general meeting, or on the last day of the calendar year where no such meeting is held (s 130 Companies Act) There are no such requirements for the other types of companies established under the Companies Act or other types of legal persons in Pakistan (LLPs and cooperatives). The Fourth and Fifth Schedules to the Companies Act require listed and non-listed companies, respectively, to disclose the beneficial ownership information for foreign shareholders, other than natural persons, holding more than 5% of paid-up capital in the company, though this obligation does not extend to domestic shareholders.
- b) c. 24.6 (b) – Section 101 of the Securities Act provides that directors, officers and substantial shareholders of *listed* companies must disclose their beneficial ownership and any changes therein to the company. In case of a foreign owner, Regulation 15 of the Incorporation Regulations 2017 requires provision of additional information to the Registrar including but not limited to, the profile of the foreign company, detail of its directors, their nationality and country of origin, copy of its charter, statute or memorandum and articles etc. While the Fourth and Fifth Schedules to the Companies Act require companies to disclose certain beneficial ownership information pertaining to foreign shareholders (see 24.6 (a)) there are no requirements for other types of companies established under the Companies Act or other types of legal persons in Pakistan (e.g., LLPs and cooperatives) to provide beneficial ownership information beyond original subscribers, shareholders and directors.
- c) c.24.6(c) – Reporting entities regulated by the SBP (banks, DFIs) under SBP AML/CFT Regulations 2018 (Regulation 1(7) and (8)) and those regulated by SECP (securities brokers, commodities brokers, insurers, takaful operators, NBFIs and modarabas) under SECP AML/CFT Regulations 2018 (Regulations 6(2)(3)(a) and 7(1)) are required to obtain beneficial ownership information from legal persons before entering into a

business relationship. Under those regulations 'beneficial owner' is defined as the natural person who ultimately owns or controls the customer of a regulated person and on whose behalf a transaction is being conducted and includes the person(s) who exercise(s) ultimate effective control over a person or a body of persons whether incorporated or not. Both sets of Regulations require the regulated entities, when establishing a business relationship, to:

- identify and verify the beneficial owners of companies on the basis of documents data or information obtained from customer and other reliable sources; and
- understand the nature of the customer's business.

Similar requirements as above are not applicable to Exchange Companies as they are not allowed to deal with legal persons or legal arrangements. However, no such obligations exist with respect to lawyers, accountants, real estate agents, and precious metal and gem dealers.

446. Criterion 24.7 – As indicated under c.24.6, a number of reporting entities are required to collect ultimate beneficial ownership information of legal persons before entering into a business relationship. Under the SBP AML/CFT Regulation 16, Banks and DFIs must periodically review the adequacy of customer information obtained in respect of customers and beneficial owners and ensure that the information is kept up to date, particularly for higher risk categories of customers. SECP Regulation 13(3) contains a similar requirement.

447. The registry for companies, LLPs and cooperatives, and legal persons themselves, are not required to ensure that accurate and up-to-date beneficial ownership information is collected except in the limited circumstance of listed companies.

448. There are no requirements relating to DNFBPs.

449. Criterion 24.8 – There are no required measures in place to ensure that companies co-operate with competent authorities to the fullest extent possible in determining the beneficial owner, by (a), (b) or (c) of this criterion.

450. Criterion 24.9 – Regulation 28 of Companies Registration Offices Regulations 2018 requires SECP to maintain records of dissolved companies for at least 5 years. Section 413(2) of the Companies Act requires companies, liquidators, or any person to whom the custody of books and papers has been committed, to maintain the books and papers of a company which has been wound up for a period of only 3 years, not 5 years as required by this criterion.

451. SBP AML/CFT Regulations 2018 (Regulation 5(3)) and SECP's AML/CFT Regulations 2018 (Regulation 15 (3)) requires regulated persons to maintain records and information for at least 5 years after termination of business relationship. The records of identification data obtained through CDD process (copies of identification documents, account opening forms, KYC forms, verification documents and other documents along with records of account files and business correspondence, must be maintained for a minimum period of five years after termination of the business relationship. Regulated person shall ensure, to timely make available, all CDD and transaction records to the Commission, FMU and law enforcement agencies whenever required.

452. DNFBPs are not subject to any such requirements.

Other Requirements

453. Criterion 24.10 – Competent authorities, including LEAs, have the necessary powers under legislation to obtain timely access to the basic and beneficial ownership information held by the reporting entities.

454. Criterion 24.11 – Bearer shares are not explicitly prohibited by the Companies Act or the Companies Ordinance 1984. While s 62 of that Act states that a share certificate, if issued in physical form or issued in book entry form specifying the shares held by any person held in the central depository system is prima facie evidence of the title of the person to those shares, s 62(2) provides that notwithstanding anything contained in the articles of a company, the manner of issue of shares and the form of share certificate as well as other matters shall be as specified in the articles. And while the Companies (General Provisions and Forms) Regulations 2018 provides that share certificates issued in physical form must state the name of the person to whom a certificate is transferred (Regulation 16(4)), that provision only applies to certificates in ‘physical form’ and not to share certificates that are issued in any other form, such as in a digital format. This permits the issuance of shares in bearer form if provided for in a company’s article of association.

455. Bearer share warrants are not prohibited by any provisions in the Companies Act or Companies Ordinance.

456. There are no measures in place within the Companies Act or other legislation or regulations to mitigate the risk associated with either bearer shares or bearer share warrants.

457. Criterion 24.12 – Nominee shareholders are not prohibited by any legislation in Pakistan. Nominee directors are also not prohibited under the Companies Act. Additionally, there are no mitigating measures in place to address the risks associated with either. Nominee shareholders and directors are not required to disclose the identity of their nominator to the company and to any relevant registry, and for this information to be included in the relevant register. Neither are there any requirements for nominee shareholders and directors to be licensed; for their nominee status to be recorded in company registries; and for them to maintain information identifying their nominator, and make this information available to the competent authorities upon request.

458. Criterion 24.13 – The SECP Act 1997 at s 40A provides a penalty of PKR 10 million (USD \$74,074) plus PKR 100,000 (USD \$740) for every day after the first during which such contravention continues for breach of regulations. Section 130(6) of the Companies Act, 2017 imposes a penalty of level 2 (max. PKR 500,000 (USD \$3704)) with additional penalty for continuing default) in the event of non-filing of annual returns by a listed company, and level 1 in case of other companies.

459. There are no penalties provided for in the LLP Act or in the Cooperative Societies Act for breach of AML/CFT-related matters.

460. Criterion 24.14 – There are limited provisions in place for Pakistan to provide international cooperation in relation to basic and beneficial ownership information on the basis set out in R.37 and R.40. Section 42D of the SECP Act provides that “...the Commission may, on reciprocal basis, cooperate with and provide assistance under this Act or any administered legislation to a foreign regulatory authority.” Section 42D(7) adds that “...any assistance provided under this section to any foreign regulatory authorities or international organizations may be refused by the Commission on the grounds of national security and public interest.”

461. Criterion 24.15 – There are no mechanisms in place to monitor the quality of assistance Pakistan receives from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad. A guideline document referred to as *Guidelines for Cooperation and Assistance to Foreign Regulatory Authorities* developed under s 40B of the SECP Act, 1997 does not provide a monitoring mechanism nor is it a mandatory instrument.

Weighting and Conclusion

462. The lack of ML and TF risk mitigating measures for bearer share and bearer warrant instruments and for nominee shareholders and directors, together with the absence of requirements for the Registrar and/or companies themselves to hold beneficial ownership information are major shortcomings. Pakistan does not have measures in place to meet or partly meet a number of the criteria.

463. **Recommendation 24 is rated partially compliant.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

464. Pakistan was rated non-compliant with R.34 in its previous evaluation. It was noted in that report that the information required to be included in trust agreements on trustees, settlors and beneficiaries did not cover the concept of beneficial ownership. It was also noted that registration of trust information is decentralized and remains in manual records making it very difficult for law enforcement agencies to access in practice.

465. **Source of Law:** Pakistan has a system of trust law whose principles are based on British common law but modified and sourced primarily in the Trust Act 1882.

466. Trusts are defined in the Trust Act 1882 as ‘...an obligation annexed to the ownership of property, and rising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner...’. The Act also states that the person who reposes or declares the confidence is called the “author of the trust”; the person who accepts the confidence is called the “trustee”; the person whose benefit the confidence is accepted is called the “beneficiary”; the subject-matter of the trust is called “trust-property” or “trust-money”; the “beneficial interest” or “interest” of the beneficiary is his right against the trustee as owner of the trust-property; and the instrument, if any, by which the trust is declared is called the “instrument of the trust” (s 3). The system of trust law is statutory as opposed to common law however cases decided under the Act are relevant.

467. **Registration of immovable property trust deeds:** Under s 5 of the Trust Act 1882 trusts may involve either movable or immovable property. No trust in relation to immovable property is valid unless declared by a non-testamentary instrument in writing signed by the author of the trust (settlor) or the trustee, and registered, or by the will of the author of the trust or of the trustee. Registration is effected under the Registration Act 1908 s 17(2)(iii).

468. **Non-registration of moveable property trust deeds:** Trusts relating to movable property are not valid unless declared in the same manner as an immoveable property trust, or unless the ownership of the property is transferred to the trustee. However, immoveable property trusts are not required to be registered for the trust to be valid.

469. The Trust Act 1882 provides that nothing in the Act affects *waqfs* (s 1) which are a form of Islamic endowment. Pakistan has provided no information on this type of legal arrangement. The Provisional Waqf Ordinances 1979 provide the regulatory framework for these arrangements. According to Pakistan authorities, there is no TCSP sector in the country and there are no professional trustees.

470. Criterion 25.1 – The statutory duties of trustees are outlined in Part 3 of the Trust Act 1882.

- a) c.25.1(a) is *not met*: Nothing in Part 3 (or any other instrument or case law) requires trustees to obtain and hold adequate, accurate, and current information on the identity of the settlor [author of the trust], the trustee(s), protector (if any), beneficiaries or

classes of beneficiaries, and any other natural person exercising ultimate effective control over the trust.

- b) c.25.1(b) is *not met*: Nothing in Part 3 (or any other instrument or case law) requires trustees to hold basic information on other regulated agents of, and service providers to, trusts, including investment advisors or managers, accountants, and tax advisors.
- c) c.25.1(c) is *not met*: There are no obligations on professional trustees in Part 3 (or any other instrument or case law) to maintain the information referred to in this criterion (as above) for at least five years after their involvement with the trust ceases.

471. Criterion 25.2 – There are no explicit obligations on trustees to keep any information pursuant to this recommendation as accurate and as up-to-date as possible and updated on a timely basis.

472. Criterion 25.3 – The AML Regulations for banks and DFIs provide at Part A, s 10, that CDD includes identifying the beneficial owner and taking adequate measures to verify their identity so that the bank/DFI is satisfied that it knows who the beneficial owner is including, in the case of a trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement. The term “beneficial owner” is defined in Part A, s 1, of those regulations as the natural person(s) who ultimately own(s) or controls a customer or the person on whose behalf a transaction is being conducted and includes the person(s) who exercise(s) ultimate effective control over a person or a body of persons whether incorporated or not. In the same instrument, Regulation 12, s 1, further provides that banks/DFIs shall apply CDD measures when establishing business relationship while dealing with occasional customers and other situations/scenarios when there is suspicion of money laundering/financing of terrorism, regardless of threshold. The combined effect of these measures is to require that trustees disclose their status to banks and DFIs in order to conduct business.

473. The SECP AML/CFT Regulations 2018 apply to “regulated persons” which includes securities brokers, commodities brokers, takaful operators, NBFIs and modarabas (s 2(u)). While it states that regulated persons are required to conduct CDD under s 6(3) which includes identifying the beneficial owner and that under s 7(2) CDD applies to ‘legal arrangements,’ defined by s 2(o) to include express trusts, those regulations are not enforceable until after 27 November 2018 (subsequent to the on-site visit).

474. The AMLA provides that with respect to DNFBPs, defined to include TCSPs at s 2(m), they are required to conduct CDD on their customers (s 7(7)) however CDD is not defined in the Act (as it is in the Regulations noted above) and regulations have not yet been issued for the full range of DNFBPs (including lawyers and accountants). Nor does the Act oblige trustees to disclose their status directly to any DNFBPs.

475. Criterion 25.4 – Trustees are not be prevented by law or enforceable means from providing competent authorities with information relating to the trust or from providing financial institutions and DNFBPs, upon request, with information on the beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship. However, the availability of beneficial ownership information is restricted by the fact that there are no enforceable means in place requiring reporting institutions and/or trustees to collect that information.

476. Criterion 25.5 – Under various statutory authorities including the Anti-Terrorism Act 1997, Control of Narcotics Substance Act 1997, NAO 1999, CrPC, and Customs Act 1969 law enforcement authorities may secure information from trustees and financial institutions relevant

to trusts. However, beneficial ownership information beyond the direct beneficiaries and control information beyond the trustee(s) is not available.

477. Criterion 25.6 – Pakistan is able to provide international cooperation in relation to trust-related information, including beneficial ownership information if available, through MLA requests or under existing MOUs or other arrangements with foreign competent authorities, as described under R.37 and R.40. There are, however, no registries or domestic authorities that hold basic information on domestic or foreign trusts with the exception of trust information relating to immovable property. Further, Pakistan has not provided any evidence to suggest that competent authorities use their investigative powers to obtain beneficial ownership information on behalf of foreign counterparts.

478. Criterion 25.7 – There are no laws, including under the Trust Act 1882 or any other instrument, providing for fines, civil or administrative measures to address breaches of obligations imposed upon trustees to meet the requirements of this recommendation. Accordingly, Pakistan lacks proportionate and dissuasive sanctions for trustees to comply with their trust obligations.

479. Criterion 25.8 – There are no proportionate and dissuasive sanctions available (criminal, civil or administrative) to enforce the requirement to grant competent authorities access in a timely manner to information where held regarding trusts. The Trust Act 1882 does not provide for fines or other civil or administrative measures to address breaches of obligations imposed upon trustees.

Weighting and Conclusion

480. There are no measures in place to mitigate the risk of ML and TF associated with trust structures and other legal arrangements such as *waqfs*. Registration of immoveable property trusts involves only the registration of the trust deed and not the collection of beneficial ownership information beyond what is in the deed of trust. Trustees themselves are not required to collect beneficial ownership information.

481. **Recommendation 25 is rated non-compliant.**

Recommendation 26 – Regulation and supervision of financial institutions

482. Pakistan was rated largely compliant for R.23 (now R.26) in 2009. Deficiencies included limited supervision coverage for financial institutions and ambiguities in the roles of financial sector supervisors and the FMU.

483. Criterion 26.1 – Under the SBP Act, the SBP regulates and supervises banks, development finance institutions, microfinance banks, and exchange companies. Under the SECP Act, the SECP regulates and supervises NBFIs, insurance, modarbas, capital market segments, including securities brokers, and other corporate entities (s 20(4) of the SECP Act 1997).

484. CDNS and Pakistan Post are not subject to AML/CFT supervision⁶⁵. Hawala/hundi operators are illegal and therefore not subject to supervision.

Market Entry

485. Criterion 26.2 – Banks and NBFIs are required to be licenced before conducting financial business. For ‘core-principles’ financial institutions, requirements are as follows:

⁶⁵ CDNS and Pakistan Post are attached departments of Ministry of Finance & Postal Service respectively as per Rules of Business 1973 however the Ministry has not issued specific AML/CFT rules.

- Banks: s27 of the Banking Company Ordinance 1962;
- Microfinance banks: s 12, s 13 and s 13A of Microfinance Ordinance, 2001;
- Security brokers: regulation 3 of the Securities Brokers Regulations 2016;
- NBFC: s 282C of the Companies Ordinance 1984;
- Modarabas: s 6 of the Modarabas (Floatation and Control) Ordinance 1980;
- Insurance: s 6 of the Insurance Ordinance 2000;
- Exchange companies: s 3 of the FERA 1947.

486. There are no specific requirements to give effect to c.26.2 for CDNS and Pakistan Post.

487. The establishment or continued operation of any bank is under the direct and exclusive supervision of the SBP (s 27 of the Banking Companies Ordinance). Although there is no explicit prohibition in legislation or regulations on the establishment or continued operation of shell banks in Pakistan, in practice all banks legally established in Pakistan require approval to be formed and to undertake business and have a physical place of business operations (s 5-c and 5-d of the BCO 1962)

488. Criterion 26.3 – detailed analysis is as follows:

489. Banks: Article 5 (fit and proper criteria) of SBP rules provide that SBP evaluates sources of funds, financial standing, and beneficial ownership and disqualifies directors who would have been convicted of any criminal or financial irregularity whatsoever or have been associated with any illegal activity concerning banking business deposit taking, financial dealing and other business. The coverage of the fit and proper test includes sponsors and strategic investors, directors, CEOs and key executives (BPRD Circular No. 04 of 2007, BPRD Circular No.4/2008, BPRD Circular No.9/2009 and ACMFD Circular No. 3/2014). However, none of the applicable laws, regulations or guidelines make mention of the beneficial owners of commercial banks and their submission to the fit and proper tests.

490. Exchange companies: para 5, Chapter 3 of the Exchange Companies Manual 2017 requires that directors must not be convicted of criminal offences (offence involving moral turpitude) and must not have failed to honour financial obligations to banks, tax authorities and to other government authorities. They must also not be bankrupt. However, there are no provisions applicable to other relevant persons, including the sponsors, the investors acquiring strategic/controlling stake, major shareholders and the CEO, and key executives of the Exchange Company, and their beneficial owners.

491. Securities brokers: Annex B read with Regulations 4(e) and 4(j) of the Securities Brokers (Licensing and Operations) Regulations 2016, prescribe the details of fit and proper criteria for applicants, sponsors, directors, senior management officers and ultimate beneficial owners of securities brokers similar to the rules for banks.

492. NBFIs: Schedule IX of the NBFC Regulations 2016 prescribes the details of fit and proper criteria for promoters, major shareholders, director, chief executive and key executives and ultimate beneficial owners of the NBFIs.

493. Modarabas: s 5 of Modaraba Companies and Modaraba (Floatation and Control) Ordinance 1980 prescribes the details of fit and proper criteria for sponsors, promoters and their ultimate beneficial owners, directors, officers and employees of a modaraba company. However, the coverage does not include the beneficial ownership of modarabas.

494. Insurance companies: articles 2 and 3 of the Insurance Companies (Sound and Prudent Management) Regulations 2012 prescribes the details of fit and proper criteria for sponsors,

promoters and their ultimate beneficial owners, chief executive, directors and key officers of the insurer. However, it does not include the beneficial ownership of the insurer.

495. CDNS and Pakistan Post: There are no requirements to give effect to c.26.3 for Central Directorate of National Savings (CDNS) and Pakistan Post.

496. Criterion 26.4 –

497. c.26.4a – For Basel Core Principles, the SBP combines the prudential supervision of banking companies with the supervision of AML/CFT and both of them conduct supervision in accordance with the risk-based approach, including risk-based assessments and inspections toward banking companies. For IOSCO Principles, SECP in 2018 IOSCO follow-up review was rated for the core Principles 24, 28, 29 and 31 as partly implemented, not applicable, broadly implemented and broadly implemented, respectively. For IAIS core principles. SECP in November 2011, IAIS ICP assessment was rated for the core Principles 1 and 3 as observed; 4, 6, 11 and 21 as largely observed; 5, 7-10, 18, 22 and 25 as partly observed; and 23 as not observed.

498. c.26.4b – In Pakistan, exchange companies are regulated and supervised by the Exchange Policy Department of the SBP. There are no specific requirements to give effect to c.26.4b for CDNS and Pakistan Post

499. Criterion 26.5 –

500. c.26.5a – In Pakistan, there are several approaches to determining the frequency and intensity of on-site and off-site supervision. For banks, DFI, MFBS and ECs, large institutions and those having a CAMELS rating up to ‘fair’ are inspected once a year, while institutions rated ‘satisfactory or above’ are inspected once every two years by the SBP. The level of effectiveness of control and intensity of inherent risk is assessed under the indicator of “effectiveness of Systems and Controls”. The SBP’s off-site supervision and enforcement department regularly provides input to the on-site inspection department regarding major concerns relating to AML/CFT of the regulated institutions before the start of the inspection. Off-site supervision also monitors the compliance status of inspected FIs through reports filed by FIs and periodic meetings with FIs.

501. For NBFIs, they are required to issue details of transaction above a certain threshold on monthly basis, which are audited on sample basis by the offsite team of SECP to check compliance with KYC/CDD requirements (Circular No.9/2017). For insurance, they are required to file details of single premium life insurance policies above a certain threshold on monthly basis to SECP (Circular No.8/2017). For NBFIs and modarabas, on-site inspections are carried out based on the risk assessment (in which AML/CFT risks were included) of the financial institutions, and thematic inspections with particular focus on AML/CFT.

502. Except for the industries above-mentioned, securities brokers were not mentioned. And except for off-site supervision of NBFIs and insurance, there are at the moment no formal regulations, rules, guidelines and directives provided in relation to the criterion.

503. c.26.5b –Pakistan has not issued a risk-based supervision manual or other instrument to address this criterion

504. c.26.5c – Pakistan has not issued a risk-based supervision manual or other instrument to address this criterion.

505. Criterion 26.6 – SBP conducts inspections and assessments in respect to banks, ECs and MFBs. SBP puts more attention on newly established institutions and when the institution

launches new significant products. Prudential meetings are held regularly between the authorities, in which AML/CFT are included.

506. Regarding SECP, securities brokers, NBFIs and modarabas' assessments are conducted regularly. There are no formal regulations, rules, guidelines and directives provided in relation to the criterion however.

Weighting and Conclusion

507. The lack of risk-based supervision manuals or a framework to conduct it together with a lack of the requirements for banks, DFIs, MFBs, ECs and modarabas to include within its scope of its fit and proper tests relevant to beneficial owners are a concern. Moreover CDNS and Pakistan Post are not supervised for AML/CFT requirements.

508. **Recommendation 26 is partially compliant.**

Recommendation 27 – Powers of supervisors

509. Pakistan was rated partially compliant with R.29 in its previous evaluation. Compliance-monitoring was insufficiently proactive on CDD and STR reporting and there were insufficient resources for SBP (for exchange companies). The report also noted the narrow coverage of system audits for the securities markets as far as AML/CFT requirements were concerned.

510. Criterion 27.1 – Authority to supervise financial institutions is as follows:

- Banking institutions: SBP Act 1956 (s 17H) and BCO 1962 (ss 40, s 40A and s 41A);
- ECs: Foreign Exchange Regulations Act 1947 empowers SBP to supervise ECs;
- Securities brokers, NBFIs, modarabas and insurance companies: SECP Act 1997 (s 20(4)).

511. However, there are no authorities designated to supervise CDNS and Pakistan Post for AML/CFT purposes.

512. Criterion 27.2 – The same statutes and instruments noted above authorise supervisors to conduct inspections of financial institutions. However, there are no authorities designated to inspect CDNS and Pakistan Post for AML/CFT purposes.

513. Criterion 27.3 – Under s 40(4) of the SBP Act, SBP may compel production of books, accounts and other documents from banking institutions; under s 30 of the SECP Act an investigating officer of the Commission may, by notice in writing, require any person to produce before him such books, registers or documents as are in the custody or under the control of that person. Also under s 231 of the Companies Ordinance 1984 it is the duty of every director, officer or other employee of a company to produce to the person making inspection under sub-section (1) all such books of account and books and papers of the company in his custody or under his control, and to furnish him with any such statement, information or explanation relating to the affairs of the company, as the said person may require of him within such time and at such place as he may specify. Under the Modaraba (Flotation and Control) Ordinance 1980 and Exchange Companies Manual 2017 similar powers exist in relation to modarabas and ECs.

514. However, there is no power to compel production in relation to CDNS and Pakistan Post.

515. Criterion 27.4 – Pakistan has implemented a limited range of criminal and supervisory sanctions to deal with natural or legal persons who are covered by the FATF recommendations but fail to comply with their AML/CFT requirements. The measures are focused primarily on fines and relate to reporting entities supervised by SECP and SBP under relatively new regulations issued in 2018. While the SBP has additional prudential powers in relation to banks these powers

have been used on a limited basis for AML/CFT purposes and it is unclear in the legislation whether SECP has powers in addition to fines to utilise for AML/CFT purposes.

516. No supervisory sanctions are available for Pakistan Post and CDNS.

Weighting and Conclusion

517. The SBP and the SECP are authorised to impose sanctions however the range of sanctions is limited. Moreover CDNS and Pakistan Post are not subject to AML/CFT supervision.

518. **Recommendation 27 is rated partially compliant.**

Recommendation 28 – Regulation and supervision of DNFBPs

519. Pakistan was rated non-compliant with R.24 (now R.28) in its 2009 report. The report noted the absence of regulation and supervision on AML/CFT.

520. Criterion 28.1 – It is prohibited to operate a casino by law in Pakistan.

521. Criterion 28.2 – While Pakistan has prudential supervisors for some DNFBPs, Pakistan has not designated AML/CFT supervisory authorities for DNFBPs.

522. Criterion 28.3 – Pakistan has not designated other categories of DNFBPs.

523. Criterion 28.4 – Pakistan has not designated supervisory authorities for DNFBPs.

524. Criterion 28.5 – Pakistan has not designated supervisory authorities for DNFBPs. No risk-based supervision of DNFBPs occurs.

Weighting and Conclusion

525. **Recommendation 28 is rated non-compliant.**

Recommendation 29 - Financial intelligence units

526. R.26 was rated partially compliant in 2009. At the time the law did not require reporting of TF-related STRs and there was an absence of guidance to reporting entities and insufficient FMU operational independence/autonomy. Pakistan has since addressed some of the deficiencies in the 2009 MER with the AMLA and other subsidiary legislation.

527. Criterion 29.1 – The FMU is established pursuant to s 6(1) of the AMLA and by SRO is located within the SBP. The FMU is an autonomous body (SRO 150 (I) 2015 19 February 2015). Section 6(4) of the AMLA provides that the FMU shall receive and analyse STRs and CTRs from financial institutions and DNFBPs relating to ML, TF and related offences and disseminate information or materials to investigating or prosecuting agencies as necessary.

528. Criterion 29.2 – The FMU serves as the central agency to receive STRs and CTRs and other reports from all reporting entities defined in s 2(u) of the AMLA including the full range of financial and non-financial entities including DNFBPs. The FMU is legally authorised to receive such reports. The current threshold for reporting CTRs is 2 million Rupees (approximately US\$16,431).

529. Criterion 29.3 –

530. Criterion 29.3(a) – Pursuant to s 6(4)(b) of AMLA, the FMU is authorized to call for information required in its analysis of suspicious transaction reports and CTRs from any agency

or person in Pakistan. Agencies or persons including reporting entities in Pakistan are required to promptly provide the information requested by the FMU. In addition, as per s 25 of AMLA the officers of financial institutions are required to provide requisite assistance to the FMU which enables the FMU to properly analyse information it receives. In addition, Regulation 8(4) of AML Regulations 2015 authorizes the FMU to call for any information or related information and related documentation with respect to STRs from financial institutions and DNFBPs. Under s 2(o) of AMLA “person” means individual, a firm, an entity, an association or a body of individuals, whether incorporated or not, a company and every other juridical person.

531. Criterion 29.3(b) – s 25(1) of the AMLA requires the officers of the federal government, provincial government, local authorities and financial institutions to provide requisite assistance to investigating officers, FMU and other authorities in the enforcement of this Act. While there is no specific provision that provides the authority to FMU to compel reporting entities to provide additional financial information required for the analysis of suspicious transaction reports and CTRs, as per s 25(2), any person who wilfully fails to provide the requisite assistance is deemed guilty of misconduct and will be subject to misconduct proceedings by the respective department, organization or financial institution. FMU has direct and indirect access to a wide range of financial, administrative and law enforcement databases and information that enables the FMU to properly analysis STR and information it receives. In addition, s 6(4)(d) AMLA also empowers FMU to establish necessary analytic software and computer equipment to effectively search the database, sort and retrieve information and perform real time linkages with databases of other agencies both in and outside Pakistan as may be required from time to time.

532. As above, s 25 of the AMLA allows the FMU to get any information, and by virtue of s 39 the AMLA supersedes any other existing law including the Income Tax Ordinance, 2001. However, s 216(1) of the Income Tax Ordinance 2001 prohibit access to detailed tax records (with exceptions that do not apply to the AMLA) and the wording of s 25 of AMLA (“assistance”) alone is not sufficient or broad enough to circumvent the clear prohibition on disclosure of tax records in the Income Tax Ordinance considering the subsequent provisions, i.e. s 216(2)(3).

533. Criterion 29.4 –

534. Criterion 29.4(a) – The FMU conducts operational analysis of STRs and CTRs to identify specific targets, to follow the trail of activities or transactions and to determine links between those targets and possible proceeds of crime, money laundering, predicate offences and terrorist financing in accordance with the Standard Operating Procedures the FMU has developed, which came into effect in 2010.

535. In its analysis, FMU conducts a preliminary analysis of the STR by risk scoring using public and private databases including UNSCR 1267 consolidated lists. Factors such as profile of the suspect or the reason for suspicion, adverse information of the suspect, domestic sensitive areas and foreign geographic location, nature of business or profession, information from the KYC/CDD documents stating the purpose of account, circumstances surrounding the account and the transaction including the type of transaction, volume, frequency and the value of the transaction is considered during this stage of analysis. Taking into consideration of the findings of the preliminary analysis, a detailed analysis of the suspicious transaction is conducted taking into account factors such as out-of-pattern transactions, relationship between the parties involved as well as linked accounts and transactions. Where required, FMU provides findings of such analysis as well as other relevant information to law enforcement and prosecutorial authorities for further action. FMU has direct and indirect access to a wide range of financial, administrative and law enforcement databases and information that enables the FMU to properly analysis STR and information it receives.

536. Criterion 29.4(b) – The FMU conducts strategic analysis to identify money laundering and terrorist financing related trends and patterns. Factors include vulnerable geographical regions, high risk predicate offences and product-based analysis. Examples of FMU strategic analysis include, branchless banking, minor accounts, region hawala/hundi trends, strategic analysis based on specific transactional pattern, virtual currency, travel agents and misuse of home remittance channels for collection of small donations. The FMU claims to maintain statistics on strategic analysis it conducts maintained in the FMU's monthly statistical reports. However, a sample of such a report was not provided for analysis. The template provided will not be sufficient to substantiate this claim.

537. The FMU publishes case studies of some of the operational analysis it has conducted on its website. Although these studies provide information on the financial and other activities of suspects and other valuable information for law enforcement agencies, the studies do not amount to strategic analysis of STRS and do not specifically and extensively show trends and patterns of money laundering and terrorism financing. Having said that, FMU has published snapshot typologies of some of the strategic analysis it has conducted on its website. Apart from publication on its website, information of the authorities with which the findings of strategic analysis were shared was not provided by FMU to the assessment team for analysis.

538. Criterion 29.5 – Pursuant to s 6(4)(c) of AMLA 2010, the FMU is authorised to disseminate analysis of STRs and CTRs and other necessary information or materials to investigating or prosecuting agencies for enquiry or other action under that Act or any other applicable law. Further, under s 6(5) of AMLA, the FMU is authorized to provide, at its own discretion, matters involving regulatory or administrative action to concerned regulatory or administrative bodies for appropriate action concerning STRs or CTRs. However, the FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs, which are designated TF investigation authorities (see R.30). CTDs can access FMU information and financial intelligence during a TF investigation but only with permission of the court. CTDs cannot use this process to access FMU information and financial intelligence during a TF enquiry. The information maintained by the FMU has proper data protection and security measures implemented and FMU provides information to the concerned investigating or prosecuting agencies via registered courier services with disclaimers and marked confidential.

539. Moreover, under Rule 4 of AML Rules 2008 the FMU may seek or provide information from or to foreign financial intelligence units or other authorities performing the functions of financial intelligence or monitoring and law enforcement agencies, on the principles of reciprocity.

540. Criterion 29.6 –

541. Criterion 29.6(a) – Pursuant to s 34(3) of the AMLA all confidential information provided by the reporting entities or by any other person under or pursuant to the provisions of this Act must be kept confidential by the FMU, investigation agency or officer as the case may be. FMU states that it has implemented measures to ensure all FMU information and data are maintained in secure environments with proper physical and electronic data protection measures. These measures are further analysed under c. 29.6(c) below.

542. Criterion 29.6(b) – All necessary security clearance of FMU's staff has been verified through police and intelligence agency. As per FMU's Staff Service Regulations, and terms and conditions of appointment in the FMU, the character and antecedents of all staff, are required to be verified from Intelligence Bureau (IB), Police and Special Branch of Police. If the character and antecedents is found unsatisfactory the services are immediately terminated. In addition, the officers/staff are also required to execute a secrecy bond on notarized legal paper which binds the officers and staff to adhere to all standards of secrecy.

543. Criterion 29.6(c) – FMU maintains that information and data are maintained in secure environments with proper physical and electronic data protection measures. The FMU has implemented process for the security and confidentiality of information, including procedures for handling, storage, dissemination, and protection of, and access to, information. FMU indicated that it has established multiple security check points in the FMU premises to restrict physical access. All STR forms and related documents are stored in a secure vault. The FMU has implemented IT policies for IT security including passwords and firewall to prevent unauthorized access to its IT systems and resources. STR is stored in such a way only the concerned FMU analyst will have access to the specific STR. The information maintained by the FMU has proper data protection and security measures implemented and FMU provides information to the concerned investigating or prosecuting agencies via registered courier services with disclaimers and marked confidential.

544. Criterion 29.7 –

545. Criterion 29.7(a) – Under s 6(2) of AMLA the FMU has independent decision-making authority on day-to-day matters within its areas of responsibility. This includes the independence and authority to receive, analyse information and disseminate FMU information to domestic agencies. S 6(4)(j) of the AMLA also provide the FMU the authority to enter into arrangements with domestic agencies and authorities or engage a financial institution or an intermediary or such other non-financial businesses and professions or any of its officers as may be necessary for facilitating implementation of the provisions of this Act, the rules or regulations made under the Act.

546. Criterion 29.7(b) – The FMU under s 6(2) of AMLA may co-operate with financial intelligence units in other countries, to make reciprocal arrangements to share, request and receive information relating to ML and TF. Under Rule 4 of Anti-Money Laundering Rules 2008, the FMU can seek or provide information from or to the foreign financial intelligence units or other authorities performing the functions of financial intelligence or monitoring and law enforcement agencies on the principles of reciprocity.

547. Criterion 29.7(c) – The FMU is established pursuant to s 6(1) of the AMLA housed within the SBP pursuant to SRO 84 (KE)2(007), 4 October 2007. The FMU has specific functions and authorities pursuant to s 6(4) of the AMLA separate from the functions of the SBP. Under s 6(3) of the Act, the FMU Director General is a financial sector specialist appointed by the federal government in consultation with the SBP to exercise all powers and functions of the FMU subject to the administrative oversight of the General Committee of the National Executive Committee.

548. Criterion 29.7(d) – Under s 6(2) of AMLA the FMU has independent decision making authority on day-to-day matters within its areas of responsibility. The budget and resources required to carry out the functions of the FMU is subject to approval by the General Committee of the National Executive Committee responsible for administrative oversight of the FMU. Accordingly, the FMU is fully independent and autonomous body without any undue political or government influence.

549. Criterion 29.8 – FMU is currently in the process of seeking Egmont Group membership through co-sponsors FINCEN and JAFIC.

Weighting and Conclusion

550. The FMU cannot access detailed tax records. Because of the high TF risk in Pakistan, significant weight has been placed on the deficiency at c.29.5: the FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs which are

designated TF investigation authorities (see R.30). CTDs can access FMU information and financial intelligence during a TF investigation but only with permission of the court. This is a significant stumbling block to the operational ability of the FMU to effectively address those risks.

551. **Recommendation 29 is rated partially compliant.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

552. Pakistan was rated partially compliant with R.27 and largely compliant with former R.28. Deficiencies noted included: no evidence of standalone ML or TF investigations; insufficient understanding of investigative powers across investigative agencies; insufficient FMU resources; and ineffective use of LEA powers for ML and TF.

553. Criterion 30.1 – NAB, ANF, FIA and FBR-customs and FBR-IR are designated law enforcement authorities ('investigating officers') under ss 4 and 24(2) AMLA to investigate ML in accordance with their predicate crime jurisdiction. The FIA and provincial police (CTDs) are both designated to investigate TF. TF cases are the primary jurisdiction of provincial police (CTDs) under the Part V of the CrPC while TF cases with cross-provincial impact are the joint responsibility of the FIA (schedule of the FIA Act 1974) and CTDs. Those that have a serious impact on society may be entrusted to, and investigated by, the FIA.

554. Criterion 30.2 – AMLA does not provide for parallel ML/TF investigations when a predicate crime is investigated. Pakistan did not provide laws, evidence or a general directive that LEAs which investigate predicate offences can refer cases to a different authority for parallel investigations regardless of where the predicate offence occurred. There are no clear directives by way of statutory provision or other instruments providing individual LEAs with guidance on clear cross working and referral processes relating to parallel investigations.

555. Criterion 30.3 – AMLA ss 8-15 provide investigating officers with powers to provisionally attach property reasonably believed to be the property involved in ML and with procedures for freezing and seizing such property. In addition, LEAs have powers of tracing and freezing assets under their respective establishment laws (as discussed below). However, these actions cannot be undertaken expeditiously:

- NAB can freeze suspected and/or related proceeds of crime (s 12 of NAO).
- FIA has powers relating to search, arrest of persons and seizure of property, and such duties, privileges and liabilities as the officers of a provincial police have in relation to the investigation of offences under the Code or any other law for the time being in force. (s 5 (1) of FIA Act 1974). Also, any property which is the subject-matter of the investigation is likely to be removed, transferred or otherwise disposed of before an order of the appropriate authority for its seizure is obtained (s 5 (5) of the same Act).
- ANF has powers under the CNSA (s 12, 13, 19, 31, 37 and 39) and ANFA (s 6) search, arrest of persons and seizures of property.
- FBR-customs has powers for seizure, confiscation and disposal of smuggled goods including currency (Customs Act ss 168, 169 and 179).
- FBR-IR has powers to identify, trace, freeze or seize, confiscate and investigative measures under the Income Tax Ordinance 2001 (ITO), Sales Tax Act 1990 (s 37A, 40 and 48) and Federal Excise Act 2005 (s 14, 19, 22 and 26).

556. Criterion 30.4 – SECP is designated to investigate and prosecute insider trading in securities and other offences under the SECP Act (s 20(4)(i) of the SECP Act). The powers of

SECP to refer cases to other agencies and to conduct parallel investigations are not clear in the Act. SECP has powers of seizure (s 31, SECP Act).

557. Criterion 30.5 – NAB is Pakistan’s anti-corruption authority and is designated to investigate ML NAB has sufficient powers to identify, trace, seize and freeze assets under s 11, 12, 13, 18, 19, 20, 21, 24 of the NAO.

Weighting and Conclusion

558. While Pakistan has designated LEAs to investigate ML and TF, there are gaps in relation to parallel investigations and powers to take expeditious actions subject to confiscation.

559. **Recommendation 30 is rated partially compliant.**

Recommendation 31 - Powers of law enforcement and investigative authorities

560. Pakistan was rated largely compliant with former R.28. There was an ineffective use of LEA powers for ML and TF.

561. Criterion 31.1 – As discussed in R.30, ANF, NAB, FIA, FBR-customs and FBR-IR are designated to investigate ML. FIA and provincial police (CTDs) are designated to investigate TF. During ML/TF and predicate crime investigations these LEAs can search premises and persons, take witness statements, and obtain evidence as provided in Part 5 of the CrPC (searches of premises and persons ss 165 and 166; taking of witness statements through interviews or interrogation ss 160-162; and obtaining evidence and seizing ss 162 and 550) and in their special legislation as outlined below.

562. AMLA gives investigating officers the power to obtain documents and information related to the customer of a bank or other financial institutions through a court order. This only relates to matters under enquiry or investigation that have been registered under a FIR. There is no general power for an LEA to access this information in the absence of an investigation or enquiry which has not been registered. The CrPC does not include compulsory measures for production of records held by FI and DNFBPs, LEAs have powers under their special legislations as outlined in the following paragraphs.

563. FIA and provincial police for TF investigations: The investigating officer has the power to access and obtain records held by FIs, DNFBPs and other commercial entities under s 21EE of the ATA 1997. ANF: s 21 of the CNSA allows ANF to search persons and premises and to call for information under s 6 of ANFA. ANF can also secure information from any department or institutions under s 31 of the CNSA. Section 6(3) of ANFA also empowers ANF officers (not below the rank of Inspector) to arrest without warrant any person who has committed, or against whom a reasonable suspicion exists that he has committed, any of the offences relating to narcotics.

564. NAB: ss 19 and 27 of the NAO 1999 and ss 96 and 103 of the CrPC empower investigators to call for information, search persons and premises, examine witnesses, collect and preserve evidence.

565. FBR-IR: ss 176, 177 and 37 of the ITO 2001, and ss 38(A) and (B) of the Sales Tax Act 1990 empower FBR-IR to obtain records held by any person.

566. FBR-customs: ss 26, 165, 166 and 168 of the Customs Act 1969 apply on FBR-customs obligations to produce documents and provide information, and give them power to examine

persons, power to summon persons to give evidence and produce documents or things, and seizure of things liable to confiscation.

567. Criterion 31.2 – Investigative powers required by this criterion are not broadly granted in the CrPC, AMLA or ATA. The following LEAs do have special investigation techniques:

- FBR-IR: ss 175 and 176 of the ITO 2001 and s 38 of the Sales Tax Act, 1990 empower tax authorities to access computer systems of persons involved in ML and tax evasion.
- NAB: s 19 (e) of NAO 1999 provides the Chairman of NAB with the power of surveillance through undercover operations, controlled delivery and access to computer systems; s 27 provides the power to seek assistance and call for any documents and information relevant to, or in connection with, any matter, inquiry or investigation of NAB.
- ANF: under s 24 of CNSA, ANF may use controlled delivery operations in order to trace contraband and its linkages.

568. FIA and provincial police cannot use special investigation techniques in their ML/TF and predicate crime investigations. FBR-customs, on the other hand, is authorised to use special investigative techniques such as accessing computer systems and controlled deliveries under ss 26 and 219 of the Customs Act 1969 respectively.

569. Criterion 31.3 – LEAs have some mechanisms to identify natural and legal persons that hold or control accounts however, these mechanisms are not timely and it is unclear if all these mechanisms operate without prior notification to the owner.

570. Criterion 31.4 – A number of concerned LEAs can obtain information related to ML or a suspicious transaction from the FMU in an investigation, including NAB (s 27 of NAO), ANF (s 31, 67 and 69 of CNSA) and FBR- IR (s 176 of ITO).

571. However, FBR-customs, FIA, and provincial police (including CTDs) cannot ask for all information held by the FMU.

572. FIA has powers under section 94 of the CrPC, s 25 of the AMLA and s 21EE of the ATA to seek information from financial institutions.

Weighting and Conclusion

573. There are gaps in relation to the limited investigative powers for most LEAs including inability to undertake undercover operations, accessing computers, controlled delivery for purposes of timely investigations, and the lack of legal provisions for all competent authorities to request relevant information held by the FMU.

574. **Recommendation 31 is rated partially compliant.**

Recommendation 32 – Cash Couriers

575. Pakistan was rated non-compliant with previous SR.IX in its previous evaluation. Pakistan's declaration system was focused on foreign exchange control rather than AML/CFT with limited coverage. SBP and FBR-customs authorities did not share information about declarations with the FMU.

576. Criterion 32.1 – Pakistan is implementing a declaration system for incoming cross-border transportations of currency and bearer negotiable instruments (BNIs) through notifications issued under the Foreign Exchange Regulation Act 1947, but not for outgoing cross-border transportations of currency and bearer negotiable instruments (BNIs), as follows:

577. For inbound: there is an upper limit for inbound cross-border currency and negotiable instruments exceeding the aggregate value of USD \$10,000 which must be declared to FBR-customs on a prescribed form (Notification No.F.E.16/12-SB issued by the SBP in June 2012).

578. Cross-border transportation of currency and BNIs by post/mail is banned is prohibited under SBP's Foreign Exchange Manual, Chapter 18, s 4.

579. For outbound cross-border transportation of currency exceeding the equivalent of USD \$10,000 permission from SBP must be obtained before taking this action (Notification No.F.E.2/98-SB issued by the SBP in July 1998). Therefore, carrying more than USD \$10,000 in foreign currency outbound without SBP's permission is prohibited.

580. SBP has granted general permission to any person based on Notification No. F.E.1/2015-SB to take outbound USD or equivalent thereof in other foreign currencies as per the following limits:

Age group	Max. limit p/ person, per visit (USD)	Annual ceiling p/ person (USD)
Up to 5 years	\$1,000	\$6,000
From 5 - 18 years	\$5,000	\$30,000
Above 18 years	\$10,000	\$60,000

581. The SBP issued Notification No.F.E.2/98-SB in pursuance of s 8(2) of the Foreign Exchange Regulation Act (FERA 1947) which is granting general permission to:

- Authorised dealers to send out of Pakistan, cheques, drafts or bills of exchange which have been acquired by them in the normal course of their business and within the terms of their authorisation.
- Any person, other than a person to whom foreign exchange is issued for travelling purposes only, to send out of Pakistan foreign exchange issued to him by an Authorised Dealer.
- Any person to take out of Pakistan foreign exchange issued to him by an Authorised Dealer in Pakistan and endorsed on his passport and
- Any person not ordinarily resident in Pakistan, to take out of Pakistan the unspent amount of foreign currency brought by him into Pakistan, provided the period of his continuous stay in Pakistan does not exceed three months.

582. There are no obligations for dealers of foreign exchange and licensed money changers in Pakistan to report all cash and negotiable instruments in foreign currency over the value of USD \$10,000.

583. There are no provisions to instruct FBR-customs and other relevant agencies to preserve and collect data/intelligence related to ML and TF and to share it with the FMU.

584. Criterion 32.2 – All persons bringing into Pakistan more than USD \$10,000 (or equivalent in another currency/BNI) must provide a written declaration to that effect to FBR-customs. However a written declaration is not required to take that amount of currency/BNI out of Pakistan but the SBP must be informed.

585. Criterion 32.3 – Pakistan has implemented a declaration system.

586. Criterion 32.4 – Section 26 of the Customs Act allows FBR-customs officers to ask any concerned individual or institution to provide any information where necessary including obtaining further information from the carrier with regard to the origin of the currency or BNIs and their intended use. However, there is no clear authority for SBP to obtain further information from the carrier.

587. Criterion 32.5 – Section 156 (1)70 of Customs Act indicates that if the owner of any baggage fails to make correct declaration of its contents or refuses to answer any questions put to him by the appropriate officer on that regard, such owner shall be liable to a penalty not exceeding three times the value of the goods and such goods shall also be liable to confiscation. There is a clear distinction under s 159 of the Customs Act between an offence of mis-declaration and that of 'smuggling' which carries a term of imprisonment.

588. Also s 156 indicates that contravention of any provisions of the Customs Act can lead to a penalty not exceeding PKR 50,000 (USD \$409). However, these fines apply to false declarations and are not dissuasive and proportionate. Penalties are dissuasive where a specific offence of smuggling can be proven but not in relation to false declarations.

589. Criterion 32.6 – FBR-customs collects declaration forms and the details of currency seizures and shares that information with the FMU on a regular basis. Under s 25(1) of AMLA, the FMU can seek assistance from any authority/officer in Pakistan including FBR-customs. Moreover, FBR-customs shares information with the FMU on a monthly basis. Furthermore, FMU has online access to the currency declaration system maintained by FBR-customs.

590. While legislation allows for the exchange of information between FBR-customs and the FMU there is no clear direction or mandate to show how the FMU has permissible access to the information.

591. Criterion 32.7 – Pakistan has some coordination mechanisms to support the cooperation between FMU, FBR-customs and other relevant authorities in the implementation of R.32. Both FBR-customs and the FMU are members of the National Task Force to enhance interagency coordination and support coordinated efforts. There is a Task Force at regional and border level for coordinating agencies involved in preventing ML and illegal remittance activities. However, it is unclear to what extent agencies such as FBR-customs and FMU work closely together to properly coordinate efforts to detect the illegal cross-border movement of cash (see R.40).

592. Criterion 32.8 – Sections 17 and 168 of the Customs Act 1969 allows for a customs officer, upon reason to believe, goods (which includes currency and BNI) have been illegally imported or exported, to detain the currency (or BNI) for further inquiry. For this purpose, notice under s 26 of the Customs Act 1969 is given to the person to produce evidence of lawful excuse to hold the goods/currency/BNI within seven days. If the person produces a lawful excuse, the items are returned by customs officials otherwise they are seized under s 168 of the Custom Act 1969. Sixty days' time is provided under s 168 of the Customs Act 1969 for the issuance of a show cause notice in respect of the items seized. Similarly, a time of 120 days has been fixed for hearing before an adjudication officer under s 179 of the Customs Act 1969.

593. While this may provide sufficient time frames for enquiries relating to mis-declarations they are limited in relation to criminal investigations to establish the requirements of c.32.8 (a) and (b) especially if international dimensions are involved. There is no apparent mechanism to allow partner LEAs to assume ownership of such investigations and use other powers available.

594. Criterion 32.9 – There is no clear provision in the Customs Act 1969 for declaration information to be retained by FBR-customs. Section 139 provides that written declarations

obtained by FBR-customs staff from the passengers and crew is required to be maintained in electronic form at the stations where the FBR-customs computerized system is operational. While s 155(G)(2) provides that FBR-customs must keep the record of every transmission sent to or received from a registered user using the customs computerized system for a period of five years from the date of the sending of or the receipt of the transmission, it is not clear that the FMU is a 'registered user' as defined under s 155C.

595. Criterion 32.10 – Section 155H of the Customs Act 1969 requires that information obtained by FBR-customs staff during clearance of goods is to be treated with confidentiality and must not be disclosed to unauthorised persons. There are no restrictions on trade payments between jurisdictions for goods and services, or the freedom of capital movements.

596. Criterion 32.11 – Under s 156 (1)(8)(i) of the Customs Act 1969, smuggled goods (including currency and BNI related to ML/TF or other predicate offences) in and out of Pakistan are liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the goods; and upon conviction by a special judge he/she shall be further liable to imprisonment for a term not exceeding 14 years and to fine not exceeding 10 times the value of the goods. However, there are no other civil or administrative sanctions to be applied for non-compliance with this criterion.

Weighting and Conclusion

597. There are a number of shortcomings including the extent of cooperation between FMU and FBR-customs to support implementation and the absence of dissuasive, proportionate sanctions/fines on making false declarations are given particular weight.

598. **Recommendation 32 is rated partially compliant.**

Recommendation 33 – Statistics

599. Pakistan was rated non-compliant with R.32 in its 2009 MER.

600. The AMLA requires FMU to maintain statistics concerning investigations and prosecutions conducted in relation to ML and TF offences in Pakistan. This is the only regulation in Pakistan that sets out the obligation to maintain statistics by the FMU.

601. Criterion 33.1 –

- a) STRs received and disseminated: The FMU maintains comprehensive statistics on STRs received and disseminated. However some statistics could not be further broken down to explain information contained in STR numbers;
- b) ML/TF investigations, prosecutions and convictions: Pakistan maintains statistics on ML and TF investigations, prosecutions and convictions. Some specific statistics were not broken down in terms of various predicate offences involved in ML offences and some could not be further explained in terms of whether ML statistics were self-laundering, or third party laundering or laundering involving legal persons and arrangements;
- c) Property frozen, seized and confiscated: Pakistan maintains comprehensive statistics in relation to property frozen, seized and confiscated. Some specific statistics are absent in relation to underlying ML offences and their predicates;
- d) MLA and other requests made/received: Pakistan maintains comprehensive statistics in relation to MLA and informal cooperation.

Weighting and Conclusion

602. While the AMLA requires the FMU to maintain statistics and Pakistan does maintain some statistics in relation to the categories required in this recommendation, not all statistics provided were comprehensive and could not be broken down further into meaningful and relevant information when requested. In addition, Pakistan provided inconsistent statistics on the same issues throughout the assessment process in a number of areas which raised concerns in the assessment team about the accuracy of the information and whether the statistics were 'maintained' as required by this recommendation.

603. **Recommendation 33 is partially compliant.**

Recommendation 34 – Guidance and feedback

604. Pakistan was rated partially compliant with former R.34 in its 2009 report. The report found that guidelines were predominately found in the banking sector and insufficient guidance was provided by financial sector supervisors.

605. Criterion 34.1 – The following competent authorities, supervisors and Licencing/Registration Authorities have established guidelines in accordance with this recommendation:

- a) SBP: SBP has issued guidance to some sectors, for instance the Exchange Companies Manual 2017 contains AML/CFT-related guidance for ECs. AML/CFT Guidelines on Risk Based Approach, Guidelines on implementation of targeted financial sanctions, and Guidance on implementation of biometric technology;
- b) SECP: SECP has issued guidance on CDD, risk based approach, targeted financial sanctions and risk assessments to NBFIs, securities brokers, modarabas, NPOs and to the insurance sector;
- c) FMU: FMU has issued guidance notes to various sectors on filing STRs. It has also issued guidelines for financial institutions on investment incentive schemes in 2014. In addition, the following guidance have been issued: Examples of Suspicious Transactions, Characteristics of Financial Transactions that may be a cause for Increased Scrutiny, Red Flag Indicators for Securities Sector; Red Flag Indicators for Exchange Companies; Red Flag Indicators for Private Pension Schemes / Voluntary Pension Schemes; Red Flag Indicators for Insurance Sector. The FMU has also issued some guidance to real estate agents.
- d) Bar Council: Neither the Pakistan Bar Council nor its provincial equivalents have issued any guidance to lawyers on AML/CFT issues.
- e) Institute of Chartered Accountants of Pakistan: The ICAP issued a circular in 2018 continuing limited information on AML/CFT issues to professional accountants.
- f) Real estate professionals: AML/CFT Guidelines for Real Estate Agents have been circulated through the Federation of Realtors of Pakistan.
- g) Trust and company service providers: no guidance has been issued on AML/CFT matters relating to trust and company service providers.
- h) Precious metal and gem dealers: All Pakistan Gems Merchants and Jewellers Association (APGMJA) has issued guidelines for dealers;
- i) NPO sector: Pakistan Centre for Philanthropy, Securities and Exchange Commission of Pakistan, National Counter Terrorism Authority and Federal Board of Revenue have initiated a series of awareness workshops to apprise NPOs about the matters pertaining to Pakistan's commitments related to money laundering and terrorist financing under FATF and resolutions issued by United Nations Security Council.

606. There is no evidence that feedback outside formal consultation mechanisms including compliance forums has been engaged in by government agencies relating to AML/CFT issues, for instance following the issuance of guidance notes to ensure reporting entities understand the contents thereof.

607. There is no evidence that DNFBPs receive feedback from their professional bodies or from regulators on AML/CFT matters.

Weighting and Conclusion

608. Feedback outside formal consultation mechanisms and feedback to all DNFBPs is lacking. Pakistan Post and CDNS have not received AML/CFT guidance to date.

609. **Recommendation 34 is rated partially compliant.**

Recommendation 35 - Sanctions

610. In 2009 Pakistan was rated partially compliant with R.17 (now R.35). The previous report found that Pakistan's sanctioning regime was ineffective with the range of sanction powers for non-compliance too narrow.

611. Criterion 35.1 – Sanctions for non-compliance with AML/CFT requirements are set out below.

R.6 (TFS) sanction powers

612. For measures pursuant to UNSCR 1267, Pakistan may impose administrative sanctions for non-compliance with any SRO issued pursuant to the United Nations (Security Council) Act 1948. Under s 2(1), upon wilful non-compliance or contravention by natural or legal persons, the Secretary of Foreign Affairs or delegate may impose a maximum fine of max PKR 1 million (USD \$7,407) with an addition fine of PKR 10,000 (USD \$74) per day for continued non-compliance. Under s 2(2), directors and officers of a company wilfully involved in non-compliance or contravention of the rectification order are liable for a fine of PKR 10 million (USD \$74,074). Overall for UNSCR 1267/1989 and 1988, sanctions are not dissuasive because the fine amount is not sufficient.

613. For measures pursuant to UNSCR 1373, s 110(2) of the ATA 2014 provides that any natural or legal person who violates a freeze on funds or other assets for prescribed individuals (s 11EE) and organisations (s 11B) are liable for a one-off maximum fine of PKR 10 million (USD \$74,074). Directors, officers and employees of legal persons found guilty of violation of a freezing action are also liable for a one-off maximum fine of PKR 10 million (USD \$74,074).

614. Regarding the prohibition on funds, Pakistan has implemented the prohibition on funds through a criminal offence for both natural and legal persons under s 11J of the ATA 2014 (see c 6.5(c)) with a punishment of imprisonment for 5 to 10 years with a fine (s 11N of the ATA 2014). The amount of the fine is unclear. Overall for UNSCR 1373 sanctions are not dissuasive because the fine amount is not sufficient.

R.8 sanction powers

615. With respect to R.8 (NPOs) there are no AML/CFT requirements applicable to NPOs in Pakistan. While SECP has issued guidelines under s 40B of the SECP Act referred to as AML/CFT Guidelines for NPOs 2018 which contains good practice principles those guidelines contain no sanctions for non-compliance and are therefore not enforceable. Moreover, the Associations with

Charitable and Not for Profit Objects Regulations 2018 do not contain any specific sanctions for breach of AML/CFT under ss 7, 8 and 10.

616. The power under s 42 of the Companies Act 2017 for the SECP to revoke the license of a 's 42 company' if it is, inter-alia, found to be run and managed by persons involved in ML or TF applies only in that scenario and does not extend to activities of the NPO itself.

Recs 9 to 19 sanctions for preventative measures – financial institutions

617. For R.9 (financial secrecy), under s 25(2) of the AMLA whoever wilfully fails or refuses to provide assistance to the FMU and other authorities in the enforcement of the AMLA (s 25(2)) is guilty of 'misconduct'. This section applies to officers of the government and officers of financial institutions but it does not create an offence ('guilty of misconduct' only). Moreover there are no sanctions in the AMLA for breach of this provision. For financial institutions who fail to comply with the section, it simply provides that the misconduct is to be proceeded against by the financial institution.

618. With regard to R.10 to R.21 (preventative measures) for financial institutions the penalties and sanctions available in the AMLA, the Companies Act and the AML/CFT Regulations issued by SBP and SECP are limited.

619. Section 37 of the AMLA (offences by companies) prescribes that in case of contravention by a company with any of the provisions of AMLA or any rule made under the AMLA, any person who is responsible for this failure shall be deemed guilty of the contravention and shall be liable to be prosecuted against and "punished accordingly." However, no punishment for companies is provided in the AMLA linked to the words "punished accordingly". Lastly, under s 7(7) of the AMLA "every reporting entity shall, in accordance with the regulations issued by relevant regulatory authority of that reporting entity, conduct customer due diligence and maintain record of transactions, account files and documents obtained through such diligence." However, there is no provision in the AMLA which makes this requirement a punishable offence.

620. For banks, the SBP AML/CFT Regulations 2018 are issued under the Banking Companies Ordinance (BCO). BCO s 83(5) provides that the general pecuniary penalty powers for non-compliance with regulatory requirements are fines extending to 200,000 rupees (USD \$1500) and a daily additional fine of 10,000 rupees (USD \$75). These penalties are applicable to the SBP AML/CFT Regulations 2018. The regulations themselves do not contain any penalties for non-compliance. The SBP Act also authorises and empowers the SBP to issue regulations although the 2018 Regulations were not issued thereunder. However, under s 17H(2) of the SBP Act, the penalty provision in that Act for breaches of regulations provides only that SBP may impose 'pecuniary penalties' without stating the amount.

621. It is not clear in the SBP Act and the BCO that, in addition to fines for breach of AML/CFT requirements, whether the general prudential powers of the SBP are applicable for AML/CFT purposes. Under s 41 of the BCO, the SBP can give directions to a bank to protect the public interest and secure the bank's proper management. Under s 41A of the BCO the SBP can remove directors and managerial persons from office for "association...likely to be detrimental to the interests of the banking company or its depositors or otherwise undesirable"; and "to secure the proper management of any banking company". While it is not clear in the Act, nevertheless SBP has in fact used those powers and on that basis general prudential powers to enforce the SBP's AML/CFT regulations are available.

622. For MFBs, under s 31 of Microfinance Institutions Ordinance 2001 (MIO 2001), SBP issued the Revised AML/CFT Regulations for MSBs applicable microfinance banks. However, like the SBP regulations, no penalties for non-compliance are contained in the MSB Regulations

themselves. Penalties are provided in the MIO at s 23 which states only that: “Any person who contravenes any other provision of this Ordinance or does not comply with any requirement of this Ordinance or any rule, regulation, order, instruction, condition made, given or imposed hereunder shall be liable to such fine as the SBP may, from time to time determine.” Other than this indeterminate amount of fine, there are no other penalties.

623. ECs are regulated by the SBP. AML/CFT rules for ECs are contained in the Exchange Companies Manual 2017, updated 31 December 2017. That manual was issued by the SBP under s 27 of the FERA which provides that “the Central Government may, by notification in the official gazette, make rules for carrying into effect the provisions of this Act.” Pursuant to s 3AAA(4)(ii), ECs must comply with the Manual and failure to comply may result in:

- Suspension of the licence to conduct business as an EC;
- Pecuniary penalties under s 23K. SBP formulated a penalty scale approved by the governor in December 2017.

624. SECP AML/CFT Regulations 2018 apply to securities and commodities brokers, insurance companies, modarabas, NBFIs and takaful operators. Failure to comply with those regulations can result in a financial penalty under s 40 SECP Act (by virtue of s 21 of the regulation) in the amount of ten million rupees (USD\$75,000) and where the contravention is a continuing one, a further penalty which may extend to one hundred thousand rupees (USD\$750) for every day after the first during which such contravention continues. The SECP AML/CFT Regulations 2018 do not contain other sanctions but they regulations do state at s 21 that the financial penalties are “in addition to any penalty provided under the AMLA.” However, as noted above, s 7(7) of the AMLA does not provide any penalties for breach of regulations issued by relevant regulatory authorities (in this case the SECP) and in any event s 7(7) applies only to CDD and record keeping and not to the fuller range of preventive measures stipulated in the SECP Regulations.

625. There are no similar wider or prudential powers under the SECP Act for the range of reporting entities supervised by the SECP for the supervisor to draw on for additional sanctions beyond fines for AML/CFT regulatory breaches. In addition neither the Securities Act 2015 nor the Insurance Ordinance 2000 contains general or prudential-related powers relevant thereto. More widely, the Companies Act provides the SECP with powers to remove the chairman, directors, chief executives or any other officers however the circumstances under which that can occur are not wide enough to include AML/CFT breaches.

Recs 22 to 31 sanctions for preventative measures – DNFBPs

626. For R.22 and R.31, sanctions in the AMLA discussed above related to R.20 and R.21 are applicable to DNFBPs. However, Pakistan’s DNFBP sanctions regime for R.10 to R.19 is non-existent.

627. Criterion 35.2 – Some sanctions applicable to banks beyond fines may be applicable to directors and senior management. No sanctions for reporting entities supervised by SECP and for DNFBPs are applicable to directors and senior management.

Weighting and Conclusion

628. Sanctions outside the banking sector relating to AML/CFT requirements in Pakistan are limited. Fines are the principal sanction, and in the case of SECP, the only sanctions available. Overall TFS sanction are sanctions are not dissuasive. There are no AML/CFT-related sanction powers for NPOs. There are no AML/CFT-related sanction powers for DNFBPs in relation to preventative measures.

629. **Recommendation 35 is rated partially compliant.**

Recommendation 36 – International instruments

630. In 2009 Pakistan was rated *non-compliant* for R.35 and for SR.I for failure to ratify the Terrorist Financing Convention and the Palermo Convention.

631. Criterion 36.1 is **met** –Pakistan has ratified or acceded to the following UN Conventions (confirmed on the UN website):

- 1988 Vienna Convention: 25 Oct 1991
- UNCAC: 31 August 2007
- Terrorist Financing Convention: 19 June 2009, and
- Palermo Convention: 13 January 2010

632. Criterion 36.2 – The Vienna Convention, the Palermo Convention, the Merida and Terrorist Financing Convention have mostly been implemented and there are only minor shortcomings. Inconsistent with Vienna Convention, the definition of money laundering offence has minor shortcomings (see R.3.1). Confiscation of property of corresponding value is not covered by CNSA and CrPC (see R.4.1) as required by Vienna and Palermo Conventions. Lastly, the definition of public officer under NAO, CrPC and Prevention of Corruption Act 1947 are not wide enough to criminalise “bribery of foreign public officials and officials of public international organisations” in accordance with Merida Convention.

Weighting and Conclusion

633. Pakistan is a party to the four conventions, but there are some minor shortcomings (see R.3 to R.5).

634. **Recommendation 36 is rated largely compliant.**

Recommendation 37 – Mutual legal assistance

635. Pakistan was rated non-compliant with R.36 and partially compliant with SR.V. The 2009 MER found that the legal basis for provision of MLA was limited to narcotics-related offences with no evidence that assistance provided in a timely, constructive and efficient manner. There is no basis for MLA in terrorism-related matters.

636. Criterion 37.1 – AMLA, CNSA and NAO form the legal basis for MLA concerning ML, narcotics and corruption offences respectively. As regards AMLA, only if the requesting State is a “contracting state”, can MLA be provided. A contracting state is a country or place outside Pakistan in respect of which arrangements have been made by the federal government through a treaty or otherwise (s 26(3)(a) of the AMLA 2010).

637. As for NAO, although there are specific provisions allowing NAO to request international assistance from its foreign counterparts, no such rule is present for providing assistance. However, NAB makes use of UNCAC while providing assistance to foreign countries. Nevertheless, international conventions in Pakistan are not self-executing and therefore UNCAC by itself is not a legal basis as required by this criterion.

638. When it comes to ANF, CNSA has clauses (ss 56-66) enabling MLA to foreign countries to be provided and does not require requesting states to be contracting states.

639. No legal provision requires Pakistan to consider MLA requests in relation to terrorism and TF. General provisions in the CrPC allow for limited types of MLA (e.g. service of summons and execution of warrants) while seeking and providing assistance, however there are no timeframes in law or in practice to ensure rapid execution of MLA requests.

640. Criterion 37.2 – For narcotics-related offences the Ministry of Narcotics Control is the competent authority for MLA. The Ministry of Interior is the central authority in Pakistan for all other offences. A specially designed online system called the ‘Monitoring and Evaluation System’ (MES) monitors progress of MLA requests. However, the system monitors and evaluates NAB-related MLA only. There is no such system for other types of MLA requests.

641. Criterion 37.3 – Pakistan does not impose unduly or restrictive conditions in the execution of MLA requests.

642. Criterion 37.4 – Confidentiality requirements are set out for some agencies in their respective regulations such as CNSA (s 58(f)) and Income Tax Ordinance (s 107(1-b)). However, these rules are relevant to certain agencies and are not applicable to MLA requests for those offences these rules do not adequately meet the standard.

643. Criterion 37.5 – There is no general legal requirement to maintain the confidentiality of MLA requests however Pakistan does have limited agreements with other countries to main the confidentiality of MLA request.

644. Criterion 37.6 – The CNSA 1997 requires dual criminality in the execution of foreign MLA requests. Section 59(2)(a) requires dual criminality in non-coercive measures such as taking witness statements and providing documents in relation to narcotic-related offences. For all other predicate offences and ML, dual criminality is not required.

645. Criterion 37.7 – The only dual criminality clause (s 59(2)(a) of the CNSA) indicates that dual criminality will be met provided the offence underlying a foreign MLA request would have constituted an offence under CNSA if committed in Pakistan. The wording does not require that foreign offences be categorized the same or denominated with the same wording or terminology as they are in Pakistan.

646. Criterion 37.8 – There is no explicit reference in law indicating that all types of investigative measures available to domestic LEAs can be used in the execution of a MLA request. NAB, on the other hand, may use investigative measures available to it in the execution of MLA since it executes requests on the basis of UNCAC and no restriction is expressed under NAO in this sense. Under provisions of AMLA (S 26-32) and CNSA (S 56-65), it can be inferred that the investigative powers such as search, freeze, seizure, identification, trace, controlled delivery can be applied while carrying out foreign requests. However, for other agencies (i.e. FIA, FBR-customs, FBR-IR, and provincial police) no such legal foundation is observed while the relevant Acts of these agencies do not put restriction in such use either. Therefore, there is ambiguity in this sense.

647. In addition, there are deficiencies in LEAs’ powers and investigative techniques stated under R.31 that impede Pakistan’s ability to use such powers in the execution of MLA requests.

Weighting and Conclusion

648. According to domestic provisions, Pakistan is unable to provide MLA to foreign countries in the absence of a treaty for ML offences. There is a lack of legal basis to provide MLA in terrorism, TF cases and in most predicate offence cases. LEAs lack powers to execute MLA requests.

649. **Recommendation 37 is rated partially compliant.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

650. Pakistan was rated non-compliant with R.38 in 2009. There were limited powers to freeze and seize in relation to drug offences under the CNSA.

651. Criterion 38.1– With regards to ML and associated predicate offence, Pakistan is able to identify, seize and confiscate in response to a request by a foreign jurisdiction (S 30 of the AMLA). However, provision of MLA to a foreign country regarding ML offence is dependent upon a bilateral/multilateral agreement according to S 26 of AMLA.

652. Under CNSA, search, seizure, freeze and confiscation in the execution of a MLA request is possible and set forth in S 58-60. Besides, international agreement is not a requisite as opposed to AMLA. Enforcement of foreign confiscation or restraining orders is also available under S 63 through registration of such orders by the High Court on the application of Director General of ANF. However, property of corresponding value cannot be confiscated.

653. As for NAO, due to the reasons mentioned under R.37, there is no clear legal provision necessitating rendering of MLA to a foreign jurisdiction by NAB, including measures laid down in this recommendation.

654. Additionally, there is no explicit legal arrangement requiring Pakistan to provide international judicial assistance in terrorism and TF-related matters.

655. Criterion 38.2 – Under S 63 of the CNSA, it is possible to enforce a foreign non-conviction based confiscation order. There appears no other clear provision in any other Acts in this regard.

656. Criterion 38.3 – There is no clear legal provision allowing for coordinated action with foreign countries with regard to seizure and confiscation actions.

657. Pakistan has mechanisms for managing, and when necessary disposing of property frozen, seized or confiscated.

658. Criterion 38.4 – Section 65 of CNSA and s 26 of AMLA enables the federal government to enter into an agreement to share confiscated assets. NAB also has a MoU with one country enabling sharing of property and repatriation of stolen assets. The UNCAC regime cannot without relevant domestic amendments be implemented with regard to sharing of assets since Article 57 of the Convention refers also to domestic law. For other types of predicates, including terrorism and its financing, there are no legal provisions in any other domestic legislation.

Weighting and Conclusion

659. There are no legal arrangements to provide MLA in terrorism matters, TF and most predicate offences. There is a requirement of a bilateral treaty or other arrangements to meet foreign MLA requests concerning ML and a lack of a general legal framework for assistance in relation to predicate offences with no link to ML. These matters are given substantial weight.

660. **Recommendation 38 is rated non-complaint.**

Recommendation 39 – Extradition

661. Pakistan was rated compliant with former R.39.

662. Criterion 39.1 – The legal framework for extradition in Pakistan is governed under the Extradition Act 1972. That Act enables extradition of an accused or a convicted person to/from Pakistan. Extraditable offences are identified within the Schedule to the Act and include ML (description 25 of the Schedule) and TF (description 24 of the Schedule).

663. There is no case management system for extradition. It is not clear how Pakistan executes extradition requests in a timely fashion and how it prioritizes foreign extradition requests. The current legal framework does not impose unreasonable or unduly restrictive conditions on the execution of requests.

664. Criterion 39.2 – There is no restriction in the Extradition Act 1972 on Pakistan to extradite its own nationals.

665. Criterion 39.3 – Article 2 of the Extradition Act requires dual criminality in the definition of “extradition offence”, which deems the requirement to be satisfied if the act or omission underlying the extradition request would have been an extraditable offence had it occurred in Pakistan.

666. Criterion 39.4 – Pakistan does not have simplified extradition mechanisms.

Weighting and Conclusion

667. Pakistan’s domestic legal framework is to a large extent in line with R.29 except for lack of a case management system and simplified procedures.

668. **Recommendation 39 is rated largely complaint.**

Recommendation 40 – Other forms of international cooperation

669. Pakistan was rated non-compliant with former R.40. In 2009 SBP could not share confidential information with foreign counterparts. There was an absence of procedure for the widest possible range of international co-operation with foreign counterparts. FMUs ability to share information was hampered.

670. Criterion 40.1 – Pakistan can provide a wide range of international cooperation in relation to ML and TF through statutory provisions and through MOUs or other such instruments. It is not clear however the extent to which all agencies can spontaneously provide such cooperation. Pakistan provided information supporting this point with respect to some agencies but not all agencies and supervisors.

671. Criterion 40.2 –

672. LEAs: Section 26 of the AMLA provides that the federal government may enter into an agreement on a reciprocal basis to exchange information relating to ML investigations and prosecutions; exchange of information to prevent any such offences; and seeking assistance in relation to, and transferring property relating to, such offences. It is unclear if there is a similar legal basis for cooperation regarding TF. ATA offences are scheduled offence under AMLA, therefore the AMLA provides the legal basis for cooperation on TF. The ANF has powers to share information in relation to drug trafficking under ss 5(c) and 5(d) of the Anti-Narcotics Force Act 1997. There are no statutory provisions giving ANF power to give effect to c.40.2 (a) to (e) and rely on various bilateral MOUs with foreign countries. However there are provisions in the United Nations Convention against Illicit Traffic in Narcotics Drugs and Psychotropic Substances of 1988 which provide some basis for cooperation. The AMLA also contains provisions (s 34(3)) to ensure the confidentiality of the information exchanged in accordance with the Act.

673. FMU: under s 6 (4)(e) of the AMLA provides that the FMU shall cooperate with foreign FIUs and to make reciprocal agreements to share, request and receive information relating to ML and TF. The FMU has four MOUs with foreign FIUs. It is unclear if the FMU has any processes to implement the requirements of c.40.2(d)-(e). Copies of four (4) MOU were provided to the assessment team.

674. Supervisors: Pakistan relies on the combination of s 46A(2) of the SBP Act and s 32(2) of the BCO 1962 as a lawful basis for cooperation. However, it is unclear if SBP has mechanisms to give effect to c.40.2(b) to (e). The SBP has signed 20 MOUs with foreign jurisdictions. Under s 42D of SECP Act 1997 the SECP has a lawful basis for providing cooperation on a reciprocal basis through an agreement or understanding. The SECP has developed a separate mechanism to provide international cooperation. The “Guidelines for Cooperation and Assistance to Foreign Regulatory Authorities” issued under s 40B of the SECP Act 1997 deal with foreign requests for information via SECP’s website. Requests are received via e mail and dealt with on a case by case basis. Section 35 (3) of SECP Act requires the SECP to take all reasonable measures to protect from unauthorized use or disclosure the information given to it in confidence in or in connection with the performance of its functions or the exercise of its powers.

675. Criterion 40.3 – Under s 6(4)(e) of the AMLA, FMU can enter into reciprocal arrangements to share, request and receive information relating to ML and TF. The SECP is a signatory to IOSCO MMoU enabling cooperation and exchange of information. Bilateral MoUs are signed with 12 jurisdictions. The FBR has over 60 bilateral agreements with states and jurisdictions. Pakistan is also a party to multilateral convention on Mutual Administrative Assistance in Tax Matters. 33 MOUs have been signed by ANF with other states. 19 contain provisions for cooperation in matters related to assets in connection with drug trafficking.

676. Criterion 40.4 – Pakistan provided limited information on its compliance with this criterion. The information provided related to SECP only in which Pakistan indicated that SECP received and provided feedback when requested on the usefulness of assistance received. SECP’s assistance was acknowledged by CSRC through various emails and the same was acknowledged by IOSCO during the follow-up country review, which reflected an upgrade of ratings by two levels to fully implemented for principle 15

677. Criterion 40.5 – There do not appear to be any unduly restrictive conditions placed on authorities to exchange information as required by this criterion. However while s 42D (7) of the SECP Act 1997 provides that any assistance provided to foreign regulatory authorities or international organisations may be refused on the grounds of national security and public interest it is unclear how far the scope of ‘public interest’ extends.

678. Criteria 40.6 and 40.7 – As noted in c.40.2, AMLA contains provisions (s 34(3)) to ensure the confidentiality of the information exchanged in accordance with the Act. Moreover MOUs entered into pursuant to AMLA with foreign agencies and supervisors contain confidentiality clauses and references to proper use of the information exchanged.

679. Criterion 40.8 – It is unclear if all competent authorities can exchange all information and conduct enquiries on behalf of foreign counterparts and exchange all information that would be available to them if they were carrying out domestic inquiries. Section 42D of the Companies Act empowers SECP to conduct inquiries on behalf of foreign counterparts, and exchange with its foreign counterparts all information that it obtained if such inquiries were being carried out domestically.

Exchange of Information between FIUs

680. Criterion 40.9 – Under s 6(4)(e) of the AMLA, the FMU has the power to cooperate with other FIUs to make reciprocal arrangements to share, request and receive information relating to ML and TF. However, there is no such provisions for the FMU to cooperate with foreign FIUs regarding ML predicate crimes.

681. Criterion 40.10 – There is no information indicating that the FMU provides feedback to foreign FIUs upon request and whenever possible on the use of the information those FIUs provide as well as the outcomes of analysis conducted based on the information received from those FIUs.

682. Criterion 40.11 – Section 6 (4)(e) of the AMLA does not seem to restrict information exchanges regarding ML and TF. However, Pakistan has not demonstrated what power the FMU uses to exchange all information accessible directly or indirectly by them. Equally there is no apparent power to share information they have power to obtain directly or indirectly at the domestic level.

Exchange of Information between Financial Supervisors

683. Criterion 40.12 – As above, the SBP and SECP have a legal basis for providing cooperation with foreign counterparts, under s 42D of the SECP Act 1997 and the combination of s 46A(2) of the SBP Act and s 32(2) of the BCO 1962 respectively.

684. Criterion 40.13 – Based on the information provided by Pakistan, it is unclear if the combination of s 46A(2) of the SBP Act and s 32(2) of the BCO 1962 enables SBP to exchange all information domestically available to it.

685. Section 42D(2) of the SECP Act 1997, enables the SECP exchange any information or document filed or provided to the SECP Act 1997 or administered legislation or information or document obtained to the SECP.

686. Criterion 40.14 – Based on the information provided by Pakistan, it is unclear if the combination of s 46A(2) of the SBP Act and s 32(2) of the BCO 1962 enables SBP to exchange all types of information relevant to its regulatory functions on the financial sectors, prudential information, beneficial ownership information, FI's business activities, information relating to fit and proper tests, internal procedures and policies, CDD information and samples of accounts and information.

687. The SECP Act 1997 does not seem to restrict the provision of information exchange. However, it is unclear if the SECP international cooperation MOU/agreements provide for information exchange related to regulatory, prudential and AML/CFT information.

688. Criterion 40.15 – SBP can conduct enquiries on behalf of foreign counterparts. Under s 42D(3) of the SECP Act 1997 the SECP can conduct inquiries on behalf of foreign counterparts.

689. Criterion 40.16 – Limited information has been supplied on how the requirements of this criterion can be met. SBP and SECP are referred to and their responsibilities are covered in MOUs. These MOUs have not been provided.

Exchange of Information between Law Enforcement Authorities

690. Criterion 40.17 – Information has been provided outlining legislative channels for FBR, NAB and ANF. In all cases the matters are aligned to ss 27 and 38 of the AMLA which require the

requests to be brought before a court for authority to proceed. There is no information provided to address how ML and or TF matters are dealt with.

691. Criterion 40.18 – The FIA can receive requests for assistance via the MOI and employs all powers as if the matter was a domestic enquiry. Under ss 19 and 27 of NAO 1999, NAB ensures provision/exchange of information on a priority basis by exercising powers under s 21 of NAO 1999. Pakistan is a signatory to various multilateral instruments such as UNCAC, UNTOC, SAARC Convention on Mutual Assistance in Criminal Matters. In addition, Pakistan has also signed Mutual Legal Assistance Treaty (MLAT) on Criminal Matters with Sri Lanka (<http://www.oecd.org/site/adboecdanti-corruptioninitiative/40079371.pdf>). Section 107 of Income Tax Ordinance, 2001, provides the requisite power to the federal government to enter into any bilateral and multilateral agreements with foreign states for exchange of information. Pakistan is party to OECD's multilateral convention on mutual administrative assistance in tax matters.

692. Criterion 40.19 – Joint investigations can be conducted by NAB and FBR-customs. NAB has the legal basis under s 22 (B) of the NAO 1999 and the FIA as directed under s 19(1) ATA by the Director General FIA. Section 7 of the Customs Act 1969 authorises federal and provincial governments. Authorities can form JITS but with the permission from the Supreme Court. In addition, NACTA has formulated a JIT SOP for investigation of TF concerning terrorism cases. This SOP is dated 19 September 2018 (reference number: CT/FIU/02/04/2018) Therefore, at least for TF investigations, JITS can be formed.

Exchange of Information between Non-Counterparts

693. Criterion 40.20 – It unclear if all competent authorities can exchange information with non-counterparts in other countries.

Weighting and Conclusion

694. There are mechanisms for incoming requests which provide different powers to different authorities who will provide support. There is little information on how such matters are coordinated nationally by region or law enforcement agency. The different states appear to operate in silos. MOUs with different countries provide information on the various agreements with other countries.

695. **Recommendation 40 is rated partially compliant.**

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks and applying a risk-based approach	PC	- Gaps in developing and identifying threats, vulnerabilities and risks. - NRA has not been widely circulated to private sector stakeholders, and there are varying degrees of communication and disclosure. - Higher risk or more vulnerable sectors are yet to be covered by comprehensive AML/CFT measures.
2. National cooperation and coordination	LC	- Measures in 2018 NRA are general. They are not based on risks identified. They lack an operational risk-based focus. - TF is not dealt with separately from general AML/CFT matters to address financing risks. - Gaps in national policies on key risk areas, e.g. hawala/hundi and real estate.
3. Money laundering offence	LC	- Deficiencies in AMLA's scoping of predicate offences. - Sanctions for legal persons are not dissuasive or proportionate, including limited fines. - Minor deficiency in ML offence set out under CNSA.
4. Confiscation and provisional measures	LC	- Confiscation of property of corresponding value is not available, outside of AMLA and NAO. - CrPC does not extend confiscation to instrumentalities. - Not all relevant legislation provide for void actions.
5. Terrorist financing offence	LC	- Quantum of available monetary penalties is not defined. - Individuals or organisations must be proscribed in order to apply certain parts of TF offence. - Financing the travel for terrorist purposes is not explicitly criminalised.
6. Targeted financial sanctions related to terrorism and TF	PC	- Delays in implementation, and lack of clarity of which entities are required to implement. - No legal obligation for all natural and legal persons to freeze funds or assets without delay. - No public procedures for 1988 committee to review implementation, nor for affected persons

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		to request inquiry whether money/property has been inadvertently frozen or seized - Unclear whether prohibition to make available funds and assets available to designees also applies when they are jointly owned or controlled - No enforceable requirements for Pakistan Post, CDNS, cooperatives or DNFBPs to ensure resources are not made available to designees - Unclear how UNSCR 1267/1989 and 1988, and UNSCR 1373 designations are communicated to DNFBPs, or if there are mechanisms for providing guidance to all REs holding targeted funds/assets. - Only banks, DFIs and REs regulated by SECP are required to report to the FIU on the identification of a relationship with a designee, and any actions they have undertaken. - Freeze actions for proscribed designees must be reported within 48 hours, but unclear whether reporting obligations only apply to freezing/seizing actions and not action in regards to prohibition of funds - No measures to protect rights of bona fide third-parties - Lack of publicly-known procedures for the review of designations by relevant committees for UNSCR, 1904, 1988, 1989 and 2083, nor to request review of false positives and inadvertent freeze or seizure of money and property
7. Targeted financial sanctions related to proliferation	PC	- Coverage issues, including unclear whether all natural and legal persons are required to implement freezing actions and no requirements to report attempted transaction. - Other shortcomings include protection for bona fide third parties; measures for monitoring and ensuring compliance; de-conflicting false positives and providing guidance on obligations related to delisting; and obligation that arose prior to date of TFS.
8. Non-profit organisations	PC	- Pakistan has not identified a subset of registered and international organisations that fall within the FATF definition of NPO for high-risk to TF. - Pakistan has not reviewed the adequacy of measures, including laws and regulations that relate to the high-risk subset of the NPO sector. - Pakistan has not adopted a risk-based approach or undertaken steps to promote effective supervision or monitoring of the registered and international NPO sectors.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
9. Financial institution secrecy laws	C	
10. Customer due diligence	PC	- CDNS and Pakistan Post are not subject to AML/CFT requirements. - Lack of requirements for MFBs and ECs to undertake CDD when there are suspicions of ML/TF or doubts about the veracity or adequacy of previously obtained customer identification data. - Shortcomings in CDD requirements for banks and DFIs to identify and verify occasional customers. - Shortcomings in CDD requirements for banks, DFIs and ECs to perform EDD. - Lack of requirements for banks, DFIs, MFBs to terminate the business relationships where they are unable to comply with relevant CDD measures.
11. Record keeping	LC	- Some inconsistencies in record-keeping obligations within various reporting sectors. - The obligations on Pakistan Post are not enforceable means and the Archives Act with respect to CDNS is problematic.
12. Politically exposed persons	PC	- The full range of measures relating to PEPs does not apply to ECs. - No enforceable means for Pakistan Post and CDNS.
13. Correspondent banking	LC	No specific requirements to give effect to 13.1 for Pakistan Post.
14. Money or value transfer services	PC	- Sanctions for illegal MVTs are not proportionate and dissuasive. - Lack of requirement to be licensed and registered for Pakistan Post and payment booths. - Lack of requirement to monitor agents for compliance with these programmes. - Pakistan Post is not supervised for AML/CFT.
15. New technologies	PC	- Pakistan has not identified and assessed the ML/TF risks that may arise in relation to the development of new products and new business practices. - No specific requirements to give effect to c.15.1 for CDNS and Post Savings Bank and ECs. - Financial institutions outside the regulatory scope of the SBP and SECP are not required to undertake assessments as required by c. 15.2
16. Wire transfers	LC	- No requirements for batch files to contain information required. - For ECs and Pakistan Post, there are no requirements as beneficiary financial institutions

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		to adopt risk-based policies, procedures and controls.
17. Reliance on third parties	PC	▪ Pakistan has no regard to information available on the level of country risk. ▪ SBP financial institutions are not covered by strict third party reliance rules. ▪ CDNS and Pakistan Post are not covered by the requirements of this recommendation.
18. Internal controls and foreign branches and subsidiaries	PC	▪ No enforceable AML/CFT requirements to give effect to this criterion for CDNS and Pakistan Post. ▪ Except for regulated persons, no explicit requirement for all FIs to implement programmes against ML/TF, which have regard to the ML/TF risks and the size of the business. ▪ The lack of requirements to give effect to c.18.2 for all FIs except for regulated persons.
19. Higher-risk countries	PC	▪ There is a lack of requirements for MFBs, CDNS, Pakistan Post and ECs to apply enhanced EDD proportionate to the risk. ▪ There is a lack of requirements for Pakistan authorities except for SECP to apply countermeasures proportionate to the risk.
20. Reporting of suspicious transaction	PC	▪ STRs are not required to be reported promptly.
21. Tipping-off and confidentiality	PC	▪ AMLA provides protections for FIs and their officers, but it is unclear this protection extends to directors, the employees or agents of those reporting entities.
22. DNFBPs: Customer due diligence	NC	▪ The AMLA does not contain a definition of CDD. ▪ There are no other enforceable requirements to give effect to this recommendation.
23. DNFBPs: Other measures	PC	▪ Deficiencies with promptly reporting STRs. ▪ There are no other enforceable requirements to give effect to this recommendation.
24. Transparency and beneficial ownership of legal persons	PC	▪ There is a lack of ML/TF risk mitigating measures for bearer share and bearer warrant instruments and for nominee shareholders and directors. ▪ Absence of requirements for the Registrar and companies themselves to hold beneficial ownership information. ▪ Limited provisions in place to provide international co-operation in relation to basic and beneficial ownership information.
25. Transparency and beneficial ownership of legal arrangements	NC	▪ No measures in place to mitigate the ML/TF risk with trust structures and other legal arrangements. ▪ Registration of immoveable property trusts involves only the registration of the trust deed and

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		not the collection of beneficial ownership information beyond what is in the deed of trust. Trustees themselves are not required to collect beneficial ownership information.
26. Regulation and supervision of financial institutions	PC	- Lack of manuals or framework to conduct risk-based supervision - Lack of the requirements for banks, DFIs, MFBs, ECs and modarabas to include within its scope of its fit and proper tests relevant to beneficial owners. - CDNS and Pakistan Post are not supervised for AML/CFT requirements.
27. Powers of supervisors	PC	- Limited sanctions imposed by the SBP and SECP. - CDNS and Pakistan Post are not subject to AML/CFT supervision.
28. Regulation and supervision of DNFBPs	NC	- No AML/CFT supervisory authorities for DNFBPs. - No risk-based supervision of DNFBPs occurs.
29. Financial intelligence units	PC	- The FMU cannot access detailed tax records. - The FMU cannot spontaneously or upon request disseminate information and the results of its analysis to provincial CTDs.
30. Responsibilities of law enforcement and investigative authorities	PC	- AMLA does not provide for parallel ML/TF investigations when a predicate crime is investigated. - There are gaps in relation to powers to take expeditious actions subject to confiscation.
31. Powers of law enforcement and investigative authorities	PC	- FBR-customs, FIA, and provincial police (including CTDs) cannot ask for all information held by FMU. - LEAs mechanisms to identify natural/legal persons that hold or control accounts are not timely and it is unclear if these mechanisms operate without prior notification to the owner. - There are gaps in relation to the limited investigative powers, undercover operations, accessing computers, controlled delivery for purposes of timely investigations.
32. Cash couriers	PC	- It is unclear to what extent agencies work closely together to coordinate efforts to detect the illegal movement of cash across the border - Absence of dissuasive, proportionate sanctions/fines on making false declarations. - No clear provision for declaration information to be retained by FBR-customs.
33. Statistics	PC	Not all statistics provided were comprehensive and could not be broken down further into meaningful and relevant information when requested.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating
		Pakistan provided inconsistent statistics on the same issues throughout the assessment process in a number of areas.
34. Guidance and feedback	PC	- Feedback outside formal consultation mechanisms and feedback to all DNFBPs is lacking. - Pakistan Post and CDNS have not received AML/CFT guidance to date.
35. Sanctions	PC	- Sanctions outside the banking sector relating to AML/CFT requirements are limited. - Overall TFS sanction are sanctions are not dissuasive. - No AML/CFT-related sanction powers for NPOs or DNFBPs in relation to preventative measures.
36. International instruments	LC	Pakistan is a party to the four conventions, but there are some minor shortcomings (see R.3–R.5).
37. Mutual legal assistance	PC	- Pakistan is unable to provide MLA to foreign countries in the absence of a treaty for ML offences. - Lack of legal basis to provide MLA in terrorism, TF cases and in -most predicate offence cases. - LEAs lack powers in to execute MLA requests.
38. Mutual legal assistance: freezing and confiscation	NC	- Lack of legal arrangements to provide MLA in terrorism matters, TF and most predicate offences. - Requirement for a bilateral treaty or other arrangement to meet foreign MLA requests concerning ML. - Lack of a general legal framework for assistance in relation to predicate offences with no link to ML.
39. Extradition	LC	Lack of a case management system and simplified procedures.
40. Other forms of international cooperation	PC	- There are mechanisms for incoming requests which provide different powers to different authorities who will provide support. There is little information on how such matters are coordinated nationally by region or LEAs. - Different states appear to operate in silos. - MOUs with different countries provide information on the various agreements with other countries.

Glossary of Terms	
Abbreviation	Meaning
AMLA	Anti-Money Laundering Act 2010 (and amendments)
AML/CFT	Anti-Money Laundering and Countering the Financing or Terrorism
ANF	Anti-Narcotics Force
APG	Asia/Pacific Group on Money Laundering
ASWJ	Ahlus Sunnah Wal Jamaah Association
ATA	Anti-Terrorism Act 1997
ATC	Anti-Terrorism Court
BCO	Banking Companies Ordinance 1962
BNI	Bearer Negotiable Instrument
BO	Beneficial Owner(ship)
CDD	Customer Due Diligence
CDNS	Central Directorate of National Savings
CDU	Currency Declaration Unit
CFT	Countering the Financing of Terrorism
CNIC	Computerized National Identification Card
CNSA	Control of Narcotic Substances Act 1997
CRCM	Committee for Coordination, Review and Monitoring of UNSCR Resolutions on Counter-Proliferation
CrPC	Code of Criminal Procedure 1898
CT	Counter-Terrorism
CTD	Counter-Terrorism Department
CTR	Currency Transaction Report
DFI	Development Finance Institution
DG (I&I)	Directorate General (Intelligence and Investigation) of FBR
DNFBPs	Designated Non-Financial Businesses and Professions
DPRK	Democratic People's Republic of Korea
ECs	Exchange Companies
EC-A	Exchange Company – Type A
EC-B	Exchange Company – Type B
EDD	Enhanced Due Diligence
FATF	Financial Action Task Force
FBR	Federal Board of Revenue
FBR-customs	Federal Board of Revenue – Customs
FBR-IR	Federal Board of Revenue – Internal Revenue (Tax)
FERA	Foreign Exchange Regulations Act
FI	Financial Institution
FIA	Federal Investigating Agency
FIF	Falah-i-Insaniyat Foundation
FIR	First Incident Report
FIU	Financial Intelligence Unit
FMU	Financial Monitoring Unit of Pakistan
FPT	Fit and Proper Test
GC	General Committee on AML/CFT
GDP	Gross Domestic Product
HQN	Haqqani Network
IB	Intelligence Bureau (Police)
IET	Inspection and Enforcement Team(s)

Glossary of Terms

Abbreviation	Meaning
ICAP	Institute of Chartered Accountants of Pakistan
ICRG	International Cooperation Review Group (FATF)
INPO	International Not-for-Profit Organisation
INTERPOL	International Criminal Police Organisation
IO	Immediate Outcome (of the FATF Standards)
ICT	Islamabad Capital Territory
ITO	Income Tax Ordinance 2001
JeM	Jaish-e-Mohammed
JIT	Joint Investigation Team
JUA	Jamiat ul-Ansar
JUD	Jamaat-ud-Dawa
KP	Khyber Pakhtunkhwa
KYC	Know Your Customer
LEAs	Law Enforcement Agencies
LeJ	Lashkar-e-Jhangvi
LeT	Lashkar-e-Taiba
MER	Mutual Evaluation Report
MFB	Micro-Finance Bank
ML	Money Laundering
MLA	Mutual Legal Assistance
MOF	Ministry of Finance
MOFA	Ministry of Foreign Affairs
MOI	Ministry of Interior
MOL	Ministry of Law and Justice
MOU	Memorandum of Understanding
MVTS	Money Value Transfer Services
NACTA	National Counter Terrorism Authority
NADRA	National Database and Registration Authority
NAP	National Action Plan
NAO	National Accountability Ordinance
NBFIs	Non-Bank Financial Institutions
NBFIs	Non-Bank Financial Companies
NEC	National Committee on AML/CFT
NGOs	Non-Government Organizations
NPOs	Non-Profit Organizations
NRA	National Risk Assessment
OECD	Organisation for Economic Cooperation and Development
OFAC	Office of Foreign Assets Control (US Treasury)
PB	Plea Bargain
PBC	Pakistan Bar Council
PF	Proliferation Financing
PFS	Proliferation Financing Sanctions
PP	Pakistan Post
PPSB	Pakistan Post Savings Bank
PPC	Pakistan Penal Code 1860
PSX	Pakistan Stock Exchange
RBA	Risk-Based Approach
RE	Reporting Entity

Glossary of Terms	
Abbreviation	Meaning
RRG	Regional Review Group of APG
SBP	State Bank of Pakistan
SECDiv	Strategic Export Control Division (Ministry of Foreign Affairs)
SECP	Securities and Exchange Commission of Pakistan
SNIC	Smart National Identification Card
SOP	Standard Operating Procedure
SRB	Self-Regulatory Body
SRO	Statutory Regulatory Order
SSP	Sipah-e-Sahaba Pakistan
STR	Suspicious Transaction Report
TC	Technical Compliance
TCSP	Trust and Company Service Provider
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
UN	United Nations
UNCTED	United Nations Counter-Terrorism Executive Directorate
UNODC	United Nations Office on Drugs and Crime
UNSCR	United Nations Security Council Resolution
USD	United States Dollar
VR	Voluntary Return
WB	World Bank
WMD	Weapons of Mass Destruction